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Title 3—The President

PROCLAMATION 4123

National Maritime Day, 1972

By the President of the United States of America

A Proclamation

The spirit of America has long been recognized in the speed of her ships and the skill of her sailors. Long ago, the French historian de Tocqueville told the story of meeting an American sailor on his 1831 visit to this country and asking him to explain why American ships seemed built to last but a short time. The sailor replied with no hesitation that the finest of vessels would become useless if it lasted beyond a few years because the art of navigation was making such rapid progress.

In the sailor's certainty that with tomorrow would arrive something new and better, de Tocqueville recognized the attitude upon which "a great people direct all their concerns." Over the years other nations have built upon the success of our example—and they have built merchant fleets able to compete successfully with our own.

In America, the Merchant Marine Act of 1970 is once again awakening that venturesome spirit of maritime enterprise that has contributed so significantly to the strength and development of our Nation. Today we have a national commitment and program to revitalize our merchant marine and improve the competitive position of our shipbuilding industry.

This new program will generate the construction of many new ships, advanced in design and highly productive. It should help to ensure that the American merchant marine is once again one of the most modern and efficient in the world by the end of this decade.

It is important that all Americans realize the importance of our merchant marine to the Nation's economy and security. To promote such public awareness, each year since 1933, when the Congress designated the anniversary of the first transatlantic voyage by a steamship, the *SS Savannah,* on May 22, 1819, as National Maritime Day, successive

Presidents have issued proclamations calling for public observance of that day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby urge the people of the United States to honor our American merchant marine on May 22, 1972, by displaying the flag of the United States at their homes and other suitable places, and I request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of April, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon

[FR Doc.72-5862 Filed 4-13-72; 4:21 pm]

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Animal and Plant Health Inspection Service,[1] Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Unshu Oranges

NOTICE OF QUARANTINE

On March 3, 1972, there was published in the FEDERAL REGISTER (37 F.R. 4443) under the administrative procedure provisions of 5 U.S.C. 553, and sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162) a notice of proposed rule making and of public hearing concerning an amendment of Notice of Quarantine No. 83 relating to Unshu (Satsuma) oranges. After public hearing and due consideration of all relevant matter presented, and pursuant to sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, 7 CFR 301.83 is amended to read as follows:

§ 301.83 Notice of quarantine.

Under the authority conferred by sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162) and after public hearing, it has been determined that in order to prevent the interstate dissemination of citrus canker disease, it is necessary to prohibit the movement from the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington into or through any State other than those named, or into or through any territory or district of the United States, of Unshu (Satsuma) oranges grown in Japan and imported into any of the specified States subject to Notice of Quarantine No. 28 (§ 319.28 (b) of this chapter). Accordingly, under said authority, the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington are quarantined and the aforesaid Japanese-grown Unshu (Satsuma) oranges are prohibited movement therefrom into or through any State other than those named, or into or through any territory or district of the United States.

(Secs. 8, 9, 37 Stat. 318, as amended; 7 U.S.C. 161, 162; 36 F.R. 20707, 24917; 37 F.R. 6327, 6505)

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

The purpose of the foregoing amendment is to add Hawaii to the list of States from which the movement of Unshu oranges into or through other States, territories or districts of the United States is prohibited. The oranges are prohibited movement to prevent any risk of spreading the citrus canker disease (Xanthomonas citri (Hasse) Dowson), from Hawaii as well as the five other regulated States of Alaska, Idaho, Montana, Oregon, and Washington to other parts of the United States. An amendment of Notice of Quarantine No. 28 (7 CFR 301.28) issued concurrently adds Hawaii to the list of currently approved States of Alaska, Washington, and Oregon where entry of Unshu oranges is permitted. The destination of the oranges is limited to points in the States of Alaska, Washington, Oregon, Idaho, Montana, and Hawaii.

Done at Washington, D.C., this 11th day of April 1972.

G. H. WISE,
Acting Administrator, Inspection Animal and Plant Health Service.

[FR Doc.72-5738 Filed 4-14-72;8:47 am]

[1] Formerly Animal and Plant Health Service (37 F.R. 6327).

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Citrus Fruit

NOTICE OF QUARANTINE

On March 3, 1972, there was published in the FEDERAL REGISTER (37 F.R. 4443), under the administrative procedure provisions of 5 U.S.C. 553, and sections 5, 7, and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 159–162) a notice of proposed rule making and of public hearing concerning an amendment of Notice of Quarantine No. 28 relating to the importation of citrus fruit (7 CFR 319.28). After public hearing and due consideration of all relevant matter presented, and pursuant to sections 5, 7, and 9 of the Plant Quarantine Act of 1912, as amended, the introductory portion of § 319.28(b) and paragraph (b)(6) are amended to read as follows:

§ 319.28 Notice of quarantine.

* * * * *

(b) This prohibition shall not apply to importations from Japan of fruits of Citrus reticulata Blanco var. Unshu (Satsuma), under permit, with destinations limited to points in the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington: *Provided,* That each of the following safeguards is fully carried out:

* * * * *

(6) Entry shall be limited to Pacific Coast ports in the States of Alaska, Washington, and Oregon, or to ports in Hawaii, where plant quarantine inspection is available, with destinations limited to points in the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington.

* * * * *

(Secs. 5, 7, 9, 37 Stat. 316, 317, 318; 7 U.S.C. 159, 160, 162; 36 F.R. 20707, 24917; 37 F.R. 6327, 6505)

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

The purpose of the foregoing amendment is to include Hawaii in the list of States into which Japanese Unshu (Satsuma) oranges may be allowed restricted entry under the same kind of rigid safeguards specified in the quarantine to prevent the introduction of citrus canker disease (Xanthomonas citri (Hasse) Dowson), as are now applicable to fruit entered through Pacific Coast ports in the States of Alaska, Washington, and Oregon. Under the amendment such fruit may be imported under the specified safeguards into any of these four States, with destinations limited to these States, or Idaho or Montana.

It has been determined by the U.S. Department of Agriculture that importation of Japanese Unshu oranges into Hawaii may safely be allowed under such conditions. An amendment of Notice of Quarantine No. 83 (7 CFR 301.83) issued concurrently prohibits the movement of such oranges from the six designated States to other parts of the United States.

Done at Washington, D.C., this 11th day of April 1972.

G. H. WISE,
Acting Administrator, Inspection, Animal and Plant Health Service.

[FR Doc.72-5737 Filed 4-14-72;8:47 am]

Chapter IX—Agricultural Marketing Service[1] (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 263, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon

[1] Formerly Consumer and Marketing Service. Name changed to Agricultural Marketing Service effective Apr. 2, 1972, 37 F.R. 6327.

other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 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 declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 907.563 (Navel Orange Regulation 263, 37 F.R. 6921) during the period April 7, 1972, through April 13, 1972, are hereby fixed as follows:

§ 907.563 Navel Orange Regulation 263.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 996,000 cartons;

(ii) District 2: 204,000 cartons.

* * * * *

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

Dated: April 12, 1972.

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

[FR Doc.72–5763 Filed 4–14–72;8:49 am]

[Lemon Reg. 529]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.829 Lemon Regulation 529.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 11, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period April 16, through April 22, 1972, is hereby fixed at 225,000 cartons.

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

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

Dated: April 12, 1972.

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

[FR Doc.72–5817 Filed 5–14–72;8:49 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 443.1]

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

Farm Ownership Loan Policies, Procedures and Authorizations

Subpart A of Part 1821, Title 7, Code of Federal Regulations (31 F.R. 14129) currently in effect under §§ 1821.1 to 1821.24 has been revised for clarification. This Subpart A sets out the policies, procedures and authorizations for making initial and subsequent Farm Ownership loans on family farms.

The revised Subpart A reads as follows:

Subpart A—Farm Ownership Loan Policies, Procedures and Authorizations

Sec.

AUTHORITY: The provisions of this Subpart A issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 4, 64 Stat. 100, 40 U.S.C. 442; sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Acting Secretary of Agriculture, 36 F.R. 21529; Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529.

Subpart A—Farm Ownership Loan Policies, Procedures and Authorizations

§ 1821.1 General.

This subpart is supplemented by Parts 1890, 1890a, 1890c, 1890d, 1890f, 1890p, and 1890r of this chapter. This subpart outlines the policies, procedures, and authorizations for making initial and subsequent Farm Ownership (FO) loans on family farms.

(a) *Loan funds.* Each State Director is responsible for assuring that loans approved in his State do not exceed the amount of loan funds distributed to his State.

(b) *Insured loans.* The credit needs of an applicant will be met with an insured loan.

§ 1821.2 Objectives.

The basic objectives of the Farmers Home Administration (FHA) in making FO loans are to assist eligible farmers and ranchers to become owner-operators of family farms, to make efficient use of their land, labor, and other resources, to carry on sound and successful operations on the farm, and to afford the family an opportunity to have a reasonable standard of living. The operations include establishment or enlargement of nonfarm enterprises on the farm to supplement the farm income. These objectives will be

accomplished through the extension of credit and supervisory assistance.

§ 1821.3 Supervisory assistance.

Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with Subpart A of Part 1802 of this chapter. Such assistance consists of farm, home, and nonfarm planning, record keeping, analyzing the farm and any nonfarm business, and giving management advice.

§ 1821.4 Definitions.

The term "farm" includes a tract or tracts of land, improvements, and other appurtenances considered to be farm property and owned or to be acquired by the applicant, used or to be used in the production of crops or livestock including the production of fish under controlled conditions. The term "farm" also includes any such land and improvements and facilities used in a nonfarm enterprise.

(a) *Family farm.* A family farm is defined as one that will produce agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence, one that will provide substantial income by itself and which together with any other dependable income will enable the family to pay necessary family and other operating expenses, including maintenance of essential chattel and real property and pay debts, and one for which the operator and his immediate family provide the management and major portion of the labor including any nonfarm enterprise, except during seasonal peakload periods.

(b) *Mortgage.* The term "mortgage" includes any form of security, interest, or lien upon any rights or interests in property of any kind.

(c) *Security.* The term "security" includes any rights or interests in property of any kind subject to a mortgage.

(d) *Insured loan.* The term "insured loan" means a loan made from funds furnished by lenders and insured by the Government at the time of loan closing, or a loan made from the Agricultural Credit Insurance Fund (ACIF). The term "private lender" means any source of insured funds other than the ACIF and funds made available under a 2(f) agreement.

(e) *Direct loan.* "Direct loan" means a loan made with funds from the FHA direct loan account.

(f) *Nonfarm enterprise (FO–NFE).* This is any business enterprise established on the farm which supplements farm income. It must provide goods or services for which there is a need and a reasonably reliable market. A nonfarm enterprise includes recreation items for which FO funds may be used.

§ 1821.5 Preference.

Preference will be given to:

(a) Veterans, as defind in Part 1801 of this chapter. The applications on hand from veterans will be given preference over applications of nonveterans on file at the same time.

(b) Applicants who are:

(1) Married or have dependent families.

(2) Owners of livestock and farm implements necessary to successfully carry on farming operations.

(3) Able to make downpayments.

§ 1821.6 Eligibility requirements.

To be eligible for an FO loan each applicant must:

(a) Be a citizen of the United States.

(b) Possess legal capacity to incur the obligations of the loan.

(c) Be an individual who has:

(1) Recent farm experience or farm training sufficient to assure reasonable prospects of success in the proposed farming operation, and

(2) Other training or experience when nonfarm enterprises are involved to assure success with such proposed operation.

(d) Be an applicant who is not already earning sufficient income to have a reasonable standard of living, as determined by the County Committee. The County Committee will consider in making this determination the level of income obtained by reasonably successful family farmers and rural residents in the community, and the size of the family. This is not intended to prevent making of an FO loan under the following conditions:

(1) When the County Supervisor and the County Committee are reasonably certain an applicant will not engage in other employment after the planned farm operation is fully developed except to the extent necessary for his family to have sufficient income for a reasonable standard of living.

(2) When an applicant who is a farm tenant, sharecropper, or farm laborer and is otherwise eligible and the loan is to establish him as a farmowner.

(e) Possess the character, ability, and industry necessary to carry out the proposed operation and honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(f) Be unable with his own resources, or be unable to obtain sufficient credit elsewhere, to finance his actual needs at rates and terms he could reasonably expect to fulfill, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(g) After the loan is made, be the owner-operator of a family farm which will produce not less than a substantial portion of his total income.

§ 1821.7 Loan purposes.

Loans that are consistent with environmental quality standards may be made to:

(a) Purchase or enlarge a farm, including any land for recreation or other nonfarm enterprise, which is or will not be larger than a family farm. This may include:

(1) An applicant's portion of the cost of a large tract of land which is being subdivided.

(2) Downpayments on the purchase of land under the following conditions:

(i) A deed is obtained by the borrower secured by a note and prior mortgage or a purchase contract or similar instrument is used.

(ii) Terms are adequate and long enough for the applicant and the FHA to have reasonable assurance that the borrower's obligations can be met under such terms.

(iii) The conditions and the requirements of prior mortgage or contract meet the FO security requirements for taking a junior lien.

(iv) The purchaser under a purchase contract which obligates him to pay the purchase price, gives him the rights of present possession, control, and beneficial use of the property, and entitles him to a deed upon paying all or a specific part of the purchase price.

(b) Construct or improve building and facilities on the applicant's farm, including:

(1) The construction of essential but modest farm dwelling and service buildings, including facilities and structures for nonfarm enterprise uses or fish farming such as docks, fish hatcheries, shooting blinds, refreshment or marketing stands, processing or assembly plants, sales buildings, repair shops, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, campsites, and modest rental housing.

(2) The improvement, alteration, repair, replacement, relocation, or purchase and transfers of such essential dwellings and service buildings, facilities, and structures.

(3) The purchase and/or installation of domestic water and sewage disposal systems, other equipment or facilities necessary to the effective operation of a farm including nonfarm enterprises, provided the items upon installment become part of the real estate or customarily pass with the farm when it is sold.

NOTE: In order to conserve FO insured funds when major building development is planned Rural Housing (RH) loans will be processed simultaneously with the FO docket in accordance with Subpart A of Part 1822 of this chapter for RH authorized purposes and conditions for making RH loans on farms. An FO loan can be made simultaneously with a long-term farm real estate loan from a private lender.

(c) Provide land and water development, acquisition of water supplies, rights, use, and conservation essential to the operation of the farm, and any nonfarm enterprise facilities. This includes fencing, land clearing, forestry purposes, establishment of approved forestry practices, establishment and improvement of permanent hay or pasture, drainage and irrigation facilities, basic application of lime and fertilizer, fish ponds, and trails and lakes. Also, loan funds may be used to pay that part of the cost of facilities, improvements, and practices which is to be earned by participation in the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced likely will exceed

$500, the applicant will assign the payment to the FHA.

(d) Refinance secured and unsecured debts as provided in § 1821.11(e).

(e) Pay expenses incident to obtaining plans and making the loan such as fees for legal, architectural, and other technical services, which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building improvements.

(f) Pay costs incident to land and water development, use and conservation essential to the borower's farming operation on land not owned by him or on land with defective title as defined in § 1821.10(b)(1): *Provided*, The amount loaned for such improvements does not exceed $2,500.

(g) Finance a nonfarm enterprise when it will provide another source of necessary income.

(h) An eligible applicant for any purpose authorized in this subpart to enable a dependent in his immediate family to initiate, develop, or carry on a farm or nonfarm enterprise in connection with his or her participation in youth organizations such as Future Farmers of America, Future Homemakers, 4–H Club, or approved vocational training courses.

(i) Pay interest on insured loans when deferred payments are justified.

§ 1821.8 Loan limitations.

(a) An FO loan will not be approved if:

(1) The borrower's unpaid principal balance plus any past-due interest against his farm or other security or both plus the amount of the loan will exceed $100,000. This includes all FHA and other lender principal and past-due interest indebtedness on existing and proposed security.

(2) The amount of the loan and the unpaid principal balance plus any past-due interest on other liens against the farm will exceed the normal value of the farm and, when applicable, the normal value of any other security, as determined by the loan approval official, or the loan exceeds the amount certified by the County Committee.

(3) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation and nonfarm enterprise cannot be conducted due to the distance or inadequate rights-of-way or public roads between the tracts.

(b) Loan funds may not be used for the following purposes:

(1) To purchase items not considered to be a part of the farm such as farm machinery and equipment, applicances, livestock, construction and maintenance tools, automobiles, trucks, boats, and nonfarm enterprise equipment that would not be considered real estate.

(2) To acquire land or develop a farm which is in an area designated for retirement from agriculture by Federal, State, or local agencies.

(3) To refinance any FHA debts owed by the applicant without prior consent of the National Office. Ordinarily FHA debts will not be refinanced even though the borrower is delinquent. Consent will be granted in an exceptional case only when it is not possible to service the loan or otherwise accomplish the objectives of the loan on a sound basis without refinancing the existing debt(s). In each such case the narrative justification and the case file will be sent to the National Office prior to development of the loan docket.

(4) To pay debts incurred after the loan is approved and prior to the closing of an FO loan, except fees for legal, architectural, and other technical services and except as authorized in § 1821.23(e)(2). The County Supervisor, not later than the time of planning farm or nonfarm improvements will advise each applicant that construction work must not be started and that debts for such work or materials must not be incurred before the loan is closed. If, nevertheless, the applicant incurs debts for materials or construction before the loan is closed, the County Supervisor, or the Assistant County Supervisor in connection with loans for which he had delegated authority to approve may authorize the use of FO funds to pay such debts only upon documentation of the facts in the case and when he finds that all of the following conditions exist (in a questionable case the County Supervisor will submit the complete facts to the State Office for advice before taking action):

(i) The debts were incurred after approval of the loan, except that in the case of a subsequent loan to complete improvements previously planned, the debts were incurred after the initial loan was closed.

(ii) The applicant is unable to pay such debts from his own resources or to obtain credit from other sources and failure to authorize the use of FO funds to pay such debts would impair the applicant's financial position.

(iii) The debts were incurred for authorized FO loan purposes.

(iv) The construction or repair work conforms to that shown on Form FHA 424–1, "Development Plan."

(5) To acquire land when a major part of the cropland on the farm will be in the conservation reserve program or other type of crop adjustment program for two or more full crop years after the date of loan approval, unless the State Director determines that the applicant will be able to conduct at least a farming operation on the land not included in such program which will produce not less than a substantial part of the total income.

§ 1821.9 Terms of loans.

(a) *Amortization period.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security, except that a loan of $2,500 or less not secured by a real estate mortgage will be scheduled for payment over a period not to exceed 10 years from the date of the note.

(b) *Interest, annual charge, and repurchase agreement.* The interest rate to the borrower will be 5 percent per year on the unpaid balance of the loan. For insured loans, the terms to the insured lender will be governed by Subpart B of Part 1810 of this chapter.

(c) *Interest credits.* Interest credits provided in § 1822.7 of this chapter will not be applicable when an RH loan is made along with an FO loan to the same borrower.

§ 1821.10 Security requirements.

(a) *General.* Each FO loan will be adequately secured to protect the interest of the Government.

(1) Any loan of more than $2,500 and any loan to be paid in more than 10 years from the date of the note will be secured by a mortgage on the applicant's entire farm, except as provided in paragraph (b)(1) of this section. Usually loans of more than $2,500 will be secured only by real estate. When necessary to supplement the applicant's equity in the farm or to facilitate servicing the loan, a mortgage also may be taken on nonfarm real estate or on chattel or other property owned by the applicant. However, nonreal estate may not be relied on for more than $2,500 of a loan; except that in the State of Texas, because of unusual homestead and lien laws, upon prior National Office approval of a State issuance, the nonreal estate portion of the loan may exceed $2,500.

(2) A loan of not more than $2,500 to be paid in not more than 10 years from the date of the note may be secured by one or a combination of:

(i) Real estate, chattels, or

(ii) Other security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. Examples of other security are: Cash value of life insurance policies, cooperative memberships, income-producing leases, or water stocks which are transferable and have security value.

(3) Whenever both real estate and chattel security are taken for an FO loan and the payment period of the loan will exceed the maximum period for which the chattel lien may be valid under State law, the loan approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel lien expires.

(b) *Real estate.* (1) When the loan is to be secured by real estate, a mortgage on the entire farm owned by the applicant will be obtained, except as provided in this paragraph. If the applicant's title to any part of the farm is defective (either in the sense that it is not "good title marketable in fact," as defined in Part 1807 of this chapter or that the State law will not recognize a mortgage upon it or will not permit such a mortgage to be recorded) and cannot be cured at reasonable cost, the loan may nevertheless be made if the part of the applicant's farm to which title is not defective

qualifies as a family farm, and the value of such part of the farm and the value of necessary and available additional security is adequate to secure the loan.

(i) Any part of the farm to which title is defective may be omitted from the mortgage if the loan approval official with the advice of the Office of the General Counsel (OGC) determines that the applicant's interest is of such a nature that it is not mortgageable or that to include it would unduly complicate loan servicing or liquidation.

(ii) The part of the farm to which title is defective will be excluded from consideration in the appraisal of the farm. If the appraisal report was prepared before discovery of the title defect, the farm will be reappraised to show the value of the part of the farm to which title is not defective, and the appraisal report and other loan papers will be revised accordingly.

(2) A junior mortgage may be taken as security for a loan, provided:

(i) The prior mortgage(s) or lien(s) do not contain provisions for future advances, summary forfeiture or cancellation or other provisions that may jeopardize the Government's security position or the borrower's ability to pay the FO loan, such as payment schedules involving installments that the borrower cannot pay in an orderly manner, for example, a payment schedule with a balloon payment payable in less than 20 years; or

(ii) Such provisions of the prior mortgage(s) or lien(s) are satisfactorily limited, modified, waived, or subordinated; or

(iii) The provisions of § 1821.11(d)(2) are met in the case of simultaneous loans with other lenders.

(3) When a life estate is involved, a loan may be made to the life estate holder and the remainderman and both have a legal right to occupy, operate, and share in the profits, and both are otherwise eligible and join in executing the note and mortgage. However, where a remainderman or life estate holder is a minor or otherwise legally incompetent, if the loan approval official determines, with the advice of the OGC, that a sound and proper FO loan could be made to the other party and the necessary security obtained, narrative justification may be sent to the National Office prior to the development of the loan docket. The National Office will decide whether to authorize the making of the loan.

(c) *Chattel or other nonreal estate security.* When authorized by paragraph (a) of this section a mortgage may be taken on selected items of chattel or other nonreal estate security if such a mortgage will not interfere with the applicant's obtaining needed operating credit.

(1) Whenever a mortgage is taken as security for a loan, it ordinarily will be a first lien. In an exceptional case, a mortgage subject to the mortgage held by another creditor or the FHA may be taken on chattel property provided the applicant clearly has sufficient equity in chattels to provide the necessary security.

(2) When the loan includes funds for items of equipment upon which a mortgage is necessary to adequately secure the loan, a severance or subordination agreement will be obtained, when appropriate.

(3) In a State in which a mortgage is not valid for as long as may be needed by applicants for the repayment of the loan the instructions for making loans secured by a mortgage issued by the State Director will be followed.

(4) When a lien on equipment, other personal property, or fixtures is necessary to adequately secure the loan; it will be taken and kept effective as notice to a third party in accordance with Subpart B of Part 1831 of this chapter and related State issuances.

(d) *Miscellaneous security items.* Ordinarily, the applicants' farm is considered to include the land, buildings, fences, water, water stock, water facilities, and any other improvements and easements, rights-of-way or other appurtenances which by custom pass with farms in the change of ownership. However, in some instances certain improvement items or facilities which usually pass with the farm in a change of ownership are considered personal property and would not be conveyed to the purchaser. In other instances, items not generally considered to be a part of the real estate pass with the farm in a change of ownership. When the loan approval official determines the items involved in either case are a part of the farm and necessary for its efficient operation, funds may be included in the FO loan to purchase such items. The County Supervisor, with the advice of the designated attorney, title insurance company, or the OGC, will ascertain that such items are free from any liens or encumbrances and are specifically included in the proper security instrument.

§ 1821.11 **Special requirements.**

(a) *Dwellings and other essential buildings.* Buildings adequate for the planned operation of the farm including any nonfarm enterprise must be available. The necessary buildings will be located on the applicant's farm. However, if the applicant owns suitable buildings which are not considered a part of his farm and ordinarily would not pass with the farm in a change of ownership, duplicate buildings on the farm need not be required if the State Director authorizes retention of such buildings under paragraph (j) of this section. Also, in an unusual case, the applicant may be permitted to use acceptable rented buildings which will be available to him. In either case the buildings must be of such type and condition and so located that the applicant could operate his farm successfully. When an applicant depends on rented or owned buildings not considered to be a part of the farm, it must be determined that those buildings or other suitable buildings likely will be available for the period of the loan.

(b) *Land and facility development.* Adequate development to place the farm and any nonfarm enterprise in condition for a successful operation will be provided at the outset in connection with each loan. To the extent practicable, recommendations of representatives of the Forest Service, Soil Conservation Service, State Agricultural Extension Service and State Planning and Development Agency or local planning groups should be included in the development with the applicant, the County Supervisor will encourage him to use any cost-sharing assistance consistent with his plans that may be available to him through any source including the Rural Environmental Assistance Program (REAP).

(c) *Planning and performing farm development.* The development work will be planned and completed in accordance with Subpart A of Part 1804 of this chapter.

(d) *Relationships with other lenders.* Maximum use will be made of other credit when a workable arrangement is possible. County Supervisors will keep real estate lenders and building suppliers currently informed concerning FHA policies with respect to loan making, security requirements, supervision and servicing, distribution of income available for debt payments, and graduation of borrowers. FHA employees may not guarantee, personally or on behalf of FHA, repayment of advances from other credit sources. However, they may assure that lien priorities will be respected and releases will be made in accordance with the current Form FHA 431–2, "Farm and Home Plan," as agreed with the borrower.

(1) *Determining eligibility.* In determining the eligibility of an applicant if it appears that he may be able to obtain part or all the credit from other sources to meet his needs, the County Supervisor will require him to make a diligent effort to obtain such other credit.

(i) Applicants will be expected to seek credit from lenders who extend long-term credit in the area.

(ii) Applicants should be advised to request lenders to indicate the amount and terms of credit they might be willing to extend.

(iii) The County Supervisor should check on any evidence presented by an applicant that he cannot obtain other credit.

(iv) Letters or other evidence indicating credit is not available from other sources serving the area will be included in the loan docket.

(v) In no case will a loan be made to an applicant that could obtain the credit he needs elsewhere on terms he can reasonably be expected to pay.

(2) *FHA loans simultaneous with other lenders.* A "Memorandum of Understanding Between the Farmers Home Administration and the Farm Credit Administration," will serve as a guide in processing FO loans to be made simultaneously with loans by Federal land banks to common applicants. The State Director may work out agreements for simultaneous loans by long-term lenders other than Federal land banks for eligible FO purposes. Such an agreement should prohibit future advances by the first mortgage holder except for taxes,

property insurance, reasonable maintenance expenditures, and reasonable foreclosure costs, but should not prohibit subsequent FHA loans. It should also cover items such as appraisal methods, title clearance, loan closing, the disbursement of funds, and where appropriate, advance notices of foreclosure. It may also cover other items considered necessary or advisable for a sound FHA second mortgage loan. The following is the "Memorandum of Understanding Between the Farmers Home Administration and the Farm Credit Administration," to be used as a guide in processing FO loans to be made simultaneously with loans by Federal land banks to common applicants.

MEMORANDUM OF UNDERSTANDING BETWEEN THE FARMERS HOME ADMINISTRATION AND THE FARM CREDIT ADMINISTRATION RELATING TO THE LENDING POLICIES AND OBJECTIVES OF THE FARMERS HOME ADMINISTRATION, FEDERAL LAND BANK, AND FEDERAL LAND BANK ASSOCIATION

I. *Introduction.* The capital requirements in agriculture in the future necessitate finding every means possible to provide adequate credit for farmers—particularly young farmers—many of whom are now unable to obtain long-term real estate loans. The Farmers Home Administration over the years has broadened its Farm Ownership loan policies so that private or cooperative lenders and the Farmers Home Administration can make loans to the same borrower on the same security. The experience of the Farmers Home Administration (FHA) and the Federal Land Bank (FLB) has been favorable when FHA Farm Ownership loans have been made to farmers and ranchers on liens junior to long-term real estate loans held by the FLB's. A thorough understanding by all the principals involved of the lending policies and objectives of the FHA, FLB, and Federal Land Bank Association (FLBA) is essential to better serve farmers and ranchers who seek agricultural credit. Many farm families are unable to obtain adequate credit because of the general tightening of availability of long-term real estate loans. The demand for long-term, low equity loans far exceeds the supply of funds available.

The Farmers Home Administration and the Farm Credit Administration hereby agree that FLB's and FHA State Directors may enter into memorandum of understanding concerning the simultaneous processing of initial Farm Ownership loans by the FHA and long-term real estate loans by the FLB to a mutual borrower. It is further agreed that the FLB will make first lien loans on farm real estate which it considers sound to farmers who are or who will be FHA borrowers. The FHA will subordinate its mortgage to the FLB lien when the FLB loan is made for purposes which are authorized for FHA real estate loans. It is agreed that in such cases of loans by each lender, neither lender will make future advances to the borrower without the consent of the other lender, except that advances may be made by the FLB as are necessary for the payment of taxes, insurance, or necessary repairs to the secured property. If such advances are made, the FHA will not assert the priority of its lien over such advances on the ground that the FHA mortgage was definite and fixed before the additional advance or advances were made by the land bank. Each lender, of course, will make only those loans which are within its existing law and regulations.

II. *Policies.* The basic policies of each lender will continue to apply when processing each individual loan except as modified in paragraph I. When these policies preclude making individual loans simultaneously to a mutual borrower, the appropriate lender will provide the financing needed when practical.

A. *Eligibility determination must be made by each lender.* 1. Applications filed with FHA will be analyzed to determine whether there is a possibility of participating with the FLB and other lenders. The County Supervisor will review with the local FLBA manager or other private lender any application that might appear to be suitable for participation.

2. Applications filed with the FLBA will be analyzed by the manager for possible FHA assistance when it is agreeable with the applicant.

B. *Loan processing.* 1. An FHA representative will make the appraisals for FHA Farm Ownership loans.

2. An appraiser designated by the FLB will make the appraisals for land bank loans.

3. Each lender will determine the applicant's ability to repay his total indebtedness as part of its loan approval.

4. The borrower will be required to meet the minimum legal and regulatory requirements of each lender. This includes stock ownership and membership in the FLBA, property insurance, and so forth.

C. *Loan closing.* 1. The FHA and the FLB will agree on the method and the period to be covered by the title search. If there are any deviations from either lender's regulations, such deviations must be approved by the appropriate supervisory officials.

2. The FHA and FLB representatives will mutually approve any land and building development plans when the improvements are to be projected in loan values. Each will supervise the disbursement of its share of funds for these items.

3. The representative(s) to be present for loan closing will be by mutual agreement.

4. The standard loan mortgage forms used by the FHA and the FLB will be exchanged by the local representatives. Any additional covenants or deviations in individual cases will be called to the attention of the local representative before the loan is closed.

D. *Supervision.* FHA's policy of supervision and counseling will be carried out in accordance with current policy.

1. The loan(s) made by each lender will be serviced in the usual manner by its respective representative unless special problems develop that require consideration by both representatives.

2. A spirit of mutual cooperation will be followed in servicing each loan in the interests of the borrower, the FLB and the Government.

E. *Graduation.* It will be the policy to continue to emphasize the graduation policy of the FHA to encourage borrowers to use non-FHA credit as soon as possible.

III. *Administration.* A. Special initial sessions will be held by State FHA and FLB regional representatives with FHA field staffs and FLBA personnel concerning this program to clearly outline the objectives of joint participation in making loans.

B. Subsequently periodic meetings will be held to assure uniformity of policy and practices.

C. *Other considerations.* 1. Informal visits between field personnel to discuss problems, applications, servicing of loans and graduation should be made periodically.

2. Occasional joint field visits to borrowers' farms would establish a basis for observing the practical application of policies and practices of each lender.

3. Each lender should advise the other of basic policy changes to guide County FHA Supervisors and FLBA managers in reviewing applications.

4. County Supervisors and FLBA managers should exchange the names of FHA County Committeemen and FLBA Directors for their respective areas as sources for references for applications being considered.

5. Whenever there is a substantial adverse change in the credit position of the mutual borrower, the FHA County Supervisor and FLBA manager will need to discuss the new developments to determine the effect on both loans.

6. The acceptability of property insurance policies will be in accordance with each lender's requirements and mutually agreed upon by representatives of both lenders. The use of any loss proceeds will be in accordance with lien priorities and requirements of each agency for essential buildings. If any buildings are not to be replaced or repaired and the proceeds are not required to be applied on the FLB lien, FHA will have the responsibility for determining the use of the loss proceeds from essential or nonessential buildings.

7. Each lender will notify the other in ample time if it becomes necessary to foreclose its mortgage. This notification will replace the individual requirement of signing the notice of foreclosure agreement when the loans are closed.

8. Each applicant is privileged to select the long-term private lender he prefers to have join with FHA in making his real estate loan when his need exceeds the amount a private lender (FLB or other) will make.

E. A. JAENKE,
Governor,
Farm Credit Administration.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

(i) The County Supervisor and the local representative of another lender should maintain a close relationship in processing loans to mutual applicants or borrowers. A realistic determination must be made on the extent to which the FHA and the other lender can assist the applicant or borrower before either lender makes a firm commitment on the assistance that can be given. The following determinations must be made before the County Supervisor and representative of the other lender are able to determine the amount of each loan: Eligibility, applicant's total real estate needs, normal value of the property, and the applicant's ability to pay his total obligations.

(ii) When an initial FO loan is made at the same time as a loan from another lender, that lender's lien will have priority over the FHA lien unless otherwise agreed upon. The lender's priority of lien can cover in addition to principal and interest, the following: Advances for payment of taxes, property insurance, reasonable maintenance to protect his interest, and reasonable foreclosure costs including attorney's fees.

(3) *Evidence not required.* In any case in which a County Supervisor determines there is no possibility of a feasible arrangement to obtain part or all of the applicant's needs from an uninsured other lender, he will not require evidence from that applicant. The County Supervisor will record his conclusion and the basis for it in the loan docket.

(e) *Refinancing of debts.* (1) When an applicant's request includes the use of loan funds for the refinancing of debts, it must be determined before a loan is

made that his present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to meet. Before refinancing any debt, the County Supervisor will:

(i) Discuss with the applicant the possibility of obtaining the needed credit from the applicant's present creditors or other sources. He will request the applicant to contact his present creditors to explain his credit needs and to determine if the creditor will renew, extend, change, or reduce the present debts as appropriate. He will also advise the applicant of other credit sources available in the area which might assist him with his credit needs and request that he contact such credit sources. If the applicant is unsuccessful in his efforts to obtain credit or to get a revision of the rates and terms of his indebtedness, the County Supervisor will obtain from the applicant the reasons given by the present creditors and other sources for not assisting the applicant and document such information in the running record.

(ii) If the County Supervisor is notified by the applicant that his negotiations with the present creditors or other sources were unsuccessful, he will determine, on the basis of the applicant's financial statement, planned income and expenses, estimated amount available for debt payment and any additional factors presented by the applicant, whether it appears necessary to refinance the debt(s) or any portion of the debt(s) or obtain a change in the rates and terms. When it is determined that refinancing may be necessary, the County Supervisor will contact in person, when practicable, each secured creditor and each unsecured creditor to whom substantial debts are owed for the purposes of verifying the necessity for refinancing. If the loan is to be processed, a statement of each secured account showing the final due date, interest rate, annual installment, amount of principal and interest delinquent, unpaid principal, and accrued interest will be obtained. If all, or a portion of the accounts are to be refinanced, the appropriate amount necessary to settle the account in full or to bring the account current will be obtained. In any case in which a mortgage is to be taken junior to another creditor's lien, such as the Federal land bank or an insurance company, the County Supervisor will obtain early in the loan processing the creditor's determination with respect to furnishing the applicant the additional credit that he needs.

(2) Debts secured by real estate liens will not be refinanced unless the liens are against the farm on which a mortgage will be taken under § 1821.10(b)(1).

(3) Ordinarily, loans will not be made to refinance long-term real estate loans of the type generally made by lenders such as the Federal land banks or insurance companies. When it is necessary to refinance such debts, the total debt will not be refinanced if a part of the debt can be refinanced on a sound basis with the lender's agreement. The part of the debt to be refinanced will not include more than existing delinquencies plus the next installment to become due that the borrower will be unable to pay.

(4) When nonreal estate debts are being refinanced, preference will be given to paying those that will be most helpful to the applicant in carrying on farm and home operations. Ordinarily, in the case of old unsecured debts or inadequately secured debts, the applicant will be requested to contact his creditor(s) and attempt to obtain a substantial reduction of such debts.

(f) *Income from other than the owned acreage.* In any case in which the soundness of the loan depends on income from the farm and other sources, the County Supervisor must determine that income from other sources, in addition to the income from the land the applicant owns will likely be available to him on a continuing basis.

(1) When the applicant must depend on income from land in addition to that which he owns, the County Supervisor will determine that such land or other land of similar quantity and quality likely will be available during the period of the loan or if other land should not be available there is a likelihood that off-farm employment is available to provide the income needed.

(2) When the applicant must depend on income from off-farm employment it must be determined that the off-farm income will probably materialize and continue in the amount anticipated, taking into consideration the nature of the proposed employment and, where possible, the actual employment for the past 2 or 3 years, and the time required for the off-farm work, together with that required for the farm, is possible of accomplishment by the applicant and his immediate family, taking into consideration hired labor for seasonal peak-load periods.

(g) *Income from nonfarm enterprises.* Income from nonfarm enterprises, is considered to be "other income" rather than farm income. The farm and home plan will have sufficient information attached to determine the feasibility and soundness of the applicant's request for FHA assistance in conducting nonfarm enterprise in conjunction with his farming operation. Such information will indicate whether the enterprise provides sufficient income to meet its operating expenses, depreciation, proportionate share of the debt, and make a reasonable contribution to the family's income.

(h) *Supplementary payment agreement.* Form FHA 440–9, "Supplementary Payment Agreement," should be used for each applicant who regularly (such as weekly, monthly, or quarterly) receives substantial income from an off-farm source, a nonfarm enterprise, or from farming. It also should be used for other applicants when needed to facilitate servicing of the account.

(i) *Farm or residence situated in different counties.* If a farm is situated in more than one State, county, parish, or locality, the loan will be processed and serviced in the State, county, parish, or locality in which the borrower's residence on the farm is located. However, if the borrower's residence is not part of his farm, the FO loan will be serviced by the County Office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Office because of transportation difficulties.

(j) *Other real estate.* The State Director may permit an applicant to retain real estate that will not be a part of the farm provided such real estate furnishes the applicant employment or income which together with farm income is essential to his success, it provides the residence for the applicant, or a sale of property would not materially reduce the applicant's need for a real estate loan or for operating credit; and provided further that the retention of such real estate will not cause a borrower to operate larger than a family farm or to own a farm for rental for agricultural purposes in addition to the farm he operates. Otherwise, a loan may be made to an applicant who owns real estate which will not be a part of the farm only if he disposes of the property before or simultaneously with the closing of the loan, or if this is not feasible, agrees to dispose of it as promptly as possible, but in no instance later than 2 years after the date of loan closing. The applicant must use the net proceeds to pay essential farm and home expenses, to make necessary capital purchases, or to reduce his debts. The applicant's agreement for disposal of the real estate and use of the proceeds will be obtained through the use of Form FHA 443–17, "Agreement to Sell Nonessential Real Estate." This form will be executed by the applicant and his wife at the time of loan closing. The security instrument taken in connection with the loan will not include real estate to be sold.

(k) *Joint ownership and joint farming operations*—(1) *Joint ownership and operation by members of the same family.* Whenever it is not feasible to divide the land into family farms with individual ownership, a loan may be made to two applicants constituting a family group that owns or will own a farm jointly and conduct a joint operation if each of the applicants is individually eligible and the family group likewise meets all eligibility requirements, provided that the total operation will not be larger than a family farming operation. A family group would consist of relationships such as father-son, mother-son, or grandfather-grandson in which the younger member of the group would take over the operation as the older member becomes less active in conducting the farming operations, unless a different family group is authorized in a justified case by the National Office. It is anticipated that this transition period would take place and be completed within a few years after the loan is made. The participation of a member of such family in the operation without an ownership interest in the farm is not prohibited, but in such case, the responsibility of management must be in the owner or owners. In any case, it must be determined that because of previous experience in working together,

such a family group likely will succeed in the proposed joint farming operation. All joint owners of the land will execute the application, payment authorization, if any, note and mortgage, as well as other loan docket forms.

(2) *Separate ownership of the farm and joint operations.* A loan may be made to an eligible applicant who will own a farm which is not larger than a family farm and will conduct a joint operation with another individual or individuals provided:

(i) Not more than three individuals are interested in the operation;

(ii) That, because of previous experience in working together as farmers, they will likely succeed in the proposed joint operation; and

(iii) The joint operation will not be larger than the equivalent of a family farm operation for each full-time operator involved. However, such operation will not exceed a single family farm operation, whenever the individual who has an interest in the applicant's operation does not personally perform labor in an amount at least equal to his respective interest in the operation.

(l) *Debt-settlement cases.* A loan will not be made to an applicant whose debts have been settled pursuant to Part 1864 of this chapter, as reflected by the County Office records, or where settlement under such regulation is contemplated, unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control, the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been or will be removed by the making of the loan, and the borrower's operations will be sound and afford him a reasonable prospect of repaying the loan and meeting his other obligations. Before requesting an appraisal or causing the applicant to incur any expense in connection with the loan, the County Supervisor, if he determines that the applicant should be considered for a loan, should complete Form FHA 431–2 and send it, together with the application, any available case folders, and his recommendation to the State Office for a determination as to whether to proceed with development of the loan docket.

(m) *Compliance with special laws and regulations.* Applicants will be required to comply with Federal, State, and local laws and regulations governing diverting, appropriating, and using water including use form domestic or nonfarm enterprise purposes, installing facilities for draining land, and making changes in the use of land affected by zoning regulations. The applicant should also comply with any such laws, special licenses, and regulations pertaining to nonfarm or fish farming enterprises. Requirements set forth by the State Director will be issued to advise County Supervisors as to the action to be taken by applicants in order to comply with this policy. In any State where there are no special laws or regulations to comply with, special instructions may be needed to advise how to make sound loans under such conditions. For example, evidence may be needed to determine the effect that diverting water from a stream might have on other users or their legal rights as well as the manner in which other users or their legal rights affect the borrower's use of the water. Furthermore, even though there are no specific requirements to be met, it may be possible to file with the appropriate State authority the facts concerning the borrower's use of water from a stream in order that he might have some priority rights in case laws or regulations are made that will affect the use of water.

(n) *Area determinations.* It will be the responsibility of the State Director to determine if there are any areas in the State where the development of ground water for irrigation purposes or the drainage of farmland is not recommended. The State Director will make this determination with the advice of the State Conservationist for the Soil Conservation Service, and the State Geologist or Engineer, or officials of the U.S. Geological Survey, School of Mines, or any State Water Board, State Agency, or person having official functions relating to use of water or drainage of farmland. Requirements set forth by the State Director will be issued specifying the area in which available information indicates that the further development of ground water or drainage is not advisable without a further analysis of pertinent economic and physical data.

(1) If such areas exist, the State requirement will limit the making of FO loans within the areas to the repair or rehabilitation of existing irrigation facilities which will not result in the development of additional ground water in excess of the amount previously used, or contain such other restrictions as the State Director determines to be necesary.

(2) If such areas do not exist, there will be included in the State requirement, the determination that there are no areas in the State where the development of ground water for irrigation purposes or the drainage of farmland is not recommended. In any event, the State Director may require a test well prior to the time the applicant incurs costs for drilling a well.

(o) *Liens junior to the FHA lien.* A loan will not be approved if a lien junior to the FHA lien likely will be taken simultaneously with or immediately subsequent to the closing of the loan to secure any debt the borrower may have at the time of loan closing or any indebtedness he may incur in connection with the FO loan, such as for a portion of the purchase price of the farm or money borrowed from others for payments on debts against the farm, unless the total debt against the security would be within the $100,000 debt limit or the normal value of the security, whichever is less.

(p) *Public liability and property damage insurance.* Applicants receiving loans for other nonfarm enterprises will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(q) *Subdivision of large tracts of farmland into family farm units.* County Supervisors should investigate any large tract that is offered for sale to determine the feasibility of making FO loans to several applicants to acquire the tract. In considering the feasibility of a tract for subdivision into family farms, the following are some of the factors that must be considered:

(1) Productivity of the land and its suitability for operation as a family farm;

(2) Cost of the land and improvements included or necessary;

(3) Accessibility to roads, markets, schools, and other services;

(4) Disposition or omission of any portion of the tract that is not suitable; and

(5) The number of eiligible applicants in the area.

(r) *Refinancing of FO loan.* If, at any time, it appears that the borrower may be able to obtain a loan from a cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time prevailing in the areas, to refinance his loan, the borrower will, upon request, apply for and accept such refinancing.

§ 1821.12 Suitability of farm for the FO program.

(a) *Responsibility for determining suitability of farms.* The County Supervisor is responsible for making a preliminary determination as to whether a loan can be made on the farm. This determination will be based on a personal inspection of the farm and the consideration of such factors as productivity of the land; location, condition, and adequacy of the buildings; approximate value of the farm; approximate amount of funds required for land purchase; boundaries of the farm; roads, school, markets, or other community facilities; tax rates; and adequacy of the water supply. He also will determine the suitability of the farm for a nonfarm enterprise facility or fish farming.

(b) *Development of loan docket and plans.* Farm and home plans will be prepared in accordance with Subpart B of Part 1802 of this chapter. Plans for a nonfarm enterprise will be developed on Form FHA 431–4, "Business Analysis—Nonagricultural Enterprise," in accordance with acceptable business practices for the enterprise. If there is a State Planning and Development Agency or other recognized competent planning and development source that will assist in such plans, its services will be used to the extent feasible. The farm development plan will be prepared in accordance with Subpart A of Part 1804 of this chapter. When the farm and home plan including any plans for a nonfarm enterprise, and the farm development plan have been prepared and real estate is to be taken as security for the loan, and the appraisal is to be made by other than authorized personnel in that County Office, the services of an appraiser will be requested. In any case, if it appears that a loan cannot be made, the County Supervisor will promptly notify the applicant of the specific reasons for the decision. If the applicant is

dissatisfied with the decision and requests further consideration, the County Supervisor may ask the County Committee for an opinion regarding the suitability of the farm for an FO loan.

§ 1821.13 Technical and legal services.

(a) *Technical assistance.* Applicants are responsible for obtaining technical assistance necessary to plan, construct, or establish the improvement or facility to be financed with the loan or other technical service required in connection with the loan.

(b) *Appraisal.* (1) When real estate will be taken as security for the loan, the real estate will be appraised by an FHA employee authorized to appraise farms.

(2) When nonreal estate items will be taken as security for a loan, a list of such items will be made on Form FHA 440–21, "Appraisal of Chattel Property," or State form, if such a form has been developed, with an estimate of the normal value of the security. In determining the normal value of chattel security, the County Supervisor will take into consideration the length of time the chattels will serve as security and the useful life of such security. In the case of other security, the County Supervisor will include a supporting statement with his estimated value of such security. Such a statement will include a narrative description of the security, its current cash value, the relative stability of the value of the security, and how the property is to be mortgaged or otherwise given as security for the loan.

(c) *Title clearance and legal services.* (1) When real estate is taken as security, title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this chapter. The applicant will be requested to furnish title evidence as soon as the County Supervisor determines the loan probably will be made. If the County Supervisor is doubtful whether the loan will be approved, he will not require the applicant to furnish title evidence until after the loan approval.

(2) When no real estate is taken as security, the applicant will be required to submit the original or a certified or photostatic copy of his deed, purchase contract, or other instrument evidencing ownership. Whenever the County Supervisor is uncertain as to whether or not the applicant is the owner of a family farm, the County Supervisor will take such actions as he considers necessary, such as requiring the applicant to furnish additional information or obtaining the opinion of the OGC as to the evidence of ownership of the farm and his advice as to any further information or action that may be needed.

(3) When chattels are taken as security, a lien search will be obtained in accordance with Subpart B of Part 1831 of this chapter.

§ 1821.14 Mineral rights.

Borrowers should obtain to the extent practicable, all the mineral rights in any land being acquired. When mineral reservations appear to make it questionable whether a sound loan can be made on property with all or part of the mineral rights held by a third party, the County Supervisor will obtain the advice of the State Director before proceeding with development of the loan.

§ 1821.15 Optioning of land.

When land is to be purchased, the applicant will be responsible for selecting the land he intends to purchase and for obtaining an option on such land. The County Supervisor should, if possible, prior to the applicant's selection of the land to be purchased, advise him with respect to the approximate size and quality of farms which are generally considered suitable for the FO program. Also, the County Supervisor will advise the applicant that the farm must be located on a public road or have a right-of-way or easement for a useable access road to a public road. Such advice, together with the consideration of the applicant's eligibility before the land is selected, will save the applicant's time in looking for farms and will reduce the number of options taken on farms which are obviously too small, too large, or too unproductive to qualify for the FO program. A determination should be made that a loan can likely be processed before the applicant is requested to obtain an option. Form FHA 440–34, "Option to Purchase Real Property," will be given to the applicant with an explanation of the provisions of the Form and how it will be completed. Generally, Form FHA 440–34 should be used; however, other option forms may be used if their provisions are acceptable.

(a) The County Supervisor is responsible for examining each completed option to determine if it is acceptable. When the County Supervisor is doubtful as to whether the option is acceptable due to questions, such as the effect of mineral or other reservations on the applicant's or the Government's interests, or unusual conditions or alterations of Form FHA 440–34 or other option form, if used, he will forward the option to the State Office with a memorandum indicating the extent to which the exceptions are or may be objectionable and request the advice of the State Director. The State Director will contact the OGC when legal advice is needed.

(b) The County Supervisor also will determine that:

(1) At least $1 is actually paid to the seller by the applicant and the receipt for this amount is acknowledged in the option.

(2) The option is recorded, if necessary. Recordation fees will be paid by the applicant.

(c) When a tract of land is to be optioned and subdivided, the applicant in whose name the option is to be taken must be advised by the County Supervisor that the applicant will not receive any remuneration for assigning interest in the option to other applicants. The County Supervisor is responsible for explaining to the seller and the applicant in whose name the option is taken, the terms and conditions of the option including the provision that the seller will provide an accurate survey, if required by the Government.

(1) The County Supervisor will discuss any proposed subdivision with the County Committee and the District Supervisor before any definite commitments are made to the prospective seller with respect to utilizing a tract for subdivision purposes. He will also obtain the assistance of the employee authorized to appraise farms in making a thorough study of the tract and in plotting the units to show proposed roads and other necessary facilities in order to determine whether it is practicable to subdivide the tract into adequate farms.

(2) If the tract is determined to be suitable, an option will be taken on Form FHA 443–2, "Option for Purchase of Farm-Land to be Subdivided." The tract will be subdivided into units, each unit will be surveyed, and the applicant, in whose name the tract is optioned, with the guidance of the County Supervisor, will execute Form FHA 443–3, "Assignment of Interest in Option (Land to be Subdivided)," with each applicant who is to receive one of the units. If it becomes necessary for the State Director to designate an applicant as assignee of an interest in the option, Form FHA 443–4, "Designation of Assignee of Interest in Option (Land to be Subdivided)," will be used.

§ 1821.16 Deferred payments.

The principal payment may be deferred until the end of the second full crop year from the date of the loan. Such payments may be deferred only when the Farm and Home Plan covering the first full crop year indicates that there will be insufficient income to meet a regular annual installment on the loan after operating, family living, and other essential expenses are paid during the first or first and second full crop years. Further, in the judgment of the loan approval official, there must be adequate evidence that income in subsequent years will be sufficient to meet the requirements of the loan. Deferred payments should not be used to permit the accelerated repayment of other debts or to purchase an unusually large amount of capital goods. Deferment will be justified only when adequate returns will be delayed one or two full crop years, and:

(a) A substantial reorganization of the farming system and any nonfarm enterprise is being made; or

(b) A new system of farming or nonfarm enterprise is being established that will require substantial improvements, such as land clearing, draining, leveling, irrigating, basic fertilizing, seeding, or other land development, soil improvement, and extensive nonfarm facilities.

§ 1821.17 Junior mortgage loan.

When a loan is to be secured by a junior mortgage, the following items will apply:

(a) *Agreements with prior lienholders.* Agreements with prior lienholders regarding enforcement of objectionable provisions of their liens or giving notice of foreclosure or assignment of their liens, or both, will be obtained in accordance with § 1807.2(f)(5) of this

chapter, except as modified by the Memorandum of Understanding with the Farm Credit Administration.

(b) *Items for docket.* The applicant will be required to furnish the County Supervisor before the docket is assembled, a copy of each mortgage held by the prior lienholder(s) and, if available, a copy of the note or other obligation so that a proper determination can be made as to whether it should be refinanced. In addition, the County Supervisor will be furnished a current statement from the mortgagee showing the amount of unpaid principal secured by the mortgage(s), the amount of any accrued interest, whether the account(s) is current or the amount of any delinquency with principal and interest shown separately, and if a copy of the note(s) is not provided, its maturity date, repayment schedule, interest rate, and a summary of any other provisions of the note. This information will be included in the docket for the information of the loan approval official. Any cost incidential to obtaining the information will be paid by the applicant.

§ 1821.18 Certification by County Committee.

Before an FO loan is approved, the County Committee will make its certifications with respect to the eligibility of the applicant and the maximum amount of the loan on Form FHA 440–2, "County Committee Certification or Recommendation." The amount certified by the County Committee may be greater but not less than the amount of the loan. Since this is an administrative determination, the applicant will not be notified of the certified amount. Members of the County Committee may interview the applicant and/or see the farm before making their recommendations.

(a) The loan docket may be developed and submitted to the County Committee for certification, if the County Supervisor during his investigation of the application finds no objections which would likely cause the County Committee to take unfavorable action on the applicant's eligibility. The amount of the loan certified by the County Committee will be based on the completed docket. It may also be certified from a reasonably accurate estimate of the amount needed, supported by the appraisal report and appropriate plans and complete information about the applicant.

(b) If the County Supervisor has any question concerning the applicant's eligibility, he will have the application considered by the County Committee prior to developing a loan docket. If favorable action is given by the County Committee, the docket will be completed and returned to the Committee for its final certification.

(c) If the County Committee rejects the application, reasons for unfavorable action will be given in the space provided on Form FHA 440–2 above their signature.

(d) When a loan cannot be processed promptly, a decision will be made on the eligibility of the applicant in accordance with Part 1801 of this chapter. He must be notified in writing of the initial action taken by the County Committee; otherwise, a loan docket should be processed and submitted to the Committee for disposition.

(e) Ordinarily, the amount of the loan plus any other debts against the security will not be excess of the recommended normal value of the security as shown on the appraisal report(s). A loan docket will not be developed when a loan plus any other debts against the security will be significantly in excess of the recommended normal value against the security. In an unusual case when the amount of a loan needed for success plus any other debts that will be against the security is slightly above the recommended normal value of the security and the County Committee and the County Supervisor believe that the loan should be made, Form FHA 440–2, may be completed. In such a case, the completed loan docket will be submitted to the State Office for a determination as to whether it is feasible to establish the normal value of the security above the appraiser's recommended normal value. If the loan approval official determines that the normal value is in excess of the appraiser's recommended normal value, he will record his determination of the normal value of the security on Form FHA 440–3, "Record of Actions."

(f) Federal Land Bank Association stock required to be purchased by Federal Land Bank Association borrowers is not assignable but it does have security value. Therefore, when FHA and the Federal land bank make simultaneous loans, the loan approval official may find the normal value of the total security to be equal to the normal value of the real estate plus the value of the Federal Land Bank Association stock. He will record his determination of the normal value of the security in such a case on Form FHA 440–3.

§ 1821.19 Preparation and distribution of loan docket.

(a) *Checking docket forms.* When the loan docket forms have been completed, they will be checked thoroughly to determine that the proposed loan conforms to the applicable loan limits, that each form is prepared correctly in accordance with the prescribed guide available in all FHA offices for preparation of loan docket forms, and items such as names, addresses, and the amount of the loan are the same on all forms in which such items appear. Any loans that require State Office approval will be submitted to that office as soon as the docket is completed.

(b) *Verification for veterans' preference.* If the applicant has checked the veteran block, the County Supervisor, or other County Office employee will review the applicant's evidence of discharge or release to determine whether the applicant is entitled to veterans' preference.

(c) *Information on the availability of other credit.* The County Supervisor will record in the Running Case Record the pertinent information concerning the negotiations made by the applicant and the discussions by FHA personnel with the applicant's creditors and other lenders.

(1) Documentation of the investigation of other credit required by § 1821.11 (e) must be sufficiently clear and adequate to establish that other credit is not available.

(2) Any letters from lenders or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory terms with present creditors or credit elsewhere will be included in the loan docket.

(d) *Distribution of docket forms.* The loan docket will include the forms and documents listed in instructions available in all FHA offices.

§ 1821.20 Loan approval.

(a) *Application of authority.* The State Director's authority to approve FO loans in accordance with Subpart B of Part 1810 of this chapter permits approval of initial or subsequent FO loans when the amount of the loan plus unpaid principal balance and any past-due interest on debts against the security for the loan will not exceed $100,000, or the normal value of the security. Debts against nonessential real estate an applicant owns or against real estate in which he has an undivided interest are not included in the $100,000 debt limitation unless the property will be security for the loan. The dollar amount of loan approval authority granted in a State Instruction by the State Director to a qualified State Office employee includes the amount of the FO loan plus any unpaid principal balance and any past-due interest on debts to remain against the security. Also, loans approved by such delegatee may not exceed the normal value of the security.

(1) An employee is not authorized to approve an FO loan made in connection with the property he has appraised.

(2) An Assistant County Supervisor may not approve a loan on property appraised by the County Supervisor in the same County Office unit.

(b) *Limitations.* The authority granted to District Supervisors, County Supervisors, and Assistant County Supervisors in accordance with Subpart B of Part 1810 of this chapter is limited to cases in which:

(1) The proposed loan plus the total unpaid principal balance and any past-due interest on debts against the security for the loan will not exceed the loan limitation specified for the respective supervisor.

(2) The debt against any property taken as security for the loan will not exceeds the appraiser's recommended normal value of the property.

(3) No significant changes have been made in the development plan considered by the appraiser when real estate will be taken as security.

(c) *Loan approval action*—(1) *Examination of loan.* The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all

pertinent regulations and insured or direct loan funds are available for the loan. When reviewing the docket the loan approval official will determine that the Committee certification has been properly completed and signed by at least two Committeemen, the applicant is eligible, funds are requested for authorized purposes only, the proposed loan is sound, the security is adequate, necessary supervision is planned, and all other pertinent requirements are met.

(2) *Approval or disapproval of a loan.* When a loan is approved, the loan approval official will:

(i) Indicate on all copies of Form FHA 440–3 any conditions not required by FHA requirements that must be met before the loan is closed and specify the special security requirements, such as conditions under which a prior lien may remain outstanding, the kind of additional security required, and so forth. If title evidence is required in accordance with Part 1807 of this chapter, or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes satisfactory title evidence, the County Supervisor will proceed with processing the loan, except that in those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(ii) Sign the approval certification on the original of Form FHA 440–3 and insert his title in the space provided.

(iii) Sign the original and one copy of Form FHA 440–1, "Payment of Authorization," for a direct loan, or an insured loan under a 2(f) agreement, or an insured loan from the ACIF.

(iv) If the loan is disapproved after the loan docket is developed, the loan approval official will explain on Form FHA 440–3 the reasons therefor and initial and date the original. The County Supervisor will notify the applicant, giving the reasons for the disapproval of the loan. If the notice was not in writing the County Supervisor will record in the running record a brief summary of the discussion with the applicant. He should also advise the County Committee of the action taken on the loan.

(d) *Distribution of docket forms and loan approval.* The applicable docket form will be distributed as outlined below by the loan approval official after a loan is approved.

(1) *To the Finance Office.* Form FHA 440–3 (original and copy). After Form FHA 440–3 is processed in the Finance Office a conformed copy will be returned to the County Office. Form FHA 443–12, "Farm Ownership and Individual Soil and Water Fund Analysis" (original). Form FHA 440–1 for a direct loan or an insured loan made from the ACIF or under a 2(f) agreement (original and copy when required). Form FHA 492–19, "Characteristics of Approval Applicants" (original) when required.

(2) *To the County Office.* One conformed copy of Form FHA 440–3 and the remainder of the loan docket. In the case of an insured loan to be made by a private lender or under a 2(f) agreement, the lender's name and complete mailing address will be inserted on Form FHA 440–3; also, copy of Form FHA 492–19 when required.

(3) *To the State Office.* If a loan is approved in the State Office, a copy of Form FHA 440–3 and a copy of Form FHA 443–12 will be retained. If the loan is approved in the County Office or by the District Supervisor a conformed copy of Form FHA 440–3 and a copy of Form FHA 443–12 will be sent to the State Office for retention; also, copy of Form FHA 492–14 when required.

(4) *To the borrower.* A signed copy of Form FHA 440–1 will be sent to borrower on the date of loan approval.

§ 1821.21 Requesting title service and accepting option.

When the loan is approved, the County Supervisor will see that title is requested in accordance with Part 1807 of this chapter, if this has not already been done, and where land is being acquired also see that Form FHA 440–35, "Acceptance of Option," is completed, signed, and mailed to the seller, however, in connection with acceptance of option on a subdivision, Form FHA 443–10, "Acceptance of Option by Assignee (Land to be Subdivided)," and Form FHA 443–11, "Acceptance of Option by Buyer (Land to be Subdivided)," will be used as appropriate. When the acceptance of option letter has been mailed to the seller, the borrower will arrange with the seller, in consultation with the County Supervisor to occupy and operate the farm as soon as practicable. Agreements will be in writing and cover such subjects as disposition of growing crops, rentals, payment of maintenance cost, and other pertinent points. The following forms will be used for this purpose, as appropriate:

Form FHA 443–5, "Short-Term Lease of Optioned Land."
Form FHA 443–6, "Short-Term Lease (Between Purchaser and Seller)."
Form FHA 443–7, "Temporary Cropping License."
Form FHA 443–8, "Agreement (Between Seller, Purchaser, and Tenant)."

§ 1821.22 Actions subsequent to loan approval.

(a) *Requesting check.* When the loan has been approved, approval conditions can be met, necessary curative actions have been taken to provide a satisfactory title to any real estate security, and a date has been set for loan closing, the County Supervisor or his delegate in writing will order the loan check. However, the check may be requested at the time of loan approval if real estate will not be taken as security or, if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval.

(1) For a direct loan, or an insured loan from the ACIF if the check is to be ordered at the time of loan approval, the County Supervisor will check the block on the original in Form FHA 440–3 for issuance of the check and sign and date the portion of the form to request the check. If the check is not ordered at the time of loan approval, a copy of Form FHA 440–3 will be completed after loan approval to request the check in sufficient time to obtain the check prior to the loan closing date.

(2) For an insured loan by a private lender, the County Supervisor will request the check in accordance with Part 1812 of this chapter.

(b) *Handling loan checks.* (1) If the loan check is to be deposited in a supervised bank account, this will be done for either a direct or insured loan on the date of loan closing in accordance with Part 1803 of this chapter, after it has been determined that the loan can be closed, but in no case later than the first banking day following date of loan closing.

(2) When a private lender issues a loan check payable jointly to the borrower(s) and the Farmers Home Administration as a precaution against loss of funds, the County Supervisor is authorized to endorse the check on behalf of the Farmers Home Administration at the time of loan closing as follows:

Endorsed without recourse:
Farmers Home Administration
By _____
Title _____

The State Director also is authorized to endorse such a check in the same manner. Authority to endorse such checks in no way relates to or modifies the regulations contained in Part 1862 of this chapter regarding collection items or the endorsement of such items.

(3) If a loan check other than a check from a private lender is received and the loan cannot be closed within 21 days from the date of the check, the County Supervisor will return the check by memorandum to the Disbursing Center, U.S. Treasury Department, Post Office Box 2509, Kansas City, MO 64142.

(4) For an insured loan made by a private lender, if the loan cannot be closed on the date planned as indicated to the lender, and the loan is to be closed, the lender will be notified immediately of the reasons for the delay. If it is determined that an insured loan cannot be closed, the check will be returned immediately to the lender with a request for cancellation. In no case may a lender's check be retained more than 21 days from the date of the check. When a loan check is lost, mutilated, or destroyed, the County Supervisor will immediately notify the lender and, if the borrower still desires to close the loan, the lender will be requested to issue a new check. When a check is returned and the loan will be closed at a subsequent date, another check will be requested in the usual manner.

(c) *Cancellation of loan.* Loans may be canceled before loan closing as follows:

(1) The County Supervisor will notify the State Office and Finance Office of a loan cancellation by use of Form FHA 440–10, "Notification of Loan or Grant Cancellation."

(i) For a direct loan or an insured loan from the ACIF or under a 2(f) agreement, if a check is received in the County Office, the County Supervisor will return it to the Disbursing Center, U.S. Treasury Department, Post Office Box 2509, Kansas City, MO 64142, with a copy of Form FHA 440–10.

(ii) For an insured loan by a private lender, any check advanced will be returned promptly to the lender with an explanatory letter.

(2) Interested parties will be notified of the cancellation as provided in Part 1807 of this chapter.

(d) *Increase or decrease in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office and reprocessed unless the change is minor and replacement forms can readily be completed and submitted. In the latter case, a memo to that effect will be attached to the revised forms for referral to the Finance Office. A new Committee certification will not be necessary unless the revised loan amount is higher than the original certification.

§ 1821.23 Loan closing actions.

When a loan closing date has been agreed upon, the County Supervisor will notify the borrower and seller, if any, of the loan closing date. The following appropriate actions will be taken in connection with and after loan closing.

(a) *Real estate mortage loans.* When a loan is to be secured by a real estate mortgage, it will be closed in accordance with the applicable provisions of Part 1807 of this chapter.

(b) *Loans involving chattel or other non-real estate security.* Form FHA 440–15 (State), "Security Agreement (Insured Loans to Individuals)," or appropriate chattel mortgage for Louisiana, will be used for insured loans. Form FHA 440–4, "Security Agreement," or appropriate chattel mortgage for Louisiana, will be used for direct loans. The instrument will be obtained and handled in accordance with the applicable parts of Subpart B of Part 1831 of this chapter. If for any reason Form FHA 440–15 or Form FHA 440–4 cannot be used as developed in any State other than Louisiana, the State Director will advise the National Office of the reasons it cannot be used and recommend any necessary changes to comply with State Law. If modifications of the forms are approved in the National Office, State forms will be used in lieu of Form FHA 440–15 or Form FHA 440–4.

(c) *Applicant's financial condition.* The County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in his financial conditions, the financial statement will be revised and initialed by the borrower and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper the loan will not be closed. If a revised loan docket can be developed and if the County Supervisor is not authorized to approve the loan, it will be submitted to the loan approval official for reconsideration.

(d) *Loan approval conditions.* If there are any loan approval conditions which the applicant must meet before the loan is closed, the County Supervisor will call these conditions to the applicant's attention at the time he notifies him of the loan closing date. If an applicant will not comply with the loan approval conditions, the loan cannot be closed.

(e) *Change in use of funds planned for refinancing.* (1) In cases where funds are included in the loan to refinance debts, the County Supervisor is authorized to transfer funds planned for refinancing between debts, provided all debts for which loan funds were planned are paid and the amount of loan funds to be used for refinancing does not exceed the amount planned for such purpose; except that the County Supervisor is authorized to use funds planned for other purposes to pay small deficiencies in estimates of the amount needed for refinancing, if he determines that sufficient funds will remain available to complete the planned farm development or land purchase.

(2) When the total amount of debts planned to be paid have increased so that they cannot be met within the authorities in the above paragraph or the applicant desires to transfer funds to pay debts for which loan funds were not planned, a revised loan docket will be developed and, if the County Supervisor is not authorized to approve the loan, it will be submitted to the loan approval official for reconsideration. If Form FHA 443–12 has been revised and the loan is approved, the loan approval official will send a copy of the revised form to the Finance Office. If the total amount of the loan will be increased, the docket will be processed in accordance with § 1821.22(d).

(f) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter, including provisions for written consent of any prior lienholder. Authorization may be given by the State Director to refrain from taking an assignment of such income in cases in which the security is otherwise adequate, payment of the loan is reasonably assured from other sources, and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting transactions such as income from bonus payments or annual delay rentals which will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter.

(1) For assignment of income, Form FHA 443–16, "Assignment of Income from Real Estate Security," will be used, except that if the form is legally inadequate in a particular State it may be adapted with the approval of the OGC.

(2) The County Supervisor, upon the advice of the designated attorney, title insurance company, or OGC, as appropriate, may require acknowledgment and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(3) At the time Form FHA 443–16 is executed, appropriate notations will be made on Form FHA 405–1, "Management System Card—Individual," to insure that the proceeds, or the specified portion of the proceeds assigned to FHA from the transactions are remitted at the proper time.

(g) *Preparation and endorsement of note.* Form FHA 440–17, "Promissory Note (Direct Loan)," for direct loans or Form FHA 440–16, "Promissory Note (Insured Loan)," for insured loans will be prepared and completed at the time of loan closing. If insured RH funds are advanced simultaneously the RH loan will be evidenced by a separate insured note on the proper form as provided in Subpart A of Part 1822 of this chapter; however, both the insured FO note and the insured RH note will be described in the same mortgage. In addition, when an insured Soil and Water (SW) loan is being made at the time as an FO loan, both insured notes will be described in the same mortgage. Care will be taken to assure that the borrower's name, case number, address when living on the farm securing the loan, and all other entries are typed in correctly on the note.

(1) When determining the amount of the first installment, the County Supervisor will consider the borrower's financial circumstances and the extent to which he will receive income from the farm or other source during the calendar year in which the loan is closed. The amount of the first installment may be less but not more than a regular annual installment. If the borrower will not receive income from the farm or other source during the calendar year preceding the date of the first installment, a nominal first installment will be sufficient, unless the borrower desires to pay more, except that:

(i) For an insured loan by a private lender, the amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to February 1, of the next calendar year, unless the lender has agreed to a lesser amount.

(ii) For an insured loan made from the ACIF or under a 2(f) agreement, the amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to February 1, of the next calendar year.

(2) The regular amortized installment will be determined in accordance with instructions for the preparation of the note. The amount of such installment will be the amount of principal and interest which, if paid annually, will retire the full amount of the note plus interest within the amortization period of the loan.

(3) When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless deferment is approved. Also, funds included in the loan for payment of interest will be collected on the date of loan closing. The receipt should indicate "For deferred installment interest."

(4) The promissory note will be signed by the borrower and his or her spouse, if married, unless under the provisions of Part 1807 of this chapter the spouse's signature is unnecessary.

(5) For insured loans, other than those made from the ACIF, the promissory note will be assigned to the lender in accordance with Part 1812 of this chapter.

(6) Each County Supervisor and each State Director is authorized to sign the endorsement on the reverse of the note and to execute Form FHA 440–5, "Insurance Endorsement (insured loan)." The insurance endorsement constitutes the Government's contract of insurance of the loan.

(h) *Obtaining insurance.* Buildings on the property which are to be taken as security for the FO loan will be insured in accordance with Part 1806 of this chapter. When a loan is secured by chattels, and the loss of such chattels jeopardize the interests of the Government, the County Supervisor may require the borrower to insure the chattels against hazards customarily covered by insurance in the area.

(i) *Loan closing.* (1) Before closing the loan, the County Supervisor will determine that the corresponding entries on the note and mortgage are identical.

(2) Immediately after loan closing, for a direct loan, the original Form FHA 440–17 will be sent to the Finance Office.

(3) Immediately after loan closing, for an insured loan by a private lender, the original Forms FHA 440–5 and FHA 440–16 will be sent to the lender and conformed copies will be sent to the Finance Office; from the ACIF, the original and a conformed copy of Form FHA 440–16 will be sent to the Finance Office; and under a 2(f) agreement, the original Forms FHA 440–5 and FHA 440–16 will be sent to the State Director and conformed copies will be sent to the Finance Office.

(4) In case of an insured loan by a private lender, if for any reason it is not possible for the same County Supervisor who signed Form FHA 440–7, "Request for Check," to endorse the note and sign the insurance endorsement, the original of the completed note and insurance endorsement will be sent to the State Office instead of directly to the lender. In such case, the State Director, or other authorized State Office official, will attest on Form FHA 440–5 the signature of the different County Supervisor before sending the note and insurance endorsement to the lender. This will not be necessary when a local lender has no objection to a different signature on the endorsement of the note and on the insurance endorsement than that which appeared on Form FHA 440–7.

(5) When the mortgage is returned by the recording official, the original mortgage will be retained in the borrower's case folder unless the original is retained by the recording official for the County Office records. If the original is retained by the recording official, a conformed copy including the recording date showing the date and place of recordation and the book and page number will be prepared and filed in the borrower's case folder. A conformed copy of the mortgage will be sent to a prior lienholder if a substantial interest is held by that lienholder, or it is a working agreement provision with that lender.

(6) The original deed of conveyance, if any, and a copy of the mortgage will be delivered to the borrower.

(7) If the borrower secures an owner's policy of title insurance and it is sent to the County Office it will be delivered to the borrower as soon as it is received from the title insurance company.

(j) *Effective time of loan closing.* An FO loan is considered closed when the mortgage is filed for record.

(k) *Water stock certificates or similar collateral.* When water stock certificates or similar collateral is a part of the security, it will be retained in the County Office. A notation will be made on Form FHA 405–1 showing that such security has been retained.

(l) *Abstracts of title.* Any abstract of title will be delivered to the borrower for safekeeping, except when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party. When the abstract is delivered to the borrower, Form FHA 140–4, "Transmittal of Documents," will be prepared and a receipt obtained. When the abstract is delivered to a third party, a memorandum receipt will be obtained.

§ 1821.24 Subsequent FO loans.

A subsequent FO loan is a loan made to a borrower who currently owes an FO debt.

(a) A subsequent loan may be made for the same purposes and under the same conditions as an initial loan.

(b) The subsequent loan will be processed in the same manner as an initial loan, except that a new appraisal of real estate will be required only when real estate is taken as security and one or more of the following exists:

(1) Subsequent loan funds will be used to purchase land or the mortgage will include additional land that is not presently covered by the FHA real estate mortgage.

(2) The County Supervisor or loan approval official requests a new appraisal report.

(3) The latest appraisal report on the farm is over 2 years old.

(4) The physical characteristics of the farm have changed significantly.

(5) The property was not appraised in connection with the initial loan.

§ 1821.25 Reamortization of existing FHA debt(s).

In connection with making or insuring an FO loan to a borrower currently indebted for an FO, RH, or SW loan, such existing loans may be reamortized with the prior approval of the District Supervisor. In any such case, the reamortization of each existing loan may be made only within the remaining period of that loan. Authority to reamortize an account will be granted in those cases in which the District Supervisor determines that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized. When a loan is reamortized, it will be processed in accordance with Subpart A of Part 1861 of this chapter.

§ 1821.26 Nondiscrimination poster.

Recipients of FO loans to improve or install recreational facilities which are subject to Title VI of the Civil Rights Act of 1964 must display the nondiscrimination poster, "And Justice for All."

Dated: April 11, 1972.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.72–5739 Filed 4–14–72;8:47 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

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

SUBCHAPTER A—ANIMAL WELFARE

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF LIVESTOCK OR POULTRY DISEASES

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

SUBCHAPTER G—ANIMAL BREEDS

SUBCHAPTER H—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

SUBCHAPTER I—ACCREDITATION OF VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

SUBCHAPTER J—PUBLIC INFORMATION

MISCELLANEOUS AMENDMENTS TO CHAPTER

Under authority delegated at 37 F.R. 6327 and 37 F.R. 6505, the provisions in Subchapters A, B, C, D, E, G, H, I, and J of Chapter I, Title 9, Code of Federal Regulations are hereby amended, as follows, pursuant to the statutory authorities under which such provisions were issued:

1. The heading of 9 CFR Chapter I is amended to read as set forth above.

2. Wherever in the provisions in Subchapter A, B, C, D, E, G, H, I, and J reference is made to the Animal and Plant Health Service, such provisions are changed to refer to the Animal and Plant Health Inspection Service.

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (4–15–72).

The amendments reflect the transfer of functions of the Animal and Plant Health Service to the newly established Animal and Plant Health Inspection Service. The amendments do not substantially affect the rights or obligations of any member of the public. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of April 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–5764 Filed 4–14–72;8:49 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8868]

PART 13—PROHIBITED TRADE PRACTICES

Career Search International, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–75 Foreign branches, operations, etc; 13.15–125 Individual or private business being: 13.15–125(m) Educational or research institution; 13.15–225 Personnel or staff; 13.15–270 Size and extent; § 13.115 *Jobs and employment service.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1420 *Foreign status, branches, operations, etc.;* § 13.1450 *Individual or private business as educational, religious or research institution;* § 13.1520 *Personnel or staff;* § 13.1555 *Size, extent or equipment;* Misrepresenting oneself and goods—Goods: § 13.1670 *Jobs and employment.* Subpart—Using misleading name—Vendor: § 13.2410 *Individual or private business being educational, religious or research institution or organization.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Career Search International, Inc., et al., New York, N.Y., Docket No. 8868, Mar. 9, 1972]

In the Matter of Career Search International, Inc., a New York Corporation; Career Search International, Inc., a Massachusetts Corporation; Career Search International, Inc., a Pennsylvania Corporation; Career Search International, Inc., a District of Columbia Corporation; Career Search International, Inc., a California Corporation; The Executive Center, Inc., a New York Corporation; The Executive Center, Inc., a Massachusetts Corporation; Arthur M. Shain, Individually and as Chairman of the Board of Directors and Principal Stockholder of Said Career Search International, Inc., Corporatoins and as an Officer, Chairman of the Board of Directors and Sole Stockholder of The Executive Center, Inc., a New York Corporation and The Executive Center, Inc., a Massachusetts Corporation

Order requiring an individual with headquarters in New York City who operates seven corporations in New York, Massachusetts, Pennsylvania, the District of Columbia, and California which prepare and distribute personal résumés for job seekers and furnish other career guidance and counseling service to cease misrepresenting the corporate respondents as the largest in the world, guaranteeing that clients will be placed in better jobs, misrepresenting that their staff counselors previously occupied key positions in industry, misrepresenting that they maintain offices in all major cities in the United States as well as in foreign cities, that respondents provide career guidance and counseling services, failing to make refunds of deposits after receipt of clients' notice of withdrawal, and failing to disclose that a portion of the fee paid by clients for vocational-psychological tests is rebatec to respondents; respondents are also ordered to cease using the word "Harvard" or any other term implying connection with an educational institution.

The order to cease and desist is as follows:

It is ordered, That respondents, Career Search International, Inc., a New York corporation; Career Search International, Inc., a Massachusetts corporation; Career Search International, Inc., a Pennsylvania corporation; Career Search International, Inc., a District of Columbia corporation; Career Search International, Inc., a California corporation; The Executive Center, Inc., a New York corporation; The Executive Center, Inc., a Massachusetts corporation, their successors and assigns, and their officers, and Arthur M. Shain, individually and as Chairman of the Board and principal stockholder of said Career Search International, Inc., corporations and as an officer, Chairman of the Board of Directors and sole stockholder of the Executive Center, Inc., and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale of job or career counseling services, job or employment placement services, applicant for employment services, or any article, material, or device in connection therewith, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do, forthwith cease and desist from, directly or b. implication:

1. Representing that corporate respondents are the largest executive placement service in the world or misrepresenting in any manner the size of the corporate respondents.

2. Representing that respondents guarantee that their clients will be placed in better jobs as a result of respondents' services.

3. Representing that respondents' staff counselors have previously occupied key executive positions in a specific business or industry prior to their affiliation with respondents or misrepresenting in any manner the professional qualifications, experience, or reputation of members of respondents' staff.

4. Representing to prospective clients that there is no financial risk involved on the part of its clients.

5. Representing that the services rendered by respondents are not those of an employment agency.

6. Representing that respondents maintain offices in all major cities in the United States unless such offices as represented are maintained.

7. Representing that respondents maintain offices in the foreign cities of Paris, France, and Madrid, Spain, or in any other foreign or domestic city unless such offices as represented are maintained.

8. Misrepresenting, in any manner, the number of persons who contract with and utilize the services of respondents on a weekly basis or any other time period basis.

9. Representing that respondents' clients receive career counseling and guidance by staff experts who had previously held responsible executive positions in various professional fields.

10. Representing that respondents provide career counseling and guidance services and assist in developing a program designed to aid the client in achieving career goals.

11. Representing that respondents have job openings available which require the specific qualifications possessed by prospective clients.

12. Representing that respondents refuse to accept prospective clients unless they possess qualifications which ensure prompt placement by respondents.

13. Failing or refusing to refund in full the deposits posted by clients in accordance with the provisions in respondents' contract or the oral representations made by respondents' staff members or employees within the specified period represented after receipt of clients' notice of withdrawal from respondents' program.

14. Failing or refusing to disclose to prospective clients that they are required to pay for expenses incurred and miscellaneous services rendered to the client upon the withdrawal of the clients from respondents' program.

15. Failing or refusing to disclose to clients that a portion of the fee paid by the clients to the testing organization designated by the respondents for vocational-psychological tests and evaluation is rebated or credited to respondents.

It is further ordered, That respondents Career Search International, Inc., a New

York corporation; Career Search International, Inc., a Massachusetts corporation; Career Search International, Inc., a Pennsylvania corporation; Career Search International, Inc., a District of Columbia corporation; Career Search International, Inc., a California corporation; The Executive Center, Inc., a New York corporation; The Executive Center, Inc., a Massachusetts corporation, their successors and assigns, and their officers, and Arthur M. Shain, individually and as Chairman of the Board of Directors, and principal stockholder of said Career Search International, Inc., corporations and as officer, Chairman of the Board of Directors, and sole stockholder of The Executive Center, Inc. corporations; and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale or sale of job or career counseling services, job or employment placement services, applicant for employment placement services or any article, material, or device in connection therewith, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using the word "Harvard" or any other name or any other identification which implies an affiliation or connection with Harvard College or any other educational institution in respondents' corporate or trade names, advertising materials, stationery, directory listings, and otherwise using such terms in the course and conduct of their business.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each of its branch offices, and to all present and future officers and staff members or other persons engaged in the offering for sale and sale of respondents' services or any articles, materials or devices in connection therewith; and to secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any 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 any corporation which may affect compliance obligations arising out of the order.

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

By "Final Order" further order requiring report of compliance is as follows:

It is further ordered, That the corporate respondents herein, their officers, and Arthur M. Shain, individually and as officer, director, and principal stockholder of said corporations, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: March 9, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-5731 Filed 4-14-72;8:46 am]

[Docket No. C-2175]

PART 13—PROHIBITED TRADE PRACTICES

Imperial Chemical Industries, Ltd., and ICI America, Inc.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Cease and desist order, Imperial Chemical Industries, Ltd. et al., London, England, Docket No. C-2175 March 22, 1972]

In the Matter of Imperial Chemical Industries, Ltd., a Corporation, and ICI America, Inc., a Corporation

Consent order requiring a British corporation, one of the world's largest chemical companies, to divest itself within 3 years of the explosives and aerospace divisions of a Wilmington, Del., corporation, and not to acquire for a period of 10 years any interest in an American explosive business without the approval of the Federal Trade Commission.

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

I. *It is ordered,* That respondents Imperial Chemical Industries, Ltd. and ICI-America, Inc. (hereinafter referred to collectively as "ICI"), their successors and assigns, shall as soon as possible divest themselves of the business conducted by the Explosives and Aerospace Components Divisions of Atlas Chemical Industries, Inc. (Atlas), as hereinafter defined: *Provided, however,* That, with the approval of the Federal Trade Commission, the business conducted by the Aerospace Components Division of Atlas need not be divested. Such divestiture shall be accomplished no later than three (3) years from the service of this order and shall be subject to the prior approval of the Federal Trade Commission.

II. *It is further ordered,* That as used in the order "the business conducted by the Explosives and Aerospace Components Division of Atlas" means a viable and going business engaged in the research, manufacture, distribution and sale of commercial explosives and related products and, unless excluded pursuant to paragraph I of this order, of the products sold by the Aerospace Components Division, in the product lines in which said Divisions were engaged at the time of Atlas' acquisition by ICI. Said business (hereinafter also referred to as "the business to be divested") includes all plant, equipment, real estate, inventory, customer accounts, lists and receivables, distributor agreements, leases, products, trademarks, technical and scientific know-how, patents, good will, all other assets, all liabilities and obligations (including obligations to the employees of the business at the time of divestiture) and all additions, improvements, replacements and withdrawals of real and personal property made in conformity with the provisions of paragraph IV of this order until the date of divestiture, which are devoted to or arise in connection with the research, manufacture, distribution and sale of commercial explosives and of the products sold by the Aerospace Components Division of Atlas. In connection with the divestiture provided under Paragraph I of this order, ICI may, subject to the approval of the Federal Trade Commission, lease to the acquirer real estate underlying explosives magazines or distribution facilities, provided that upon termination of any lease ICI will not utilize said real estate in the conduct of any explosives business.

III. *It is further ordered,* That unless the divestiture required by this order has been accomplished within two (2) years of service of this order then as part of its compliance with Paragraph I of this order, ICI shall within said two (2) years cause to be incorporated a new company, hereinafter referred to as Atlas Powder Co., and shall transfer to that company the business to be divested, as defined in paragraph II of this order, and ICI shall divest itself of all interests in Atlas Powder Co. pursuant to paragraph I of this order.

IV. *It is further ordered,* That pending the divestiture required by this order,

(a) ICI shall cause the business to be divested and Atlas Powder Co. as the case may be to be operated in accordance with sound business practices and maintained at not less than the standards of operational performance in effect on the date of acquisition and in such manner as not to impair or adversely affect its economic, competitive, or financial condition. ICI shall not be required unreasonably to replace assets which are destroyed or seriously damaged or rendered unusable, either accidentally or by acts of God.

(b) ICI shall do everything within its power to assure that the business to be divested and Atlas Powder Co. as the case may be will remain properly staffed and that all reasonable means will be used to assist said business in retaining, rehiring, or replacing key management and sales personnel needed for its operation. Subject to the approval of the Federal Trade Commission the acquirer of the divested business shall be required to extend to the employees of said business terms and conditions of employment and fringe benefits which are in the aggregate as favorable to such employees as those applicable at the time of divestiture.

(c) ICI shall not commingle its other assets, products or research with those of the business to be divested but pending divestiture ICI shall continue to provide to said business and to Atlas Powder Co. as the case may be the use of assets and personnel involved in the services such as were furnished on a corporate basis by Atlas to the Explosives and Aerospace

Components Divisions at the time of acquisition.

V. *It is further ordered,* That ICI shall not for a period of three (3) years after the divestiture required by this order solicit the employment of, or without the prior written consent of the acquirer offer employment to or employ, any key personnel directly concerned with the divested business at the time of divestiture.

VI. *It is further ordered,* That no interest in the business to be divested or Atlas Powder Co., as the case may be, shall be sold or transferred, directly or indirectly, to any person who is, at the time of the divestiture, an officer, director, employee, or agent of, or under the direct or indirect control or direction of, ICI, any of ICI's subsidiary or affiliated companies, anyone who owns or controls, directly or indirectly, more than 1 percent of the outstanding shares of ICI or any of ICI's subsidiary or affiliated companies, or to anyone not approved in advance by the Federal Trade Commission.

VII. *It is further ordered,* That for a period commencing with the effective date of this order and continuing for ten (10) years thereafter, ICI, its successors and assigns, shall cease and desist from acquiring, directly or indirectly, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital, assets, any interest in, or any interest of, any domestic concern, corporate or non-corporate, engaged in the sale of commercial explosives, to the extent that such acquisition involves the domestic manufacture or sale of commercial explosives, nor shall ICI enter into any arrangement with any such concern by which ICI obtains the market share, in whole or in part, of such concern in the domestic sale of commercial explosives. ICI may acquire the stock or assets of any existing distributor of the Explosives Division where such acquisition is necessary to carry out its obligations under Paragraph IV(a) of this order.

VIII. *It is further ordered,* That within forty-five (45) days from the date of service of this order and every six (6) months from such date until divestiture is accomplished, ICI shall submit, in writing, to the Federal Trade Commission, a report setting forth in detail the manner and form in which ICI intends to comply, is complying or has complied with this order. All compliance reports shall include, among other things that are from time to time required, (a) the steps taken to accomplish the required divestiture and (b) copies of all documents, including reports, memoranda, and correspondence referring or relating to the divestiture. One year following the effective date of this order and each year thereafter during which paragraph VII is in effect, ICI shall notify the Commission in writing whether any acquisition of the type referred to in paragraph VII has been made by it, and shall furnish such information with respect thereto as may be requested by the Federal Trade Commission.

IX. *It is further ordered,* That ICI shall notify the Commission at least thirty (30) days prior thereto, of any proposed change in the corporate status of ICI which may affect compliance with obligations arising out of this order, such as dissolution, assignment, sale, the emergence of a successor corporation or the creation or dissolution of subsidiaries.

In witness whereof, the Federal Trade Commission has caused this, its order, to be signed by its Secretary and its official seal to be hereto affixed, at Washington, D.C. this 22d day of March A.D. 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-5732 Filed 4-14-72;8:47 am]

[Docket No. C-2176]

PART 13—PROHIBITED TRADE PRACTICES

J. S. Hosiery Co. Inc., and Blima Shajnfeld

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, J. S. Hosiery Co. Inc., et al., New York, N.Y., Docket No. C-2176, March 22, 1972]

In the Matter of J. S. Hosiery Co. Inc., a Corporation, and Blima Shajnfeld, Individually and as an Officer of Said Corporation

Consent order requiring a New York City seller and distributor of textile fiber products, including ladies' scarves, 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 the respondents J. S. Hosiery Co. Inc., a corporation, its successors and assigns, and its officers, and Blima Shajnfeld, individually and as an officer of said corporation, respondents' 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 manufacturing for sale, 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 issued, amended or continued in effect, 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 scarves which gave rise to the complaint, of the flammable nature of said scarves and effect the recall of said scarves from such customers.

It is further ordered, That the respondents herein either process the scarves which gave rise to the complaint so as to bring it into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said scarves.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission an interim 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 scarves which gave rise to the complaint, (2) the number of said scarves in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said scarves and effect the recall of said scarves from customers, and of the results thereof, (4) any disposition of said scarves since March 10, 1971, and (5) any action taken or proposed to be taken to bring said scarves into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said scarves, 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 this 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 shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained herein.

Issued: March 22, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-5733 Filed 4-14-72;8:47 am]

[Docket No. C-2174]

PART 13—PROHIBITED TRADE PRACTICES

Scheflin-Reich, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Scheflin-Reich, Inc. et al., New York, N.Y., Docket No. C-2174]

In the Matter of Scheflin-Reich, Inc., a Corporation, and Joseph Reich and Murray Scheflin, Individually and as Officers of Said Corporation

Consent order requiring a New York City firm buying and selling furs to cease falsely and deceptively invoicing its fur products.

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

It is ordered, That respondents Scheflin-Reich, Inc., a corporation, and its officers, and Joseph Reich and Murray Scheflin, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the manufacture for introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; or in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from falsely and deceptively invoicing such fur or fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Failing to set forth the term "natural" as part of the information required to be disclosed on any invoice under the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe any fur or fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That respondents Scheflin-Reich, Inc., a corporation, and its officers, and Joseph Reich and Murray Scheflin, individually and as officers of said corporation, shall forthwith distribute a copy of this order to each of its salesmen and to each of the five customers who received furs which gave rise to this matter.

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 the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Issued: March 22, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-5734 Filed 4-14-72;8:47 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Chloramphenicol Capsules

The Commissioner of Food and Drugs has evaluated new animal drug applications (55-014V) filed by Parke-Davis & Co., Joseph Campau Avenue at the River, Detroit, Mich. 48232 and (65-241V) filed by Rachelle Laboratories, Inc., Long Beach, Calif. 90801 providing for the safe and effective use of chloramphenicol capsules for the treatment of dogs. The applications are approved.

To facilitate referencing, Rachelle Laboratories is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135c are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code number 071 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
071	Rachelle Laboratories, Inc., 700 Henry Ford Avenue, Post Office Box 2029, Long Beach, CA 90801.

2. Part 135c is amended by adding the following new section:

§ 135c.63 Chloramphenicol capsules, veterinary.

(a) *Specifications.* Chloramphenicol capsules, veterinary contain 50, 100, 250, and 500 milligrams of chloramphenicol and conform to the certification requirements of § 146d.302 of this chapter.

(b) *Sponsor.* See code Nos. 049 and 071 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is administered to dogs for oral treatment of bacterial pulmonary infections, bacterial infections of the urinary tract, bacterial enteritis, and bacterial infections associated with canine distemper caused by susceptible organisms.

(2) The drug is administered at 25 milligrams per pound of body weight every 6 hours.

(3) Laboratory tests should be conducted including in-vitro culturing and susceptibility tests on samples collected prior to treatment.

(4) This product must not be used in meat, egg, or milk producing animals. The length of time that residues persist in milk or tissues has not been determined.

(5) For use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (4-15-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: April 4, 1972.

C. D. VAN HOUWELING, *Director, Bureau of Veterinary Medicine.*

[FR Doc.72-5748 Filed 4-14-72;8:50 am]

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Alternative Assay Methods, Including Automated Procedures

No adverse comments were received in response to the notice published in the FEDERAL REGISTER of January 25, 1972 (37 F.R. 1116), proposing that Part 141 be revised to provide for the use of suitable alternative assay methods, including automated procedures, employing the same basic microbiology or chemistry as the official methods described in the certification monographs and providing results of equivalent accuracy.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 141 is amended as follows:

1. By amending the table of contents to establish a new Subpart A consisting at this time of existing § 141.1 and a new § 141.1a as follows:

Subpart A—Definitions and Interpretations Applicable to Part 141

Sec.
141.1 Sterility tests.
141.1a Alternative assay methods.

2. By revising § 141.1 in the heading and in the paragraph headings of paragraphs (a), (b), (c), and (d) to read as follows:

§ 141.1 Sterility tests.

(a) *"Filling operation" and "sample" defined.* * * *

(b) *Packaging requirements for samples.* * * *

(c) *Diluents packaged in combination with sterile antibiotic drugs.* * * *

(d) *Droppers packaged in combination with sterile antibiotic drugs.* * * *

3. By adding a new section as follows:

§ 141.1a Alternative assay methods.

Alternative assay methods (including automated procedures) employing the same basic chemistry or microbiology as the official methods described in this part and in the individual monographs of this chapter may be used, provided the results obtained are of equivalent accuracy. However, only the results obtained from the official methods designated in the individual monographs are conclusive.

4. By redesignating existing Subpart A as Subpart B, consisting of § 141.2 et seq., by changing the heading to read as follows: "Subpart B—Biological Test Methods."

5. By redesignating Subpart B as Subpart C, consisting of § 141.101 et seq., by changing the heading to read as follows: "Subpart C—Microbiological Assay Methods."

6. By redesignating Subpart C as Subpart D, consisting of § 141.501 et seq., by changing the heading to read as follows: "Subpart D—Chemical Tests for Antibiotics."

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

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

Dated: April 12, 1972.

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

[FR Doc.72-5747 Filed 4-14-72;8:50 am]

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 148g—GRISEOFULVIN

Griseofulvin; Correction

In F.R. Doc. 71-5309 appearing at page 7309 in the issue of Saturday, April 17, 1971, § 141.5 is corrected in paragraph (b) for the item "Griseofulvin" in the third column of the table by changing the figure "0.2 mg." to "200 mg." to eliminate a technical error.

Dated: April 5, 1972.

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

[FR Doc.72-5723 Filed 4-14-72;8:46 am]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

Classification and Registration Requirements

Whereas, on March 10, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations, 37 F.R. 5134 of March 10, 1972; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sec. 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now, therefore, by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sec. 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.s.t., on April 15, 1972, as follows:

Paragraph (a) of section 1611.1 is amended to read as follows:

§ 1611.1 Persons required to be registered.

(a) Except as otherwise provided by the regulations in this part, it shall be the duty of every male citizen of the United States, and every other male person, except an alien male person who is in a medical, dental, or allied specialist category, residing in or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 26th anniversary of the day of his birth on the day or any of the days fixed for registration by Presidential proclamation to present himself for and submit to registration under the provisions of section 3 of the Military Selective Service Act at such time or times and place or places, and in such manner as is required by proclamation of the President and the regulations of this part. Every alien male person who is in a medical, dental, or allied specialist category residing in the United States or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall have not attained the 35th anniversary of the day of his birth on the day or any of the days fixed for registration by Presidential proclamation is required to present himself for and submit to registration under the provisions of section 3 of the Military Selective Service Act at such time or times and place or places, and in such manner as is required by proclamation of the President and the regulations of this part.

* * * * *

The heading and paragraphs (a) and (c) of § 1622.42 are amended to read:

§ 1622.42 Class 4-C: Aliens.

(a) In Class 4-C shall be placed any registrant who is an alien and who has not resided in the United States for 1 year. When such a registrant has been within the United States for two or more periods (including periods before his registration) and the total of such periods equals 1 year, he shall be deemed to have resided in the United States for 1 year. In computing the length of such periods, any portion of 1 day shall be counted as 1 full day. When any such registrant has resided in the United States for 1 year, he shall be classified as available for military service unless he is found to be eligible for another classification for a reason other than his alien status.

* * * * *

(c) In Class 4-C shall be placed any registrant who is an alien and who has departed from the United States. If any registrant so classified under this paragraph returns to the United States, his classification shall be reopened and he shall be classified anew.

* * * * *

CURTIS W. TARR,
Director.

APRIL 12, 1972.

[FR Doc.72-5786 Filed 4-14-72;8:50 am]

PART 1660—ALTERNATE SERVICE

Administration and Selection of Nonvolunteers

Whereas, on March 10, 1972, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulations 37 F.R. 5135 of March 10, 1972; and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

Now therefore by virtue of the authority vested in me by section 6(j) of the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.s.t., on April 15, 1972, as follows:

Paragraphs (c) and (d) of § 1660.4 are amended to read as follows:

§ 1660.4 Selection of nonvolunteer for alternate service.

* * * * *

(c) When the RSN of a registrant classified in Class 1–O is within the range of RSNs which are currently being reached for induction, the local board will send him Selection for Alternate Service (SSS Form 155), and retain a copy in the Registrant File Folder (SSS Form 101). Conscientious Objectors Skills Questionnaire (SSS Form 152) and three copies of Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) will also be sent to the registrant at this time.

(d) Mailing of the Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process (SSS Form 155) by the local board is the effective beginning of processing for alternate service in lieu of induction for the affected registrant. If the registrant has not been ordered to an alternate service job with a reporting date within 270 days after he has exhausted his 60-day job search, he will be placed in a lower priority selection group. Delays in processing due to litigation instituted by the registrant, litigation pending against the registrant, or a postponement of processing for alternate service granted the registrant under § 1660.7 will not count toward the 270-day time period.

Paragraph (e) of § 1660.9 is amended to read as follows:

§ 1660.9 Administration of alternate service.

* * * * *

(e) The Director of Selective Service or the State Director of Selective Service will issue travel orders, tickets or transportation requests and meal and lodging requests to the registrant, upon his request, for his travel (1) from the office of his local board or local board nearest the place of his residence at the time he is selected for alternate service to the place of performance of the alternate service to which he is ordered within the United States, (2) for his return travel from such place to the office of the local board from which he traveled to the place of performing alternate service upon his satisfactorily completing his period of work or his travel to any other place upon his satisfactorily completing his period of alternate service whenever the cost of such transportation would not exceed the cost of travel to the local board from which he traveled, and (3) for his travel from one place of employment to another when his employment is transferred under the provisions of paragraph (c) or (d) of this section.

CURTIS W. TARR,
Director.

APRIL 12, 1972.

[FR Doc.72-5785 Filed 4-14-72;8:50 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 71-163a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Sinepuxent Bay, Md.

Correction

In F.R. Doc. 72-5211 appearing at page 6847 in the issue of Wednesday, April 5, 1972, the phrase "From May through September 15" in the first line of § 117.245(f)(16)(ii) should read "From May 25 through September 15".

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Glacier National Park, Mont.; Fishing

A proposal was published at page 3438 of the FEDERAL REGISTER of February 16, 1972, to amend paragraphs (a), (b), and (c) of § 7.3 of Title 36 of the Code of Federal Regulations. The effect of the amendment is to prohibit the snagging of fish and to have park regulations apply to Lower McDonald Creek from the Quarter Circle Bridge to its confluence with the middle fork of the Flathead River.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. Consideration having been given to all relevant matters presented, it has been determined that the amendments should be and are hereby adopted without change and set forth below. These amendments shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Paragraphs (a)(3), (b)(2)(i), and (c)(3) of § 7.3 are amended, as follows:

§ 7.3 Glacier National Park.

(a) *Fishing; open season.* * * *

(3) The north fork of the Flathead River, except for its tributaries, shall be open to fishing in conformance with the seasons and regulations established by the State of Montana for this river.

* * * * *

(b) *Fishing; daily limit of catch and possession limit.* * * *

(2) * * *

(i) The daily limit of catch and possession in the north fork of the Flathead River, except for its tributaries, shall be in conformance with the regulations established for the State of Montana for this river.

* * * * *

(c) *Fishing; restrictions on use of bait and lures.* * * *

(3) The snagging of fish by any method is prohibited.

* * * * *

J. LEONARD VOLZ,
Director, Midwest Region.

[FR Doc.72-5716 Filed 4-14-72;8:45 am]

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Glacier National Park, Mont.; Use of Motorboats and Hitchhiking

A proposal was published at page 3438 of the FEDERAL REGISTER of February 16, 1972, to amend § 7.3 of Title 36 of the Code of Federal Regulations by adding paragraphs (f) and (g). The effect of this amendment is to retain the serene atmosphere on designated lakes by limiting horsepower used on motorboats and motor vessels, eliminating motorboats and motor vessels on Swiftcurrent Lake; and allowing hitchhiking, except in designated areas.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. Consideration having been given to all relevant matters presented, it has been determined that the amendments should be and are hereby adopted without change and set forth below. These amendments shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Paragraphs (f) and (g) of § 7.3 are added to read as follows:

§ 7.3 Glacier National Park.

* * * * *

(f) *Motorboats.* (1) Motorboats and motor vessels are limited to ten (10) horsepower or less on Kintla, Bowman, and Two Medicine Lakes. This restriction does not apply to sightseeing vessels operated by an authorized concessioner on Two Medicine Lake.

(2) All motorboats and motor vessels except the authorized, concessioner-operated, sightseeing vessels, are prohibited on Swiftcurrent Lake.

(g) *Hitchhiking.* Hitchhiking or the solicitation of transportation is permitted off the roadway on the shoulder, except in those areas where the Superintendent prohibits such activities by the posting of appropriate signs.

J. LEONARD VOLZ,
Director, Midwest Region.

[FR Doc.72-5717 Filed 4-14-72;8:45 am]

Chapter II—Forest Service, Department of Agriculture

PART 221—TIMBER

Resale From Uncompleted Contracts

On October 7, 1971, notice of proposed rule making regarding an amendment to Part 221 of Title 36, Code of Federal Regulations, by adding § 221.8a, was published in the FEDERAL REGISTER (36 F.R. 195). Interested persons were given the opportunity to participate in the rule making through submission of comments. After consideration of all such relevant matter as was presented by interested persons, the amendment was revised to reflect those suggestions deemed appropriate. The amendment is hereby adopted, reading as follows:

§ 221.8a Resale of timber from uncompleted contracts.

(a) Except as otherwise provided in this section, no bid will be considered in the resale of timber remaining from any uncompleted timber sale contract from any person, or from an affiliate of such person, who failed to complete the original contract (1) because of termination for purchaser's breach or (2) through failure to cut designated timber on portions of the sale area by the termination date.

(b) The no bid restriction in paragraph (a) of this section (1) shall only apply when 50 percent or more of the timber included in the resale is timber remaining from the uncompleted contract and the resale is advertised within 3 years of the date the uncompleted contract terminated; (2) when imposed because of failure to cut designated timber on portions of the sale area by the termination date, shall not apply to resales of timber for which the original contract was awarded prior to April 30, 1972, unless the contract is extended thereafter; and (3) shall not apply to (i) resales of timber within a sustained yield unit unless competition may be invited under the policy statement for the unit, (ii) resales of timber on contract which would ordinarily have been awarded prior to April 30, 1972, if award was delayed through no fault of the purchaser, and (iii) resales of timber on contracts not extended because of environmental considerations.

(c) Where a third-party agreement has been approved in accordance with § 221.16(b), the original purchaser shall not be affected by this section unless such purchaser is an affiliate of the third party.

(d) As used in this section, "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, or other business entity or the successor in interest of any of the foregoing business entities. A person is an "affiliate" when either directly or indirectly (1) a person controls or has the power to control the other, or (2) a third person or persons controls or has the power to control both.

(30 Stat. 34, 35, as amended; 16 U.S.C. 551, 476)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (4–15–72).

T. K. COWDEN,
Assistant Secretary of Agriculture.

APRIL 12, 1972.

[FR Doc. 72-5765 Filed 4-14-72;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 15—Environmental Protection Agency

PART 15–3—PROCUREMENT BY NEGOTIATION

Subpart 15–3.8—Price Negotiation Policies and Techniques

SELECTION OF OFFERORS FOR NEGOTIATION AND AWARD

Section 15–3.805–1, *General,* is hereby added to Chapter 15, Title 41, of the Code of Federal Regulations. Interested parties and Government agencies are invited to submit written comments to the Director, Contracts Management Division, Environmental Protection Agency, Washington, D.C. 20460. All relevant comments will be considered and subsequent changes may be incorporated to this regulation at a later date.

Effective date. This regulation will become effective ten (10) working days after the date of its publication in the FEDERAL REGISTER with respect to all procurements for which, as of the effective date, Requests for Proposals (RFP's) have not yet been issued. This regulation shall not affect any procurement where the RFP has been issued prior to the effective date; in such cases, however, Contracting Officers shall apply this regulation's policies and procedures to the extent practicable under the circumstances.

Dated: April 11, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart 15–3.8—Price Negotiation Policies and Techniques

Sec.
15–3.805 Selection of offerors for negotiation and award.
15–3.805–1 General.

AUTHORITY: The provisions of this subsection 15–3.805–1 issued under 40 U.S.C. 486(c), sec. 205(c), 63 Stat. 377, as amended.

§ 15–3.805 Selection of offerors for negotiation and award.

§ 15–3.805–1 General.

(a) Requests for proposals, evaluation of proposals, conduct of negotiations, and award of negotiated contracts.

(1) *Purpose.* This section provides guidance to all EPA personnel regarding (i) evaluation of the technical and other aspects of proposals, and (ii) the requirement for "written or oral discussions" with concerns whose proposals are "within a competitive range," under competitive negotiated procurements.

(2) *Applicability.* This section is applicable to all competitive negotiated procurements conducted by EPA under the authority of the Federal Procurement Regulations (FPR). Those portions of this section concerning written or oral discussions need not be applied: (i) To procurements in implementation of authorized set-aside programs; (ii) to procurements where the existence of adequate competition or accurate prior cost experience with the product clearly demonstrate that acceptance of an initial proposal without discussions would result in fair and reasonable prices; *Provided,* The request for proposals notifies all offerors of the possibility that award may be made without discussions, and provided award is in fact made without any written or oral discussions.

(3) *Requests for proposals.* (i) Careful drafting of the request for proposals (RFP) is vital to the proper working of the competitive process. Particular efforts must be made to develop an accurate statement of work, in order to preclude ambiguities and to avoid misunderstandings which might otherwise surface at later stages of the procurement.

(ii) The RFP shall require that a proposal shall be in two parts: A "Technical Proposal" and a "Business Proposal." Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently of and concurrently with evaluation of the other. The RFP shall provide that the "Technical Proposal" shall not contain any reference to cost. Resource information, such as data concerning labor hours and categories, materials, subcontracts, travel, computer time, etc., shall be included so that offeror's understanding of the scope of work may be evaluated.

(iii) The instructions to the offerors concerning the "Business Management Proposal" should require submission of cost information in sufficient detail to allow a complete cost analysis. Categories and amounts of labor, materials, travel, computer time, as well as information with regard to contractor past performance, financial capacity, certifications and representations, and other pertinent administrative and business information should also be requested.

(iv) Evaluation criteria must be developed by technical personnel, at the time of initiation of the procurement request, for inclusion in the RFP. These criteria and their relative importance or weight require the exercise of judgment on a case-by-case basis, since the criteria must be tailored to the requirements of each particular procurement. Since these criteria will serve as the standard against which all proposals will be evaluated, it is imperative that they be chosen carefully to emphasize those factors considered to be critical to the selection of a contractor.

(v) Evaluation must be made solely on the factors announced in the RFP. The RFP must inform offerors of all evaluation criteria and of the relative

importance or weight attached to each criterion, although there need not be stated a numerical weighted formula. Evaluation criteria shall be described fully enough in each RFP to inform prospective proposers of the significant matters which should be addressed in the proposals. The technical and business proposal instructions of the RFP must inform the proposer of all information deemed essential to proper evaluation of the proposal, so that all competitors are aware of all requirements and so that the differences in proposals will reflect the proposers' differing responses to unambiguous RFP requirements and criteria.

(vi) The detailed scoring system to be used by technical evaluators shall be prepared and furnished to the Contracting Officer prior to the issuance of the RFP. The Contracting Officer shall review the scoring system for the sole purpose of determining whether it is consistent with the RFP criteria. If an inconsistency is found, it shall be eliminated by discussions between the parties concerned, prior to issuance of the RFP.

(vii) The RFP criteria shall not be modified except by a formal amendment to the RFP.

(4) *Technical evaluation of proposals.* (i) The technical proposals received by the Contracting Officer will be forwarded to the technical activity for evaluation; the business management portion of the proposal will be retained by the Contracting Officer for evaluation.

(ii) The technical personnel will evaluate each proposal in strict conformity with the evaluation criteria of the RFP, and will assign each proposal a score by use of the scoring method previously reviewed by the Contracting Officer pursuant to subparagraph (3)(vi) of this paragraph. A ranking of technical scores will then be compiled. The technical evaluators shall then identify each proposal as either acceptable or unacceptable. Predetermined cutoff scores shall not be employed.

(iii) The technical evaluators shall determine whether any proposal which appears to be unacceptable might be found acceptable upon the furnishing of clarifying data by the proposer, and the Contracting Officer will be so informed. The Contracting Officer will arrange for submission of clarifying information in writing or by consultation, and furnish it to the technical evaluators for their consideration.

(iv) It is essential to the competitive procurement process that all information contained in offerors' proposals be maintained in strict confidence. In no event during the evaluation period shall any offeror be told the number of proposals received, prices, cost ranges, or the Government cost estimate. No discussions with any offeror relative to any aspect of the procurement shall be held outside the presence of the Contracting Officer.

(v) A technical evaluation report shall be prepared and signed by the technical evaluators, furnished to the Contracting Officer, and maintained as a permanent record in the contract file. The report shall reflect the scoring of each proposal and the ranking of the proposals, and shall identify each proposal as acceptable or unacceptable. The report shall also include a narrative evaluation specifying the strengths and weaknesses of each proposal, and any reservations or qualifications that might bear upon the selection of sources of negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any proposal shall be included.

(5) *Competitive range.* Upon submission of the technical evaluation report and prior to negotiations, the Contracting Officer, after consulting with technical personnel to reconcile the technical and business evaluations, will determine which technically acceptable offers are within the "competitive range," i.e., the group of offerors who will be considered for award and with whom negotiations will be conducted. Determining which proposals fall within a competitive range will depend upon the particular circumstances of each negotiation. Any number of realistic evaluation criteria can be used to determine the bounds of this range. Cost or price alone is sometimes controlling, but technical capability and other relevant criteria may be paramount. In all cases it is important that the criteria used in the establishment of a competitive range be meaningful and realistic and in no way arbitrary. The decision as to which firms are and which firms are not within a competitive range is a matter of administrative discretion. But this discretion must be exercised in a reasonable manner; the Comptroller General may reverse such a determination if it is made arbitrarily. There could conceivably be a business proposal in which the cost or price is so high that it seems to be completely out of the competitive range. However, before making such a determination the Contracting Officer should consult with the technical personnel to determine possible reasons for the apparently excessive price. A proposal is within a competitive range unless it is either so high in cost or so inferior technically "as to preclude any possibility of meaningful negotiation with the offeror." The objective shall be to qualify the widest number of offerors for competitive negotiations based on technical acceptability, cost or price and other factors related to the procurement.

(6) *Conduct of discussions.* (i) The Contracting Officer, in cooperation with technical personnel, must conduct written or oral discussions (negotiations) of the work to be performed, the cost of the work, and other relevant topics, with all those proposers within the competitive range. The Contracting Officer shall point out to each such proposer the ambiguities, uncertainties, and deficiencies, if any, in its proposal. He shall give each such proposer a reasonable opportunity (with a common cutoff date for all) to support, clarify, correct, improve, or revise its proposal. Discussions with one proposer will not identify areas in which another has apparently achieved a higher evaluation or provided more detail. Nor will information be transmitted by the Government which could give one proposer a competitive advantage over another. Cost estimates made by the Government will not be disclosed.

(ii) Careful judgment will be exercised in determining the extent of discussions. In some cases, good business practice may require more than one round of discussions with all of the proposers within the competitive range. The time available, the expense and administrative limitations, and the size and significance of the procurement should all be considered in deciding on the type, duration, and depth of the discussions.

(7) *Selection of contractor.* (i) After the close of discussions and the receipt of any addenda to proposals, the Contracting Officer shall select for award the proposer or proposers whose proposal(s) offers the greatest advantage to the Government, cost or price, technical and other factors considered.

(ii) Whenever the contract is to have a fixed price, price may not be disregarded in selecting a contractor. This is particularly true where more than one acceptable offer from technically qualified sources remains for consideration after conduct of negotiations. (The use for source selection purposes of a numerical rating system in which cost to the Government, along with other factors, is assigned points does not in itself justify acceptance of the offer with the highest point score without regard to price.) If a lower priced, lower scored offer meets the Government's needs, acceptance of a higher priced, higher scored offer shall be supported by a specific determination by the Contracting Officer that the technical superiority of the higher priced offer warrants the additional cost involved in the award of a contract to that offeror.

(8) *Notice and debriefing.* Promptly after award of the contract, notice to unsuccessful offerors will be given in accordance with EPPR 15–3.103.

[FR Doc.72–5754 Filed 4–14–72;8:47 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Modification of Prenotification Requirements for Certain Multi-Industry Firms

The purpose of this amendment to § 300.51 of the regulations of the Price Commission is to permit certain multi-industry firms to request modification of the prenotification requirements to enable certain segments of their firm to price as reporting firms. A segment so relieved of the prenotification requirement would be allowed to adjust prices without prior Price Commission approval. To qualify under the amendment, the prenotification firm would be required to have annual sales or revenues of less than $100 million within any industrial group (corresponding to the two-digit Standard Industrial Classification,

except as otherwise provided in the instructions to Form PC–5), during its most recently completed fiscal year. All other requirements of the regulations, including reporting and profit margin limitations, would continue to apply.

Because the purpose of this amendment is to provide immediate guidance and information as to the prenotification and reporting requirements of the price stabilization program, and Price Commission procedures with respect thereto, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making it effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective April 11, 1972.

Issued in Washington, D.C., on April 11, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

1. Section 300.51 is amended by inserting the following new paragraph (c) after paragraph (b):

§ 300.51 Prenotification firms.

* * * * *

(c) *Modification of prenotification requirements.* Notwithstanding any other provision of this part, a prenotification firm with annual sales or revenues of less than $100 million within any industrial group in its most recently completed fiscal year may apply for a modification of prenotification requirements with respect to price increases relating to sales within the industrial group. For the purposes of this paragraph, industrial groups are two-digit Standard Industrial Classifications (SIC) as published by the Office of Management and Budget in the 1967 Standard Industrial Classification Manual, except as otherwise provided in the instructions for preparation of Form PC–5, "Request for Modification of Prenotification Requirements" in Appendix II of this part. Each application under this paragraph shall be made on a properly completed Form PC–5 prescribed by the Price Commission and shall contain the information required by that form and its instructions. If the Price Commission does not act upon a request submitted under this paragraph within 30 days after receiving a Form PC–5, the prenotification firm may take the action requested. A firm whose prenotification requirements are modified in accordance with this paragraph remains subject to the reporting requirements of paragraph (e) of this section, and to all other requirements of this part for prenotification firms, including the profit margin limitation applicable to the consolidated group of the parent firm.

* * * * *

2. Appendix II is amended by inserting the following new Form PC–5 and instructions thereto, after Form PC–1 and instructions.

Form **PC-5**
(March 1972)
Price Commission
2000 M Street, N. W.
Washington, D. C. 20508
See mailing address below

Request for Modification of Prenotification Requirements

OMB 164-S72002 Approval expires: 4-30-73
PRICE COMMISSION USE ONLY
Cont. Control No. | SIC Code (1)
Reference No. | SIC Code (2)

Part I - Identifying Data

1a. Is this a resubmission? (1) ☐ Yes (2) ☐ No | 1b. If "Yes", indicate prior reference number | 2. Application date *(Month, day, year)*

3. Parent Firm Data
a. Name of Firm
b. Address *(Number and street)*
City or town, State and ZIP code
c. Ending date of most recent fiscal year *(Month, day, year)* | d. Identification number

Part II - Summary of Requested Modifications

4. Total revenues in most recent fiscal year *(000 omitted)*
a. Reporting entities for which change is requested $
b. Reporting entities for which change is not requested $
c. Total revenues *(a plus b)* $

Part III - Summary of Revenues by Industrial Groups *(Enter dollar amounts with $000 omitted)*

5. Industrial groups which include reporting entities for which change is requested

Industrial groups a. No.	b. Description	c. Revenues in most recent fiscal year
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		
(8)		
(9)		
(10)		
(11)		
(12)		
(13)		
(14)		
(15)		
(16)		
(17)		
(18)		
Total ▶		

6. Industrial groups which do not include reporting entities for which change is requested

Industrial groups a. No.	b. Description	c. Revenues in most recent fiscal year
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		
(8)		
(9)		
(10)		
(11)		
(12)		
(13)		
(14)		
(15)		
(16)		
(17)		
(18)		
Total ▶		

Part IV - Additional information

7. Individual to be contacted for further information — Name and title | Address | Telephone number *(include Area code)*

Part V - Certification

To the best of my knowledge and belief, the data submitted herewith are factually correct, complete and prepared in accordance with the applicable instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of section 205 of the Economic Stabilization Act of 1970 (as amended), Title 5, U.S. Code, section 552 and Title 18, U.S. Code, section 1905.

Chief Executive Officer of parent firm or other authorized executive officer

Typed name and title: _____

Name of company: _____

Sign here ▶ _____ *(Date)*

Forward this form and all supporting documents to: Price Commission, P.O. Box 19300, Washington, D.C. 20036. Indicate "Submission of Form PC-5" in the lower left-hand corner of the envelope.

Form PC-5 (3-72)

PRICE COMMISSION

2000 M STREET NW., WASHINGTON, DC 20508

Instructions for the Preparation of Form PC–5, Request for Modification of Prenotification Requirements

General Instructions

Purpose.—Price Commission regulations provide for certain multi-industry prenotification category firms to request that segments of their firm be changed to reporting category firms. This Form PC–5 is used to request such modifications.

Requests for modification must apply to specific reporting entities as defined for purposes of filing Form PC–1, as follows:

Generally, the reporting entity for purposes of Form PC–1 is a unit of the firm or consolidated group which is customarily regarded as a separate entity for cost, pricing and profit decisions. Such a reporting entity may be distinguished from other units of the firm or consolidated group because of separate or different management or profit responsibilities, industries, methods of doing business, or other logical, customary distinctions.

Administrative groupings, such as manufacturers' sales offices and warehouses, are not considered as reporting entities.

It is stressed that this form represents solely a request for change and that firms must continue to observe prenotification requirements until advised by the Price Commission of the extent to which the request has been granted. A qualifying prenotification firm may consider its request approved if no action is taken by the Price Commission within thirty days after receipt of the firm's properly completed PC–5. Reporting entities for which requests are approved would then be permitted to adjust prices without prior approval of the Price Commission. Such reclassified entities would be subject to reporting requirements for Category II firms and all other requirements for Category I firms.

Confidentiality of information.—The Price Commission respects the confidentiality of financial information, consistent with section 205 of the Economic Stabilization Act

of 1970 (as amended), title 5, United States Code, section 552, and title 18, United States Code, section 1905.

Who may file.—Form PC–5 is filed by pre-notification category Parent firms. A single filing must cover all reporting entities.

To qualify for consideration, the Parent firm must have reporting entities whose revenues in the most recent fiscal year were substantially from products or services in industrial groups where the annual revenues of the consolidated group of the Parent firm were less than $100 million. Generally, industrial groups are the same as two-digit SIC categories, with certain changes as reflected in Table 1.

Firms should note that in reviewing requests the Price Commission will consider the significance of the firm's revenues from activities included in the four-digit SIC codes making up the applicable industrial groups.

Where to file.—Form PC–5 and attachments should be mailed to:

Price Commission, Post Office Box 19300, Washington, DC. 20036.

Indicate Submission of Form PC–5 in the lower-hand corner of the envelope.

Specific Instructions

PART I—IDENTIFYING DATA

Item 1: Prior reference number—Answer the question in 1(a). If you are supplying requested additional information or are resubmitting a request that had been initially returned, record the prior reference number in 1(b). The prior reference number is the number recorded by the Price Commission in the top right hand corner of this form, in the box labeled Reference No.

Item 2: Application date—Enter the date that this filing is made, regardless of whether this represents an initial filing, requested additional information, or a resubmission.

Item 3: Parent firm data—A Parent firm is the firm which controls a group of consolidated subsidiaries following the criteria for the preparation of consolidated financial statements in accordance with generally accepted accounting principles.

(a) Enter name of Parent firm.

(b) Enter address of executive office of Parent firm.

(c) Enter the ending date of the most recent fiscal year as customarily used by the Parent firm.

(d) Enter the Parent firm's "Data Universal Numbering System" (D–U–N–S) number, if known. If not known, leave this item blank. The D-U-N-S number is a nine-digit number assigned to establishments by Dun & Bradstreet, Inc. If the firm has more than one D-U-N-S number, the number entered in this item should be that assigned to the firm for the address entered above as the executive office.

PART II—SUMMARY OF REQUESTED MODIFICATIONS

Item 4: Total revenues in most recent fiscal year—In this item, total revenues for the most recent fiscal year (Item 3(c)) are summarized by reporting entities for which change is requested (line a), and those for which change is not requested (line b).

Supporting schedules must be attached listing the names of reporting entities whose revenues are summarized in Items 4a and 4b. For Price Commission review purposes, the revenues for each reporting entity must be detailed by four-digit SIC codes. See Exhibit A for an example of the supporting schedules required.

In completing these supporting schedules, insignificant miscellaneous operating revenues, which are in multiple four-digit SIC industries, may be summarized on one line, for each reporting entity. Such miscellaneous operating revenues must not exceed 5 percent of the reporting entity's total revenues, nor be in excess of $5 million. Nonoperating revenues should be summarized on one line for each reporting entity.

Reporting entities included in Item 4a must have annual revenues of less than $100 million and those revenues must be substantially (e.g., 95 percent) from products or services in industrial groups where the annual revenues of the consolidated group of the Parent firm were less than $100 million.

Reporting entities for which change is requested must have a substantial portion of their sales to entities outside of the consolidated group of the Parent firm. Furthermore, all transactions which are in fact intrafirm transfers must be summarized in the supporting schedules and deducted in computing the amount included in Items 4a and 4b.

Estimates—The Price Commission recognizes that information regarding sales by four-digit SIC codes may not be available from the accounting records of some firms. In those cases, firms should provide reasonable estimates for such information and attach a supporting statement indicating the estimating method used. Estimated amounts must be reconcilable to information that is contained in the accounting records. For example, a sales account may include amounts which are properly classifiable in two four-digit SIC codes. While estimates may be used to determine the separate four-digit amounts, the total of the estimates must agree with the amount reflected in the accounting records.

PART III—SUMMARY OF REVENUES BY INDUSTRIAL GROUPS

Items 5 and 6: These items are used to summarize the total revenues of the firm by industrial groups. Include in Item 5 all industrial groups where any reporting entity for which change is requested had sales in any four-digit SIC code which is included in the industrial group. Any industrial group which is required to be summarized in Item 5 must then include all applicable revenues of the firm including those from reporting entities for which change is not requested.

Item 6 includes all revenues of the firm which are not includable in Item 5.

Supporting schedules must be attached showing the details of revenues by four-digit SIC code for each industrial group. Within each four-digit SIC code, all reporting entities having revenues from products or services in that four-digit SIC code must be listed. Reporting entity names must be shown exactly as listed in the supporting schedules to Items 4a and 4b. See Exhibit B for an example of the supporting schedules required.

Estimates—As explained in the instructions to Item 4, estimates may be used to determine sales in four-digit SIC codes.

PART IV—ADDITIONAL INFORMATION

Self-explanatory.

PART V—CERTIFICATION

Type the name and title (including the company name) of the individual who has signed the certification, on the lines above such signature. The individual certifying to this Form PC–5 must be the Chief Executive Officer of the Parent firm, or such other executive officer as authorized by the Chief Executive Officer to sign for him for this purpose. Such authorization must be in the form prescribed by the Price Commission.

EXHIBIT A

	4-digit SIC code	Annual revenues
ITEM 4A.—ENTITIES FOR WHICH CHANGE IS REQUESTED		
Reporting Entity A:		
Wood household furniture	2511	$30,000
Wood office furniture	2521	10,000
Total Entity A		40,000
Total—Item 4a		40,000
ITEM 4B.—ENTITIES FOR WHICH CHANGE IS NOT REQUESTED		
Reporting Entity B:		
Office machines, n.e.c.	3579	100,000
Wood office furniture	2521	30,000
Total Entity B		130,000
Reporting Entity C:		
Household laundry equipment	3633	100,000
Radio and TV receiving sets	3651	50,000
Wood household furniture	2511	15,000
Total Entity C		165,000
Total—Item 4b		295,000

EXHIBIT B

ITEM 5.—INDUSTRIAL GROUPS WHICH INCLUDE ENTITIES FOR WHICH CHANGE IS REQUESTED	
Furniture and fixtures:	
Wood household furniture (SIC–2511):	
Reporting Entity A	30,000
Reporting Entity C	15,000
Total wood household furniture	45,000
Wood office furniture (SIC–2521):	
Reporting Entity A	10,000
Reporting Entity B	30,000
Total wood office furniture	40,000
Total furniture and fixtures	85,000
ITEM 6.—INDUSTRIAL GROUPS WHICH DO NOT INCLUDE ENTITIES FOR WHICH CHANGE IS REQUESTED	
Machinery and allied products:	
Office machines, n.e.c. (SIC–3579): Reporting Entity B	100,000
Total office machines	100,000
Household laundry equipment (SIC–3633): Reporting Entity C	100,000
Total household laundry equipment	100,000
Radio and TV receiving sets (SIC–3651): Reporting Entity C	50,000
Total radio and TV receiving sets	50,000
Total machinery and allied products	250,000

TABLE 1

LIST OF INDUSTRIAL GROUPS (GENERALLY TWO-DIGIT SIC CATEGORIES)

Industrial Groups No.	Description	SIC codes included in Industrial Groups
1	Agricultural production	01.
2	Agricultural services and hunting.	07.
3	Forestry	08.
4	Fisheries	09.
5	Metal mining	10.
6	Coal mining	11, 12.
7	Integrated petroleum	13, 29, 46.
8	Nonmetallic minerals, except fuels.	14.
9	Construction	15, 16, 17.
10	Foods and tobacco	20, 21.
	(Plus farm product warehousing and storage.)	(Plus 4221.)
	(Plus stockyards)	(Plus 473.)
11	Textiles, apparel and leather	22, 23, 31.
	(Less tire cord and fabric)	(Less 2296 moved to Group 17.)
	(Plus cellulosic manmade fibers.)	(Plus 2823.)
	(Plus synthetic organic fibers, except cellulosic.)	(Plus 2824.)
12	Lumber and wood products	24.
13	Furniture and fixtures	25.
14	Paper and allied products	26.
15	Printing, publishing and allied industries.	27.
16	Chemical and allied products	28.
	(Less cellulosic manmade fibers.)	(Less 2823 moved to Group 11.)
	(Less synthetic organic fibers, except cellulosic.)	(Less 2824 moved to Group 11.)
17	Rubber and miscellaneous plastic products.	30.
	(Plus tire cord and fabric)	(Plus 2296.)
18	Stone, clay and glass products	32.
19	Ferrous primary metals:	
	Blast furnaces and steel mills.	331.
	Iron and steel foundries	332.
	Iron and steel forgings	3391.
20	Nonferrous primary metal industries.	33, less as indicated below.
	(Ferrous—see Group 19)	(331, 332, 3391 are Group 19.)
21	Fabricated metal products	34.
	(Plus ordnance and accessories, less as indicated below.)	(Plus 19, less as indicated below.)
	(Complete guided missiles.)	(1925, moved to Group 24.)
	(Tanks and tank components.)	(1931, moved to Group 23.)
	(Sighting and fire control equipment.)	(1941, moved to Group 26.)
22	Machinery and allied products	35, 36.
23	Motor vehicles and equipment.	371.
	(Plus tanks and tank components.)	(Plus 1931.)
24	Aircraft and parts	372.
	(Plus complete guided missiles).	(Plus 1925.)
25	Other transportation equipment.	373–379.
26	Instruments and related products.	38.
	(Plus sighting and fire control equipment.)	(Plus 1941.)
27	Miscellaneous manufacturing	39.
28	Railroad transportation	40.
	(Plus rental of railroad cars)	(Plus 474.)
29	Local and interurban passenger transit.	41.
30	Trucking and warehousing	42.
	(Less farm product warehousing and storage.)	(Less 4221, moved to Group 10.)
31	Water transportation	44.
32	Transportation by air	45.
33	Transportation services	47.
	(Less stockyards)	(Less 473, moved to Group 10.)
	(Less rental of railroad cars)	(Less 474, moved to Group 28.)
34	Communication	48.
35	Electric, gas, and sanitary services.	49.
36	Wholesale trade	50.
37	Building materials, hardware, and farm equipment dealers.	52.
38	Retail trade—general merchandise.	53.
39	Food stores	54.
40	Automotive dealers and gasoline service stations.	55.
41	Apparel and accessory stores	56.
42	Furniture, home furnishings, and equipment stores.	57.
43	Eating and drinking places	58.
44	Miscellaneous retail stores	59.
45	Banking	60.
46	Credit agencies other than banks.	61.
47	Security, commodity brokers, and services.	62.
48	Insurance carriers	63.
49	Insurance agents, brokers, and service.	64.
50	Real estate	65.
51	Combination of real estate, insurance, etc.	66.
52	Holding and other investment companies.	67.
53	Hotels, and other lodging places.	70.
54	Personal services	72.
55	Miscellaneous business services.	73.
56	Automobile repair, services, and garages.	75.
57	Miscellaneous repair services	76.
58	Motion pictures	78.
59	Amusement and recreation services.	79.
60	Medical and other health services.	80.
61	Legal services	81.
62	Educational services	82.
63	Museums, botanical and zoological gardens.	84.
64	Nonprofit membership organizations.	86.
65	Miscellaneous services	89.

[FR Doc.72-5651 Filed 4-12-72;12:26 pm]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1030-A]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Tracks of the Atchison, Topeka and Santa Fe Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of April 1972.

Upon further consideration of Service Order No. 1030 (34 F.R. 11211, 15250; 35 F.R. 5334, 10661, 15294; 36 F.R. 5978, 11999, 19370, 25423), and good cause appearing therefor:

It is ordered, That:

§ 1033.1030 *Service Order 1030-A* (Chicago, Rock Island and Pacific Railroad Co. authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Co.) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That this order shall become effective at 11:59 p.m., April 11, 1972; that copies of this order and direction shall be served upon the Association of American Railroads Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-5791 Filed 4-14-72;8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19141; FCC 72-310]

PART 1—PRACTICE AND PROCEDURE

Summary Decision Procedures

Report and order. In the matter of summary decision procedures.

1. A notice of rule making in this proceeding, proposing the adoption of procedures for the summary decision of adjudicatory hearing cases, was released on February 4, 1971 (FCC 71-105, 36 F.R. 2799). The proposed rule read as set forth below:

2. Comments on the proposal were filed by the following organizations:

(1) The Committee for Review of Commission Procedures of the Federal Communications Bar Association (FCBA Committee).[1]

(2) The Administrative Law Section of the American Bar Association (ABA).

(3) The GTE Service Corporation (GTE).

GTE also filed reply comments. All participants in the proceeding favor the adoption of summary decision procedures. Each suggests that the proposed rule be modified in a number of respects or that the precise meaning of its provisions be classified. The final rules, whose provisions vary in content and arrangement from those proposed, are set out in the attached Appendix. Suggestions made in the comments and changes in the proposed rule are discussed below.

3. Standard for grant or denial of a motion for summary decision. Each of the participants asks for clarification of the following standard for grant or denial of a motion for summary decision, set out as paragraph (b) of the proposed rule:

(b) The presiding officer may grant such motion if the pleadings, affidavits, material obtained by discovery or otherwise, admissions, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is entitled to summary decision.

Comment is in particular directed to the concluding passage, "and that a party is entitled to summary decision." The

[1] The views of the FCBA Committee are its own and not necessarily those of the FCBA or of its Executive Committee.

FCBA Committee asks that the Commission state the intended meaning and scope of that passage. The ABA suggests that the provision be deleted or that it be rewritten to make its meaning clear. GTE, on the other hand, stresses the importance of the provision, as indicating that "the presiding officer has the necessary discretion to deny a motion for summary decision notwithstanding superficial satisfaction of the literal requirement that there be 'no genuine issue as to any material fact,'" and urges that this be made clear by the Commission, both in this narrative statement and by modification of the rule.

4. The standard set forth in the proposed rule is the same as that set out as section 2 of Administrative Conference Recommendation No. 20 and closely parallels the third sentence of Rule 56(c) of the Federal Rules of Civil Procedure, which reads as follows:

> The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

On its face, the meaning of the underlined passage is unambiguous: If the motion is to be granted, the moving party must, of course, show that the facts as established entitle him to judgment as a matter of law. As a matter of practice, however, the passage has been given additional significance. Thus, though Rule 56(c) provides that where the required showing is made, "the judgment sought shall be rendered forthwith," Federal judges have exercised broad discretion in denying a motion for summary judgment where the required showing was made but application of the rule was considered inappropriate due to the nature of the case or of circumstances surrounding the request.

5. The standard for action on a motion for summary decision proposed herein is essentially the same as the standard prescribed by Rule 56(c), as construed by the courts. Differences in wording follow from the fact that the Commission renders "decisions" rather than "judgments" and that its decisions reflect policies of its own making as well as statutory and case law. We wish to make it clear, as GTE requests, that the presiding officer has broad authority to go forward with a hearing, regardless of the showing made, if the nature of the proceeding and of circumstances surrounding the request persuade him that a hearing is desirable. We have, accordingly, modified the standard for grant or denial of a motion for summary decision. The final provision (set out in § 1.251(d)) reads as follows:

> The presiding officer, giving appropriate weight to the nature of the proceeding, the issue or issues, the proof, and to the need for cross-examination, may grant a motion for summary decision to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is otherwise entitled to summary decision.

We would note that this provision does not provide for "judgment forthwith" but rather that the presiding officer "may grant" the motion. Further, reference to "a party" rather than "the moving party" leaves open the possibility, however remote, that the facts established may show that a party other than the moving party is entitled to summary decision.

6. To elucidate further, we quote and endorse the following passage from Professor Gellhorn's study, "Summary Judgment in Agency Adjudication," [2] at page 30:

> The function of [a] summary decision rule, in its broadest application, is to avoid a useless hearing. It promotes decisions on the merits without a trial where no genuine issue of material fact exists. More narrowly, it is designed to operate as a pretrial determination of what material facts do exist without substantial controversy and what material facts are actually and in good faith controverted. The party moving for summary decision has the burden of establishing through a written record that no triable issue exists; and he has this burden even with respect to issues upon which the opposing party would have the burden at the hearing. The moving party's papers should be carefully scrutinized, while the opposing party's papers, if any, should be treated with considerable indulgence. In determining whether to grant the motion, the presiding officer should give due weight to the need for cross-examination (which is unavailable to test affidavit evidence), to the general desirability of demeanor testimony, to the opposing party's access to proof, and to the desirability of full exploration at an evidentiary hearing. [Citation omitted.]

Professor Gellhorn further notes that courts will deny a motion for summary judgment, even though the request is technically within the rule's coverage, where, for example, the evidence is exclusively within the moving party's domain (Study, at p. 4) or where the litigation is complex (ibid., at pp. 4, 12). In the latter respect, we would note that some of the issues in a complex proceeding may be appropriate for summary decision, though the case as a whole is not. Courts also will deny a motion for summary decision where the disputed issue involves the evaluation of conceded facts in terms of legal or policy consequences (Study, at pp. 5–6, 12).[3] Professor Gellhorn also notes that a motion for summary decision should not in fairness be used against parties who appear without counsel (Study, at p. 11). We would temper this observation by noting that parties normally appear without counsel in only the simplest of cases, in which they have personal knowledge of all matters of fact, and that in such cases, the capability of a party to understand and respond to a motion for summary decision may, in fairness, be left to the discretion of the presiding officer. In Commission practice, finally, summary decision may well be useful, though the hearing is expected to consume little time (see Study, contra, at p. 11), since extensive travel by principals, witnesses, and attorneys to the place of hearing could thus be avoided, and delay attributable to problems in scheduling hearings would be eliminated.

7. Time for filing motion: The proposed rule (§ 1.251(a)) provided that the motion for summary decision must be filed at least 20 days prior to commencement of the hearing and that an opposition or countermotion must be filed within 14 days after the motion is filed.[4] The FCBA Committee and the ABA state that inadequate time is allowed under the rules for the preparation of affidavits and the discovery of materials which would be submitted in support of a motion for summary decision. The FCBA Committee suggests that the time restrictions be relaxed. The ABA suggests that the presiding officer be given discretion as to the time for filing the motion.

8. We note initially that the time of the first prehearing conference and of the first hearing session are set by the Chief Hearing Examiner in an order issued shortly after a proceeding is designated for hearing. The prehearing conference will hereafter be scheduled approximately 4 weeks after designation, with the hearing to commence 6 weeks after the conference. The total period (70 days) allows ample time in many cases to prepare for the hearing. This scheduling would also provide ample time (50 days) in many cases for preparation of a motion for summary decision. It is appreciated, on the other hand, that the time allowed would be inadequate in some cases, particularly those involving extensive and contested use of the discovery procedures.

9. The solution of the timing problem, however, does not call for allowing a motion for summary decision to be filed

[2] Ernest Gellhorn, "Summary Judgment in Agency Adjudication," April 1, 1970, a report for the Committee on Agency Organization and Procedure of the Administrative Conference of the United States. Professor Gellhorn's study has been considered by the Commission in this proceeding, and we believe it will be useful to practitioners and members of the staff, many of whom have had no previous experience with summary decision procedures. The study has been printed in "Recommendations and Reports of the Administrative Conference of the United States," Vol. 1, at p. 543. Copies of the study will soon be available from the FCC's Information Officer. See also, Gellhorn and Robinson, "Summary Judgment in Administrative Adjudication," 84 Harv. L. Rev. 612, January 1971.

[3] Assuming that the basic facts are conceded (A did X to B, for example), expert or character testimony may still be appropriate to determine whether A was acting in accordance with accepted industry or community practices, was acting in good faith, or for base or worthy motives. In such circumstances, summary decision of the basic facts would be appropriate, but a hearing on the inferences to be drawn from them or as to the ultimate findings of fact would also be appropriate.

[4] Similar provisions appear in the final rule at § 1.251 (a) and (b).

less than 20 days prior to the hearing, but for adjustment of the hearing date to provide an adequate period prior to hearing for completion of collateral procedures (e.g., discovery) and submission of a motion for summary decision. As indicated in the notice of proposed rule making, our purpose in requiring the motion to be filed at least 20 days prior to hearing is, "to avoid undue disruption of arrangements made for the attendance of parties and witnesses at the hearing which would result from submission of a 'last-minute' motion." (Notice, at para 3). If prehearing proceedings are conducted in the orderly manner intended, there is no need to sacrifice this provision.

10. The presiding officer has full authority to alter the dates initially set for the prehearing conference and the hearing. It may often turn out that the initial prehearing conference specified in the Chief Hearing Examiner's order is the "preliminary" conference, and that further conferences and a change in the hearing date will be required in order to accommodate the needs of time for discovery and for the filing of a motion for summary decision. Discovery procedures, properly utilized, are completed prior to the prehearing conference, so that counsel attending the conference, having at their disposal the facts obtained through discovery, can with confidence enter into stipulations, work toward simplification of the issues, exchange exhibits, and list witnesses to be called. Where it appears that extensive use will be made of discovery, it is appropriate for the presiding officer to call, or for counsel to request, a preliminary conference in which counsel outline their plans for discovery and the presiding officer formulates a schedule for its completion and set a date, following completion of discovery, for the prehearing conference.[5] Subsequent adjustment of the schedule is appropriate as the need appears. The motion for summary decision is most appropriately filed after the conference and at least 20 days prior to hearing. Counsel intending to file such a motion can appropriately make their intention known and can ask that the date set for hearing be adjusted to allow adequate time for preparation of the motion. We note in this respect that the presiding officer can elect to proceed with the hearing rather than grant a motion for summary decision, that he may properly indicate in advance his disinclination to grant such a motion, and that a request for delay of the hearing may appropriately be denied in such circumstances. If a motion for summary decision is filed, the presiding officer has full authority to extend the time for filing an opposition or countermotion and should, of course, defer the hearing pending his action on the motion. In short, because the presiding officer has full authority to set the date of the conference and the hearing, there is no need by rule to relax the time restrictions for submission of a motion for summary decision. To confirm and emphasize the presiding officer's broad authority in such matters and to provide guidance concerning the proper conduct of the proceeding prior to hearing, we are adopting two new provisions. Section 1.251(f) deals with the presiding officer's full authority to control the use and prevent abuse of the summary decision procedures, and sets out specific procedures for invoking sanctions in the event of such abuse. Section 1.248(b)(2) provides that a reasonable period prior to commencement of the hearing shall be allowed for the orderly completion of all prehearing procedures, including discovery, and for the submission and disposition of all prehearing motions. It provides further, as appropriate, for a preliminary prehearing conference, to formulate a schedule for the completion of prehearing procedures and to set a date for commencement of the hearing.

11. The FCBA Committee suggests that a motion for summary decision should be allowed after commencement of the hearing, for good cause shown, and subject to the presiding officer's refusal to entertain the motion. It suggests that such motions might appropriately be received during a continuance of the hearing or following the submission of evidence on a dispositive issue.

12. It is our judgment that the motion for summary decision should be filed once, prior to hearing, and not otherwise, and that the possibility of repeated motions as the hearing progresses, during continuances or otherwise, should be precluded. The possibility of avoiding unnecessary hearing sessions in a few cases is outweighed by the potential for delay in many cases attending the submission and consideration of repeated motions for summary decision. Nor do we think that the availability of such procedures should turn on the fortuitous circumstance of a continuance being ordered for other reasons at the precise stage of the hearing at which a motion is considered appropriate. The question as to whether the presiding officer should rule on a dispositive issue following submission of evidence on that issue, with further proceedings conditioned on that ruling, is properly resolved when the proceeding is designated for hearing, at which point the Commission will determine whether to order a separate hearing on the dispositive issue or a full hearing on all issues, and will phrase the issues accordingly. Where an evidentiary hearing has been held on a dispositive issue, moreover, it would appear that the presiding officer should receive proposed findings and issue an initial (rather than a summary) decision.[6]

13. Petition for reconsideration of an order designating a proceeding for hearing. In the notice of rule making, we proposed to substitute summary decision procedures for current procedures (§ 1.111) under which an applicant may petition for reconsideration of an order designating his application for hearing and ask that the application be granted without further proceedings. The FCBA Committee supports this proposal generally but suggests that the right to petition for reconsideration be retained where "only a question of Commission policy is involved, and it is apparent that an evidentiary hearing is not required for determination of that particular policy question." There is some merit in this suggestion. The presiding officer does not make policy but rather implements policies made by the Commission. Nor is he authorized to terminate a hearing ordered by the Commission on the ground that it is not required by Commission policy. It is possible for the Commission to err as to policy in designating an application for hearing and for policy to change following designation in such a way as to obviate the need for hearing. A party should not, in such circumstances, be forced to go through a full evidentiary hearing before having an opportunity to raise the policy issue. Thus, procedures for presenting such questions to the Commission prior to hearing should be provided. However, we are not prepared to provide for reconsideration of any "question of policy." Access to the Commission prior to hearing should be limited to circumstances involving an apparent policy error or change and should not, as the FCBA Committee suggests, encompass the presentation of arguments favoring a change in policy which would obviate the need for hearing.

The term "question of policy", moreover, is insufficiently definitive and would do little to limit the submission of petitions for reconsideration of designation orders. For these reasons, we have decided on an alternative procedure, set out below in § 1.106(a)(2). This section provides that a party may request the presiding officer to certify to the Commission the question as to whether, on policy in effect at designation or adopted since designation, and undisputed facts, a hearing should be held, and provides for certification of the policy question to the Commission upon a finding of substantial doubt. This procedure is available to any party to a case designated for hearing and is not limited to applicants seeking grant without hearing. While affording access to the Commission in a limited number of circumstances where a hearing may be wasteful, the procedure should limit access, as intended, to a small number of unusual cases.

[5] We do not mean to suggest that any greater or lesser use should be made of the discovery procedures than at present, but only that when, in the judgment of the presiding officer, the use of discovery will contribute to the proper conduct of the proceeding, an adequate period (usually prior to the prehearing conference) should be allowed for its completion. Moreover, we would again stress, as we did upon adoption of the discovery rules, that, "When the discovery procedures are invoked, parties and counsel are expected to direct themselves with energy to their successful completion and to take extraordinary measures, if necessary, to avoid undue delay in commencement of the hearing" (11 FCC 2d 185, 192).

[6] We do intend to consider, in a separate proceeding, procedures under which a party could move for decision at the close of any other party's case. However, such procedures would be substantially different from those governing a motion for summary decision.

14. Other suggestions. In accordance with suggestions made in the comments, we have, in § 1.251(e), specified the nature of the presiding officer's opinion and provisions for appeal of his ruling. If the presiding officer's ruling on a motion for summary decision terminates the proceeding, he will issue a Summary Decision, which is subject to appeal or review in the same manner as an Initial Decision. If the presiding officer denies the motion or disposes of less than all of the issues without terminating the proceeding, he will issue a memorandum opinion and order, interlocutory in character, which is subject to appeal, with his consent, under § 1.301. It is also suggested that the Commission reserve the right to specify, in the designation order, that summary decision procedures shall not be utilized in a particular case. We are of the opinion that the Commission has the necessary authority to vary its procedures for a particular case, within statutory limits, with reasonable advance notice to the parties, and that a special provision in this respect as to the availability of summary decision procedures is unnecessary.

15. Editorial changes. Changes in the proposed rules other than those discussed above encompass minor changes in wording, rearrangement of provisions and addition of cross references, and do not appear to require comment or explanation.

16. Authority for adoption of the rules set forth in the attached Appendix is contained in section 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r).

17. In view of the foregoing: *It is ordered*, That Part 1, the rules of practice and procedure, is amended as set forth below, and that this proceeding is terminated. The new procedures shall apply to cases designated for hearing on or after May 19, 1972.

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

Adopted: April 5, 1972.

Released: April 12, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[7]
[SEAL] BEN F. WAPLE,
Secretary.

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 1.106, the headnote and paragraph (a) are revised to read as follows:

§ 1.106 Petitions for reconsideration.

(a) (1) Petitions requesting reconsideration of a final Commission action will be acted on by the Commission. Petitions requesting reconsideration of a final decision of the Review Board will be acted on by the Board or certified to the Commission (see § 0.361 (b) and (c) of this chapter). Petitions requesting reconsideration of other final actions taken pursuant to delegated authority will be acted on by the designated authority or referred by such authority to the Commission. A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding. Petitions for reconsideration of other interlocutory actions will not be entertained.

(2) Within the period allowed for filing a petition for reconsideration, any party to the proceeding may request the presiding officer to certify to the Commission the question as to whether, on policy in effect at the time of designation or adopted since designation, and undisputed facts, a hearing should be held. If the presiding officer finds that there is substantial doubt, on established policy and undisputed facts, that a hearing should be held, he will certify the policy question to the Commission with a statement to that effect. No appeal may be filed from an order denying such a request. See also, §§ 1.229 and 1.251.

* * * * *

§ 1.111 [Revoked]

2. Section 1.111 is revoked.

3. Section 1.248(b) is revised to read as follows:

§ 1.248 Prehearing conferences; hearing conferences.

* * * * *

(b) (1) The presiding officer (or the Commission or a panel of commissioners in a case over which it presides), on his own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to or during the course of a hearing, or to submit suggestions in writing, for the purpose of considering any of the matters set forth in paragraph (c) of this section.

(2) Except as circumstances otherwise require, the presiding officer shall allow a reasonable period prior to commencement of the hearing for the orderly completion of all prehearing procedures, including discovery, and for the submission and disposition of all prehearing motions. Where the circumstances so warrant, the presiding officer shall, promptly after the hearing is ordered, call a preliminary prehearing conference, to inquire into the use of available procedures contemplated by the parties and the time required for their completion, to formulate a schedule for their completion, and to set a date for commencement of the hearing.

* * * * *

4. Section 1.251 is added to read as follows:

§ 1.251 Summary decision.

(a) Any party to an adjudicatory proceeding may move for summary decision of all or any of the issues set for hearing. The motion shall be filed at least 20 days prior to the date set for commencement of the hearing. The party filing the motion may not rest upon mere allegations or denials but must show, by affidavit or by other materials subject to consideration by the presiding officer, that there is no genuine issue of material fact for determination at the hearing.

(b) Within 14 days after a motion for summary decision is filed, any other party to the proceeding may file an opposition or a countermotion for summary decision. A party opposing the motion may not rest upon mere allegations or denials but must show, by affidavit or by other materials subject to consideration by the presiding officer, that there is a genuine issue of material fact for determination at the hearing, that he cannot, for good cause, present by affidavit or otherwise facts essential to justify his opposition, or that summary decision is otherwise inappropriate.

(c) Affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

(d) The presiding officer may, in his discretion, set the matter for argument and call for the submission of proposed findings, conclusions, briefs or memoranda of law. The presiding officer, giving appropriate weight to the nature of the proceeding, the issue or issues, the proof, and to the need for cross examination, may grant a motion for summary decision to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is otherwise entitled to summary decision. If it appears from the affidavits of a party opposing the motion that he cannot, for good cause shown, present by affidavit or otherwise facts essential to justify his opposition, the presiding officer may deny the motion, may order a continuance to permit affidavits to be obtained or discovery to be had, or make such other order as is just.

(e) If all of the issues (or a dispositive issue) are determined on a motion for summary decision, no hearing will be held. The presiding officer will issue a Summary Decision, which is subject to appeal or review in the same manner as an Initial Decision. See §§ 1.271–1.282. If some of the issues only (including no dispositive issue) are decided on a motion for summary decision, or if the motion is denied, the presiding officer will issue a memorandum opinion and order, interlocutory in character, and the hearing will proceed on the remaining issues. Appeal from interlocutory rulings is governed by § 1.301.

(f) The presiding officer may take any action deemed necessary to assure that summary decision procedures are not abused. He may rule in advance of a motion that the proceeding is not appropriate for summary decision, and may take such other measures as are necessary to prevent any unwarranted delay.

[7] Concurring statement of chairman Burch, in which commissioner Wiley joins, filed as part of the original document; Commissioner Robert E. Lee absent.

(1) Should it appear to the satisfaction of the presiding officer that a motion for summary decision has been presented in bad faith or solely for the purpose of delay, or that such a motion is patently frivolous, he will enter a determination to that effect upon the record.

(2) If, on making such determination, the presiding officer concludes that the facts warrant disciplinary action against an attorney, he will certify the matter to the Commission with his findings and recommendations, for consideration under § 1.24.

(3) If, on making such determination, the presiding officer concludes that the facts warrant a finding of bad faith on the part of a party to the proceeding, he will certify the matter to the Commission, with his findings and recommendations, for a determination as to whether the facts warrant addition of an issue as to the character qualifications of that party.

5. Section 1.267(a) is revised to read as follows:

§ 1.267 Initial and recommended decision.

(a) Except as provided in §§ 1.251 and 1.274, or where the proceeding is terminated on motion (see § 1.302), the presiding officer shall prepare an initial (or recommended) decision, which shall be transmitted to the Secretary of the Commission. The Secretary will make the decision public immediately and file it in the docket of the case.

* * * * *

[FR Doc.72-5778 Filed 4-14-72;8:51 am]

[Docket No. 18809; FCC 72-309]

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

Authorization of Ground-to-Air Communications

Report and order. In the matter of amendment of Part 2 of the Commission's rules to permit the authorization of ground-to-air communications on the frequencies 122.65, 122.70 and 122.75 MHz, Docket No. 18809, RM-1881.

1. A notice of proposed rule making in the above-captioned matter was released on March 6, 1970, and published in the FEDERAL REGISTER on March 11, 1970 (35 F.R. 4333). The dates for filing comments and replies have passed.

2. Comments were filed by: Collins Radio Co. (Collins), Sprague Electric Co. (Sprague), Tenneco, Inc. (Tenneco), and Trunkline Gas Co. (Trunkline).

3. The NPRM was the result of a request by the Federal Aviation Administration (FAA) to amend Part 2 of the Commission's rules in a manner which would permit the assignment of frequencies 122.65, 122.70, and 122.75 MHz to FAA Flight Service Stations for safety-of-flight communications with general aviation aircraft. FAA points out that these frequencies are now available for airborne use and thousands of aircraft have the capability to use them, but they are not now authorized for ground-to-air communications. FAA presently renders safety-of-flight service on frequencies in the band 121.975–122.625 MHz pursuant to one of the provisions in footnote US31 to the Table of Frequency of Allocations, § 2.106 of the rules. Because of congestion on those channels, however, FAA recommends that this provision be expanded by shifting the upper limit to 122.775 MHz, thereby incorporating three additional channels for flight service station use.

4. Comments by Sprague, Tenneco, and Trunkline agreed with the Commission's proposal. While Collins did not object to the proposed use, it did indicate concern over the potential of third order intermodulation interference resulting from the mixing of the proposed frequencies with existing flight test station frequencies at the same airport. An interference potential would exist if the mixing produced a signal on a third frequency being received nearby. Collins cites as an example the mixing of the proposed flight service station frequency 122.65 MHz with flight test frequency 123.4 MHz to produce a third order intermodulation product on ground control frequency 121.9 MHz, i.e., (2)(122.65)—123.4=121.9. The actual mixing occurs in the front end of the receiver experiencing the interference. For interference to occur, both of the offending signals must be present in the receiver front end at sufficient amplitudes to produce a detectable intermodulation product. The problem can thus be alleviated by filtering out one of the offending signals at the input to the receiver or by not assigning one of the frequencies in that particular location.

5. Intermodulation interference is not a new problem nor is it peculiar to the frequencies proposed herein for flight service station use. Moreover, the FAA has informed us that it has developed a computer program which can accurately predict when the introduction of a new frequency at an airport would cause third order intermodulation interference. If such interference is indicated, the FAA has said its current procedure is either to select a different frequency for the proposed station, or to take other corrective action including possibly the installation of appropriate filtering at the receiver site. The availability of three additional frequencies for flight service station use as proposed herein merely provides the FAA with the flexibility of choosing from 11 frequencies instead of the present eight, thereby reducing the overall potential of interference rather than increasing it as suggested by Collins. It would appear, therefore, that the existing procedure is adequate to avoid intermodulation interference, and we see no merit in attaching a secondary status to flight service stations as proposed by Collins.

6. Petition RM-1881, encaptioned above, is essentially a restatement by FAA of its support for the Commission's proposals issued in the original NPRM, and the present action adopting those proposals renders RM-1881 moot.

7. *Accordingly, it is ordered,* That pursuant to the authority contained in section 303 (b), (c), and (r) of the Communications Act of 1934, as amended, effective May 19, 1972, Part 2 of the Commission's rules is amended as set forth below. *It is further ordered,* That this proceeding is hereby terminated.

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

Adopted: April 5, 1972.

Released: April 11, 1972.

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

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 2.106 footnote US31 is amended to read as follows:

US31 Except as provided below, the band 121.975–123.075 MHz is for use by private aircraft stations.

The frequencies 122.80, 122.85, 122.95, 123.00, and 123.05 MHz may be assigned to aeronautical advisory stations.

The frequency 122.90 MHz may be assigned to aeronautical multicom stations.

Air carrier aircraft stations may use 122.00 MHz for communication with aeronautical stations of the Federal Aviation Administration and 122.80 MHz for communication with other aircraft and with aeronautical advisory stations.

Frequencies in the band 121.975–122.775 MHz may be used by aeronautical stations of the Federal Aviation Administration for communication with private aircraft stations only, except that 122.0 MHz may also be used for communication with air carrier aircraft stations concerning weather information.

[FR Doc.72-5779 Filed 4-14-72;8:51 am]

[Docket No. 18867; FCC 72-327]

PART 73—RADIO BROADCAST SERVICES

Modulation of Carrier of Standard Broadcast Stations

Report and order. In the matter of amendment of Part 73 of the Commission's rules and regulations concerning Standard Broadcast Stations to prescribe a limit on positive modulation.

1. This proceeding primrily concerns a proposed amendment of § 73.55 of the Commission's rules and regulations, which governs the practices to be followed in the modulation of the carrier of a standard broadcast station. This section requires, among other things, that negative modulation peaks be limited to 100 percent. We proposed that the rule be

[1] Commissioner Robert E. Lee absent; Commissioner Johnson concurring in the result.

amended to apply the same limit to positive peaks.[1] As an ancillary matter, an amendment is proposed of the definition of percentage modulation (amplitude), set forth in § 73.14(1), to provide for separate definitions for modulation in the positive and negative directions.

2. As a reason for this proposal, we cited the fairly recent availability and use of broadcast transmitters purposely designed to have modulation capability greatly in excess of 100 percent, and the likelihood that broadcasters paying for transmitters with this capability would expect to use it. This can be done by supplying such transmitters with an asymmetrically limited audio signal, so polarized that, while negative excursions of the carrier are controlled, positive excursions may be produced whose magnitudes are limited only by the transmitter's ultimate modulation capability. Such operation would not violate § 73.55, as presently written. A station operated in this manner, we suggested, would cause interference to other stations in excess of that produced by a transmitter of the same carrier power, but with a more restricted modulation range, and in excess of that which was contemplated when the cochannel and adjacent channel desired/undesired carrier ratios contained in the Commission's rules were established. In addition, we raised the possibility that such severely asymmetrical modulation could result in undue audio distortion and excessive carrier shift.

3. We recognized that the waveforms of certain natural sounds are asymmetrical, and that it is accepted practice to polarize the output of sound transducers so that the higher peaks of such waveforms modulate the carrier in a positive direction. Thus, even without audio processing, modulation in excess of 100 percent in the positive direction can be achieved, without negative peaks causing carrier cutoff. Accordingly, while we proposed a rule amendment which would limit positive peaks to 100 percent, we asked for comment on what higher limit might be desirable to accommodate such natural asymmetries.

4. The notice of proposed rule making herein, adopted May 20, 1970, specified August 3, 1970, and September 3, 1970, as the respective deadlines for filing comments and reply comments. These dates were later extended by order until November 5, 1970, and December 2, 1970. Thirty-two parties filed comments (see Appendix A). Gates Radio Co., in addition to an earlier pleading, filed supplementary comments on December 7, 1970, with a petition requesting their acceptance. The comments report the results of certain transmitter tests which are pertinent to the matters considered in this proceeding. Accordingly, these late comments are hereby accepted.

5. Five parties support the adoption of a 100 percent positive modulation limit. Some of these parties, speaking for the small broadcaster, urge that the continuing development and use of equipment designed to permit higher and higher average levels of modulation creates a competitive situation imposing economic penalties on the broadcaster who chooses not to enter the competition, and which is detrimental to the more conservative operator, who is called upon to explain why his station is not as "loud" as other stations in his community. Increased distortion and interference are cited as byproducts of such high modulation levels.

6. The Clear Channel Broadcasting Service (CCBS), an organization representing 11 independent Class I–A clear channel stations, states, "Based on tape recordings made by CCBS in the field during the past two decades, cochannel and adjacent channel interference has increased substantially due in significant part to excessive modulation levels." Clear channel stations, it observes, cannot employ unusually high levels of modulation in an attempt to compensate for such increased interference, because its employment results in an increase in distortion experienced with selective fading of signals in the secondary service area. CCBS suggests that there is no need to provide "headroom" to accommodate naturally occurring asymmetrical waveforms, since appropriate signal processing can minimize asymmetries. Even though the Commission adopts a 100 percent positive modulation limit, which it recommends, CCBS contends that this measure alone may not be effective in controlling interference caused by improper modulation practices, since this limit may be maintained in station operation by "hard" clipping of peaks, productive of adjacent channel "splatter."[2] (A similar observation is made by Station KLNG, and offered as a reason why no limit should be placed on positive going modulation.)

7. Approximately one-half of all the comments received opposed the setting of a positive modulation limit. The majority of these comments came from individual broadcaster, or from attorneys representing two or more stations, many or all of which appear to have been employing transmitters and auxiliary equipment producing positive modulation peaks substantially in excess of 100 percent.[3] A number of these stations utilize an "Audio Pilot," a device developed by George Frese, a consulting engineer practicing in the Northwest, who filed a separate pleading urging that no restriction be imposed. According to Mr. Frese, the Audio Pilot operates automatically to polarize the higher peaks in the complex modulating audio waveform so as to produce positive going modulation. The negative peaks are limited, but no restriction is placed on positive peaks.[4] Mr. Frese claims that the use of his system results in a "phenomenal" increase in the service area of the station employing it, but insists that it "does not in any way cause additional harmful objection [sic] offensive interference to any of his fellow broadcasters." He contends that this conclusion is arrived at after field observations of the operation of stations equipped with the "Audio Pilot." In addition, the effects of "loud commercials" are minimized, and the audio signal is of much better quality than if symmetrical limiting were employed. Mr. Frese states that although he has made 35 installations of his "Audio Pilot," in only two cases has he experienced difficulty in producing a substantial degree of positive peak modulation in modern broadcast transmitters. He cites a few spot field intensity measurements in connection with aural observations to support his contention that station equipped with the Audio Pilot do not cause greater cochannel interference than existed before the Audio Pilot was installed. He attributes decreases in adjacent channel interference to "cleaner" sideband power.

8. Mr. Frese does not state the peak modulation percentages that can be achieved by the use of his system, although he mentions a "4 db" increase in sideband power. However, Jack Shuetts, head of the engineering department of KMBY Monterey, Calif., which recently purchased an Audio Pilot states "This device * * * has the capability of modulating the transmitter to an excess of 180 percent positive peaks * * *". (It is to be noted that KMBY is a Class IV station, 1 kw. day, 250 watts night, and this capability may refer only to the night time operation, in which the transmitter may have a large excess of modulation capability.)

9. Gates Radio Co., manufacturers of broadcast equipment, including transmitters and limiters, has filed a report of

[1] Section 73.55 presently reads as follows: The percentage of modulation shall be maintained as high as possible consistent with good quality of transmission and good broadcast practice. In no case is it to exceed 100 percent on negative peaks of frequent recurrence. Generally, it should not be less than 85 percent on peaks of frequent recurrence; but where necessary to avoid objectionable loudness modulation may be reduced to whatever level is necessary, even if the resulting modulation is substantially less than 85 percent on peaks of frequent recurrence.

[2] CCBS suggests that in a further proceeding we consider revisions of § 73.40 (12), (13), and (14) to provide "clearer and more useful guidelines on the permissible out of channel radiation, together with instrumentation to indicate compliance with the rule."

[3] It would appear that the practice is not confined to stations using transmitters with excessively large modulators. A transmitter designed for operation at two power levels (e.g., 1 kilowatt daytime, 250 watts nighttime) and adjusted to the lower power level by reducing the input power to the final RF stage, has a capability for high levels of modulation when operating at the lower level.

[4] As described, the functioning of the Audio pilot, as described above, appears to be similar to that of at least two other commercially available makes of asymmetrical limiters.

measurements made on an especially adjusted transmitter to demonstrate that positive modulation peaks exceeding 200 percent with program material results in average sideband power which is less than would be produced by 100 percent modulation with a sinusoidal single frequency signal. Since this is the case, Gates argues that excessive levels of interference should not result from high percentages of positive modulation. Two of the other parties to this proceeding have made similar arguments.

10. On the theory that the adverse effects of high percentages of positive modulation will be manifested primarily in increased adjacent channel interference caused by distortion products falling in these channels, CCA Electronics Corp., a manufacturer of broadcast transmitters and other equipment, has submitted the results of measurements intended to show that such interference can be controlled by a low pass filter of suitable characteristics. CCA is of the opinion that most modern broadcast transmitters will accommodate positive modulation peaks of 125–135 percent without undue distortion being generated in the modulation process. CCA has also submitted a report on an extensive post card survey, in which 4,200 stations were asked (1) whether an "asymmetrical peak-limiting compressor" is used by the station, (2) what specific equipment is used, (3) whether to the knowledge of station personnel interference had been caused to other stations through its use, and (4) whether interference had been received from stations "who operate with compressing equipment". Of the 864 stations that replied, CCA states 743 indicated they were using "asymmetrical compression equipment", no station indicated, to its knowledge, that the use of such equipment had resulted in interference to other stations. According to CCA, 12 stations stated they had experienced interefernce as a result of overmodulation by other stations, but such interference was not necessarily produced by the use or misuse of limiting apparatus.

11. Approximately one-third of the parties commenting in this proceeding favored a restriction in the degree of positive modulation, but urged that the maximum permissible level be set above 100 percent, the proposed maximums ranging from 115 to 130 percent.[5] Generally, the reason given for permitting such higher levels is to accommodate naturally asymmetrical waveforms. CBS Laboratories notes that while some natural occurring asymmetries exceed 2db, this appears to be a typical value. It suggests a modulation ceiling of 125 percent for this reason. Furthermore, it urges that "headroom" of this amount is desirable to minimize differences in loudness often experienced in shifts from recorded material to locally organized speech.[6] On the question of cochannel and adjacent channel interference, CBS recognizes that such interference is a function of the modulated carrier only. It states, however, that the level of such interference depends on total audio power, and significant changes in instantaneous peak amplitudes can be made without affecting "the total energy or loudness of a signal."

12. EIA, Westinghouse, and NAB independently arrive at a proposed maximum positive modulation level of about 115 percent. In each case, the limit is determined primarily as a result of a mathematical analysis of the degree of asymmetry which can be tolerated without the resulting transmission exceeding the amount of carrier shift and harmonic distortion permitted by the Commission's rules.[7]

DISCUSSION

13. It is severally and collectively the position of those parties who oppose amendment of the rules to place a limit on positive going modulation that the adverse effects which we see as resulting from a high level of such modulation—increased cochannel and adjacent channel interference, excessive carrier shift and distortion—do not occur, or need not occur if the technique is properly applied. A variety of arguments, but a paucity of useful evidence, is offered in support of these assertions.

14. Frese suggests that the main source of cochannel interference is the interaction of the undesired carrier with the desired, i.e., heterodyne interference, not the modulation on the undesired carrier.

15. Heterodyning can contribute significantly to cochannel interference if it is exceptionally strong and/or the difference in frequency between the desired and undesired signals is sufficiently great to produce a beat frequency well up in the audio range. The latter situation cannot occur if the stations involved are operating within the frequency tolerance prescribed in the Commission's rules. An undesired unmodulated signal producing 5 percent modulation of a desired modulated signal would normally be imperceptible; however, an undesired signal of this relative strength modulated with program material at normal levels will cause interference to the desired signal of a degree which one out of three observers would deem to be objectionable.[8]

INTERFERENCE

16. On the general question of interference, several of the parties argue there should be little danger of excessive interference since the average sideband power produced with normal program modulation, even when positive peaks greatly exceed 100 percent, is lower than the sideband power contributed by 100 percent modulation with a sinusoid of unvarying peak amplitude. Gates demonstrates that this is the case by calorimetric measurements of the output power of a transmitter modulated with program peaks extending to about 200 percent in the positive direction. In the Gates test, the average sideband power was found to be only about 45 percent of the sideband power with 100 percent sine wave modulation.

17. The standard against which the interference causing potentiality of a station employing high levels of positive modulation must be measured is the amount of interference produced by a station modulating with program material and positive peaks not exceeding, or not greatly exceeding 100 percent, not that caused by a hypothetical station utilizing sine wave modulation, as Gates and others would suggest.

18. ABES notes that since the practice of polarizing program peaks to produce positive going modulation long has been followed, any additional interference which might result from naturally asymmetrical modulation has already been taken into account in the observations which led to the establishment of present cochannel ratio, i.e., that the ratio includes the effect of undesired signals modulated in excess of 100 percent. The difficulty with this argument, even if the situation were as ABES suggests, is that in any particular observation of interference of one signal to another, either or both signals might have been modulated in excess of 100 percent. Thus, in a ratio representing the result of many separate observations, the effect, if present, is not taken into account in any systematic way, but rather, cancelled. Relevant to this question, CCBS is of the opinion that broadcast transmitters in

[5] Cecil Lynch, Consulting Engineer, suggests a limit of "100 percent+3db" (approximately 140 percent) provided that measured harmonic distortion does not exceed 10 percent. He supplied the results of a series of measurements made at Station KPOP, Roseville, Calif., which employs a system permitting positive modulation of this magnitude.

[6] CBS points out that recorded material has been previously processed, and in many recordings the ratio of peak to average level has been greatly restricted. "Live" speech has a much greater dynamic range. The station limiter, operating on the peak level of the program material, will reduce the average level of speech as much as 5 decibels with respect to the recorded program, with a consequent drop in the relative loudness of the speech.

[7] The model for the asymmetrical waveform used by EIA differs from that employed by Westinghouse and NAB. Each of the latter presumably were constructed in the same way, and yield identical figures for carrier shift and distortion. Utilizing the EIA model, nonlinear distortion is found to be the controlling factor, whereas Westinghouse and NAB compute carrier shift of 5 percent for a positive modulation level of 115.7 percent.

[8] The ratio of the desired to undesired carrier in the above example is, of course, 20 to 1, the cochannel ratio established in the rules, and the statement made regarding the interference is a simplified statement of the significance of the rule. The ratio was established by a statistical analysis of the results of many observations involving many observers, with various kinds of program material used for modulating the desired and undesired signals. The validity of this determination, originally made a great many years ago, was reaffirmed as a result of an extensive investigation conducted in 1945, in connection with Docket No. 6741.

use at the time the ratio was established were generally incapable of positive modulation much in excess of 100 percent, "soft" limiting in the transmitter occurring of peaks in excess of this level.

19. Whatever the situation may have been at that time, many modern transmitters, the comments attest, have appreciable excess positive modulation capability, and to the extent this is utilized, without excessive negative peak limiting, to accommodate peaks in program material, principally speech, having natural asymmetries, some advantages result. We recognize CBS' contention that broadcasting would be benefited by the imposition of a 100 percent ceiling. However, improvement in the overall interference situation resulting from such a limitation, as compared to a situation where a reasonable degree of latitude above 100 percent is permitted, probably would be small, and, as has been suggested, might be partially or wholly negated by the effects of the rather severe positive peak limiting which might otherwise become necessary. Conversely, the provision of a reasonable amount of "headroom" can result in a better sounding signal, an appreciable increase in average effective service, and, as CBS notes, would make possible the minimizing of abrupt changes in loudness which may result when shifts from recorded to live program material take place. It is the opinion of several of the parties that natural asymmetries can be accommodated under a positive modulation ceiling of 115 to 130 percent. It would appear that many transmitters can easily provide positive peaks of program modulation within this range. The average power present in the sidebands, which, we agree with CBS, is the important factor in cochannel interference considerations, is increased only slightly by the provisions of "headroom" of this general magnitude."

20. If, however, a positive modulation ceiling is not imposed and an audio signal whose natural asymmetry has been emphasized by negative peak limiting is used to modulate a transmitter capable of extreme levels of modulation, the adverse effects produced may no longer be minimal. This is demonstrated by the transmitter tests reported by Gates, previously referred to, which include the results of measurements from which a comparison may be made of the average sideband power produced by symmetrical modulation with program material to the 100 percent limit, and the sideband power produced by similar material with negative peak limiting, and positive peaks going to aproximately 200 percent. The average sideband power in the second instance exceeded the first by 68 percent.

21. As we noted before, we do not have extensive information as to the levels of positive peak modulation attained by those stations who report that, since applying techniques for achieving high levels, they have been providing much stronger demodulated signals in their normal service areas and/or have extended their useful service radii substantially. If the augmented relationship of modulation to carrier exists everywhere in an area comparatively close to the transmitter, both experience and theory would hold that the same relationship will be maintained at greater distances from the station, where the signal may invade the service area of a cochannel station, and the enhanced modulation will be reflected in increased interference to that station. The presumption that this will be the case is so strong it can be refuted only by properly executed engineering measurements demonstrating that this result does not occur. However, the material that has been presented in an effort to show the actual absence of adverse effects consist of the returns of the postal card survey conducted by CCA, the opinions of Mr. Frese and a number of engineers familiar with certain stations operating with enhanced positive peak modulation, based on aural observations, and the results of a few spot field strength measurements made by Mr. Frese.

22. The postal card survey revealed that the great majority of the stations responding to CCA's inquiry employ asymmetrical limiters of some type, and that the operators of these stations have not received complaints they are causing undue interference to other stations. There is no indication which, if any, of these stations operate with very high levels of positive peak modulation. In the few cases where specific comments is made on this point, peaks of 105 to 120 percent are cited. We do not believe that positive modulation of this degree should have an appreciable adverse effect.

23. In any event, increased interference to which a particular station may be subject as a result of excessively high positive modulation by another station, unless it is of major proportions, occurs near the outer edge of a station's service area, where the existing interference level undergoes temporal variations with changing propagation conditions. Most station operators have learned to live with these changes, and ordinarily find it difficult to distinguish between increases in interference from natural causes, and increases which are the result of changed operating practices at interfering stations. This, of course, is particularly true after nightfall, when each station is subject to sky wave interference from numerous sources, some quite distant, which varies greatly in average intensity from night to night. Thus, we believe that the fact that a station does not receive complaints it is causing an unnecessary degree of interference to other station does not prove that such interference is not being caused.

24. Spot measurements supply insufficient information on which to establish whether improvement or degradation of interstation interference, in any particular situation, has occurred, and may provide results which cannot be considered as representative. Thus, in an extreme case, Mr. Frese describes an instance in which adjacent channel interference did not become troublesome until the ratio of the field strength of the undesired to the desired signal approached 100 to 1. Conceding that the 1:1 adjacent channel protection ratio specified in our rules may be conservative, this kind of evidence obviously raises more questions than it answers.

25. We recognize that Mr. Frese, some of the users of the Audio Pilot, and operators of perhaps similar systems claim lower levels of adjacent channel interference are achieved with their systems. A number of those commenting seem to assume that if the modulation process generates no new sideband components falling in adjacent channels, increased interference cannot result from increased modulation levels. Such an assumption, of course, is far from true. The 1/1 desired to undesired adjacent channel ratio in the Commission's rules contemplates a response curve in the "average" receiver which is 26 db "down" at a point 10 kHz removed from the point of maximum response, but would usually be much less at frequencies which include the sideband of an adjacent channel station. It further should be noted that the average broadcast transmitter with "normal" modulation has sideband energy which extends outside its nominal ±5 kHz channel. It should be evident that in any given situation the presence of a stronger signal on an adjacent channel, and perhaps more particularly when the stronger signal is the result of a higher level modulation, can be a source of increased interference to a desired signal.

26. The amount of adjacent channel interference observed in any particular situation is affected by a number of variables. If the particular receiver used is more selective than the "average" receiver, the interference experienced on that receiver may be less than would be noticed in the average case. It is also well known (and CCA has demonstrated, although for an assumed channel separation of 20 kHz, rather than 10) that adjacent channel interference, in many cases, can be substantially reduced by the installation, in the broadcast transmitter, of a low pass filter, which attenuates the higher modulation frequencies. (Effective reductions can be achieved in this manner without affecting the transmitter's ability to meet the requirements of § 73.40(a)(4).) On the other hand, excessive nonlinear distortion in the transmitter can result in the generation of components not present in the modulating waveform and, the creation of out-of-channel interference greater than that which would otherwise be present.

"We believe this to be true, even though we recognize in either case compression may be used. Thus, within a 100 percent positive modulation limit, a station may be operated with considerable amounts of compression, which in itself, makes possible the modulation of the carrier at a higher average level than otherwise, with a consequent increase in average sideband power.

27. Mr. Frese claims that users of his "Audio Pilot" cause no more, and, in many cases less adjacent channel interference than was produced before the system was employed because "good, pure sideband power" is generated. He points out that when transmitters are equipped with the "Audio Pilot," particular care is taken to reduce inherent transmitter distortion to as low a level as possible. He also states that this device includes "a variety of minor control features that do not necessarily fall within the scope of this docket."

28. To the extent that any system which provides more effective control of negative peaks is substituted for a less effective system, adjacent channel "splatter" may be reduced. If an existing situation were bad enough, it is possible that a new system, exercising such control, and at the same time producing positive peak excursions substantially in excess of 100 percent, may, on balance, represent an improvement in this respect. However, this would be the case only if the previous system did not function effectively in controlling negative peaks or if there were other sources of distortion which were reduced when the new system was installed. Under such conditions, if a net reduction in adjacent channel interference is experienced, it would follow that the reduction results, not from enhanced positive peak excursions, but in spite of them.

DISTORTION

29. We believe it axiomatic that the application of any technique which induces asymmetries in the modulated envelope greater than those present in the natural modulating waveform inevitably contributes distortion. Several of the parties have attempted to demonstrate this with mathematical studies of asymmetrical waveforms. However, such studies are of limited value, since the models employed are artificial, and cannot be considered as closely approximating the actual waveforms involved.

30. On the other hand, we have experimental evidence on this subject, supplied by two of the parties. One of the tests performed by CCA involved the application of sine wave modulation to a modern broadcast transmitter through an asymmetrical limiter of a type very widely used. The following values were recorded:

MODULATION

Positive peaks	Negative peaks	Total harmonic distortion
		Percent
95	90	2.0
102	92	3.0
114	95	7.0
127	97	11.0
130	98	15.0
135	99	19.0

31. Cecil Lynch provides the results of measurements made on the KPOP transmitter, which employs a system including separate modulator and RF amplifier power supplies and a "negative peak wave shaper" (essentially a negative peak limiter which provides gradually increasing amounts of limiting beyond 80 percent negative modulation), intended to facilitate extended positive peak modulation. Mr. Lynch made sine wave measurements at each of four discrete frequencies disposed over the normal audio spectrum. Set forth below are the results of measurements made at 400 kHz, which are typical of those obtained at other frequencies:

Modulation	*Percent distortion*
100 percent	1.75
100 percent + 1 db	3.8
100 percent + 2 db	6.6
100 percent + 3 db	9.4
100 percent + 4 db	11.6

32. It should be observed that in both tests distortion increases substantially as the positive modulation level is increased, although in the latter test less rapidly than in the former. Mr. Lynch argues that 10 percent should be the tolerable limit for total nonlinear distortion under such test conditions. This may be contrasted with the limit of 7.5 percent for 95 percent modulation set in § 73.40 of our rules. The transmitters used in both of the tests have far less distortion at 100 percent modulation than the maximum permissible under our rules at 95 percent modulation. A distortion limit of 10 percent would accommodate something above 130 percent positive modulation in the KPOP system, but probably less than 120 percent in the equipment set up utilized by CCA.

33. From the results of these tests it may be concluded that if the Commission were to require equipment performance measurements to be made with audio signal processing equipment in place, and at the highest modulation level each station regularly employs, the recorded values of distortion might well exceed the limit now set in our rules. However it is questionable whether the results obtained in many cases would be reasonably representative of the performance of the tested equipment. For instance, the asymmetrical limiter used in the CCA test, and some other limiters of this general type, when employed with program material process naturally asymmetric waveforms so that the higher peaks in these waveforms will in all cases produce upward deviations in carrier amplitude. Thus, in regular operation, the limiter may accommodate positive peaks considerably exceeding 100 percent, before an appreciable degree of negative peak limiting comes into play. In the CCA test, the limiter was required to distort the sine wave input signal to produce the asymmetrical waveform employed. It seems apparent that the effective degree of distortion produced by such a limiter operating on program material will be less than a sine wave test might indicate.[10] There is of course, a question as to whether the automatic phase reversal process itself constitutes a form of distortion.

CARRIER SHIFT

34. While we cited excessive carrier shift as an adverse consequence of asymmetrical modulation, on consideration of the comments and data filed we are of the opinion that this will not necessarily result. Carrier shift should be apparent only when the modulation process itself ceases to be linear. We recognize that Westinghouse and NAB have submitted mathematical studies purporting to demonstrate that carrier shift of 5 percent might be caused by as little as 115.7 percent positive modulation. However, these studies, and indeed, the EIA study, which also predicts values for carrier shift for specified amounts of positive modulation, seem to be based on the assumption that the asymmetry in the modulated envelope is induced in the modulation process.

35. This, of course, may occur. However, if the asymmetry, whether naturally occurring or artificially induced, is inherent in the audio waveform at the output of the modulator, which is applied to the carrier over a range of amplitudes where its variations are faithfully reproduced in the modulated envelope no carrier shift will be produced, despite the fact that excursions of the carrier of unequal amplitude may be occurring above and below its unmodulated level.[11]

36. Mr. Lynch has provided the results of carrier shift measurements at the KPOP installation which illustrate this point:

Modulation	*Carrier shift*
100 percent	−1.2 percent
100 percent + 1 db	0
100 percent + 2 db	+1.95 percent
100 percent + 3 db	+4.88 percent
100 percent + 4 db	+8.29 percent

From inspection of the above table, it can be seen that carrier shift does not become significant until positive modulation levels are extended beyond 120 percent, and reaches 5 percent at some point above 140 percent positive modulation. This may be contrasted with a value of 5 percent for a modulation level of 115.7 percent, computed by EIA.

37. Prior to the beginning of this proceeding, Gates Radio Co., provided us

[10] We conclude, however, that the test results for KPOP are more nearly representative of its actual performance. A device is employed in audio chain of this station to equalize the positive and negative peaks of program material. Thus, any asymmetry in the modulating waveform results from negative peak limiting only.

[11] The reason for this becomes clear if it is recognized that an asymmetical wave is not a sinusoid, but includes harmonics so phased with respect to the fundamental that the two half cycles of the composite wave are differently shaped. Each sinusoidal component of the modulating composite wave produces equal positive and negative excursions of the carrier and causes no change in its average level. Since this is true for individual components of the wave, it will also be the case for the sum of these components, if the modulation process is linear. If, in contrast, the applied audio waveform is altered in the modulating process, the distortion products include a steady state component which is added to or subtracted from the carrier. The resulting carrier shift is an indication that such distortion is occurring, and may be considered as a symptom, rather than a disease, itself.

with the results of tests which also support this conclusion. In these tests, a transmitter was first modulated 100 percent with a sine wave, and then modulated with the sine wave modified by the partial clipping of alternate half cycles. With the clipped peaks modulating the carrier amplitude in a downward direction, the modulation level was increased until positive peaks reached 125 percent, the maximum capability of that particular transmitter. Under such conditions, the carrier shift was the same as that measured with 100 percent sine wave modulation.[12]

CONCLUSIONS

38. The primary concern of the Commission in this proceeding is with the effect of the use of equipment and techniques permitting positive going levels of modulation greatly in excess of 100 percent on the generation of increased cochannel and adjacent channel interference. A station utilizing such equipment and techniques can produce average sideband power which exceeds, in substantial degree if the modulation level is high, the sideband power produced by a more moderate level of modulation. This greater average sideband power is reflected in a stronger demodulated signal in receivers in the station's service area and/or an extension of the limits of this area. The improvement, according to a number of the parties who commented herein, may be marked. Both theory and all prior experience dictate that the same situation must exist at more distant points, where the field produced by the station is comparatively low, but is capable of causing interference to other stations. No party has offered any reason why this should not occur, or has proffered any convincing evidence that such operation does not carry with it an increased potentiality for interstation interference.

39. A carefully engineered system embodying a capability for achieving high levels of positive modulation may incorporate features which may compensate, to some degree, for the potentiality for increased adjacent channel interference otherwise inherent in such operation. However, such features cannot be effective in limiting cochannel interference.

40. Any system of limiting or compression, whether symmetrical or asymmetrical, can be employed to make possible transmission of program material at a higher average level than would otherwise be possible, and the almost universal adoption of limiting techniques by broadcasting stations over the years has resulted in nearly all stations possessing a capability for causing interference in excess of that which existed at the time the protection ratios were established. To the extent the use of these techniques is general, the effect, as between stations, is canceled, although some imbalance obtains between stations who limit and modulate heavily, and those which follow more conservative practices.

41. While, as CCBS suggests, we might attempt to roll back conditions to those which existed many years ago (which would require, as a minimum, establishing a 100 percent positive modulation limit, and prescribing standards for the amount of permissible compression or limiting) we do not see the necessity or even the desirability for this action. With the ceiling for positive modulation set at a reasonable level, sideband power will be increased only slightly.

42. We recognize that, at least in the AM band, the most generally satisfactory and acceptable service to the public may be provided with a considerable restriction on the dynamic range of program material, i.e., for many of the receivers in use, and in listening environments which often have high levels of ambient noise, a large loudness range in the demodulated signal may be undesirable. We further recognize the desirability for providing some "headroom" in which to take advantage of naturally asymmetrical modulating waveforms, and to minimize the possibility that excessive limiting at the transmitter will create differences in loudness between adjacent program segments.

43. While we instituted this proceeding because of our concern with the effects of using newly available transmitters so designed as to be capable of excessively high levels of positive going modulation, the comments filed herein make it evident that the problem is not confined to such transmitters. Many existing transmitters, after some modification and with suitable auxiliary equipment, can be and are operated so as to produce positive modulation peaks far exceeding the 100 percent level.

44. We do not wish to place arbitrary restrictions on modulator design in our type acceptance standards, as suggested by some; we agree with those who suggest that a transmitter with some excess modulating capability can be expected to provide a higher quality signal in normal operation. We therefore adhere to our original intention of applying such restrictions as we think necessary at the point the aural signal is applied to the carrier.

45. After consideration of the comments and other relevant factors, we have decided to modify § 73.55 of the rules to specify a ceiling on positive modulation of 125 percent. This ceiling should be sufficiently high to accommodate the higher peaks of naturally asymmetrical program material, but still not so high as to permit operation under such conditions that average sideband power is increased to troublesome levels. In maintaining modulation levels within this ceiling, individual licensees will undoubtedly employ various amounts and types of positive and negative limiting, with varying degrees of resulting nonlinear distortion. However, it is our intention that the effective amount of such distortion not exceed 7.5 percent, which is the maximum permitted by § 73.40(a)(3). By contemporary standards, this is a generous allowance. A modern transmitter with inherently low distortion at the 100 percent level, and a linear modulation capability up to 125 percent, should be capable of providing a signal meeting this requirement, unless excessive amounts of limiting are employed.

46. Section 73.40(a)(5) prescribes a limit of 5 percent for carrier shift, and this limit, of course, applies in all cases. As we have previously discussed, this should not be a problem with asymmetrical modulation, absent an attempt to drive the transmitter beyond its linear modulation characteristic.

47. Section 73.55 presently places a limit of 100 percent "on negative peaks of frequent recurrence," and in our notice of proposed rule making herein we proposed to apply this limit, in the same terms, to positive peaks. For the reasons we have set forth above, we have decided to permit positive modulation excursions up to 125 percent. However, we are prescribing this figure as an absolute ceiling. The advantage which might be taken of a rule permitting the ceiling to be exceeded by peaks which are not "of frequent recurrence"—a phrase defying precise interpretation—could be so great as to make the rule practically ineffective.

48. We wish to emphasize that this rule amendment is not intended to require or even to encourage licensees to increase levels of modulation above those they have employed to comply with the existing rule, nor should it be taken by equipment manufacturers as an excuse to alter their designs or specifications to facilitate the use of increased modulation levels.

49. As several of the parties point out, some problem exists in monitoring positive modulation peaks above 100 percent. Type approved monitors are not required to have, and many do not have, the capability for indicating positive peaks of this magnitude. Pending the availability of type approved equipment suitable for this purpose, each licensee may employ such means as he may desire to insure compliance with the modified rule, such as an oscilloscope or a composite indicating device. However, we emphasize that we are prescribing an absolute limit on positive excursions of the carrier, and whatever means is employed for modulation monitoring, whether a conventional monitor or other device, must be capable of accurately indicating the maximum instantaneous amplitudes of these excursions and each station must be so operated that the peak amplitudes

[12] The total harmonic distortion of the transmitter output signal, measured after demodulation, 28.5 percent, is much higher than EIA would predict for a waveform of the type employed. However, the significant point is that this value is only 1 percent higher than the measured distortion in the modulating waveform. The modulating waveform used in these measurements is essentially the same as that employed in the EIA mathematical study, although the clipped peak was undoubtedly somewhat modified in its passage through the modulator. Had the same degree of clipping been produced in the modulation process, with carrier cutoff occurring during negative half cycles, a value of carrier shift might have been observed which approximates the figure EIA gives for 125 percent positive modulation—3.4 percent.

observed do not exceed a level equivalent to modulation of 125 percent.[13]

50. We are amending § 73.14(e) essentially as proposed, although the wording has been changed slightly in accordance with CCBS's suggestion that the specification of an "RMS" level of the modulated and unmodulated signal be deleted to avoid possible confusion.

51. *Accordingly, it is ordered,* Effective May 19, 1972, that Part 73 of the rules and regulations, is amended in accordance with the Appendix B below.

52. Authority for the adoption of these rule amendments is found in section 4(i) and 303(r) of the Communications Act of 1934, as amended.

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

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

Adopted: April 5, 1972.

Released: April 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[14]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX A

PARTIES FILING COMMENTS

KVYL, Haldenville, Okla.
Jack F. Schuett, Consulting Engineer.
Robert A. Jones, Consulting Engineer in behalf of KCLN Valley Broadcasting, Inc., et al.
KWHK Broadcasting Co., Inc.
WROZ, Town and Country Radio.
Modcom Corp. (KATI).
Wescoast Broadcasting Co. (KPQ).
Cecil Lynch, Consulting Engineer.
George M. Frese, Consulting Engineer.
Knight Broadcasting of New Hampshire, Inc. (WHEB).
WHBC, Canton, Ohio.
KFXD, Boise/Nampa, Idaho.
Electronic Industries Association (EIA).
Clear Channel Broadcasting Services (CCBS).
Fletcher, Heald, Rowell, Kenehan and Hildreth in behalf of Area Radio, Inc. (WOKO), et al.
Westinghouse Broadcasting Co., Inc.
KPOP Radio, by Haley, Bader and Potts (KPOP).
Gates Radio Co.
Association for Broadcast Engineering Standards, Inc. (ABES).
Wycom Corp. (KODI).
RKO General, Inc.
Elliott K. Klein, Director of Technical Operations, KRIZ.
CBS Laboratories (CBS).
CCA Electronics Corp. (CCA).
Central Idaho Radio Stations (KOZE et al).
National Association of Broadcasters (NAB).
Sparta Electronic Corp.
KUDI Radio.
Richard B. Johnson.
Gerald F. Dreges, C. E., KTVO/KBIZ.
Jim Broaddus, President, WBGC Radio.

PARTIES FILING REPLY COMMENTS

CCA Electronics Corp.
Fletcher, Heald, Rowell, Kenehan and Hildreth.
Clear Channel Broadcasting Service.

[13] It should be obvious that the indicating device must have no mechanical or electrical inertia. Consequently, meters or similar devices may not be relied on for this purpose.
[14] Commissioner Robert E. Lee absent.

APPENDIX B

1. In § 73.14, paragraph (m) (formerly paragraph (l)) is amended to read as follows:

§ 73.14 Technical definitions.

* * * * *

(m) Percentage modulation (amplitude):

In a positive direction:

$$M=\frac{MAX-C}{C}\times 100$$

In a negative direction:

$$M=\frac{C-MIN}{C}\times 100$$

Where:

M = Modulation level in percent.
MAX = Instantaneous maximum level of the modulated radio frenquency envelope.
MIN = Instantaneous minimum level of the modulated radio frequency envelope.
C = (Carrier) level of radio frequency envelope without modulation.

* * * * *

2. Section 73.55 is revised to read as follows:

§ 73.55 Modulation.

The percentage of modulation shall be maintained at as high a level as is consistent with good quality of transmission and good broadcast service. In no case shall it exceed 100 percent on negative peaks of frequent recurrence, or 125 percent on positive peaks at any time. Generally, modulation shoud not be less than 85 percent on peaks of frequent recurrence, but where such action may be required to avoid objectionable loudness, the degree of modulation may be reduced to whatever level is necessary for this purpose, even though, under such circumstances, the level may be substantially less than that which produces peaks of frequent recurrence at a level of 85 percent.

[FR Doc.72-5776 Filed 4-14-72;8:51 am]

[Docket No. 19200; FCC 72-324]

PART 73—RADIO BROADCAST SERVICES

Specification and Measurement of Power of Standard Broadcast Stations

Report and order. In the matter of amendment of Part 73 of the Commission's rules and regulations concerning the specification and measurement of power of Standard Broadcast Stations, Docket No. 19200, RM-1628.

1. On April 8, 1971, responding to a petition filed by Chesapeake Broadcasting Corp., licensee of Station WASA, Havre de Grace, Md., the Commission initiated the above-entitled proceeding. As extended by an order adopted May 21, 1971, the deadlines for filing comments and reply comments herein were set as July 21, 1971, and August 2, 1971, respectively. The time having run, this matter is ready for decision.

2. Briefly, the notice of proposed rule making set forth the general nature, but not the specific text, of proposed amendments to our rules, pursuant to which any station required, because of allocation considerations, to restrict its antenna input power to a value less than its rated transmitter power would be permitted to lower its transmitter output power to the level necessary to produce the required antenna input. Up until the present time, in such a situation, it has been our policy to require the transmitter be operated at its rated power, and that any reduction in antenna input power necessary be achieved through the insertion of a dissipative network of appropriate characteristics between transmitter output and antenna input.

3. We observed that the usual broadcast transmitter is designed to operate at somewhat below its rated power level without an appreciable deterioration in its overall performance, but where a substantial reduction in power is involved (which may be necessary in an instance where the restriction on permissible antenna input power is severe) the satisfactory performance of the transmitter may not be presumed. Accordingly, in such cases, we proposed to require an appropriate showing (equipment performance measurements, pursuant to § 73.47) that the transmitter will function acceptably at the proposed output power level. We invited comments on the degree of power reduction which might be permitted without such a showing being required.

4. We also noted that of alternative methods of accomplishing a required power reduction, one may have less adverse effect than another on transmitter performance. Therefore, once a station has adopted a method which had been demonstrated to result in satisfactory performance, no change from this method should be permitted. We would expect, therefore, that a showing pursuant to § 73.47 would be accompanied by a detailed outline of the method of power reduction.

5. The petitioner had proposed that the antenna resistance specified in the license be modified from its measured value to the extent necessary to make the computed input power equal to the rated transmitter power. This expedient is presently employed in the specification of the common point resistance for directional antennas, to provide for the delivery of additional power to the antenna to make up for coupling system losses, within a licensing system which has heretofore required that the antenna power be equal to one of several specified integral values.

6. We rejected this proposal, as extending into a new area an unrealistic procedure of questionable merit, and proposed instead to consider amendments to the rules pursuant to which each station's license would specify the actual antenna input power, and the measured value of antenna or common point resistance. Under such a system, the fiction that all broadcast transmitters operate at their rated powers no longer would be maintained. However, convenience and long established practice (as well as treaty considerations) require that

standard broadcast stations be listed, notified internationally, and otherwise routinely treated on the basis of integral power classifications. Therefore, the license would also specify the power rating of each station, which would be the same as that which it now is assigned. We asked for suggestions as to a name for this power rating.

7. Timely comments were filed by the following parties:

MIA Enterprises, Inc. (KWBE).
Holland Broadcasting Co. (WHTC).
WNSL, Laurel, Miss.
Fetzer Broadcasting Co. (WJEF).
Littleton Broadcasting Co. (WLTN).
WTHO, Thomson, Ga.
Electronic Industries Association (Broadcast Equipment Section, Communications and Industrial Electronics Division) (EIA).
National Association of Broadcasters (NAB).
Association of Federal Communications Consulting Engineers (AFCCE).

No reply comments were filed.

8. All parties are of the view that when a prescribed restriction on the radiated field requires a limitation in antenna input power to less than the normal level, a downward adjustment of transmitter output power to approach the required antenna input power should be permitted. However, it is an opinion, voiced in several comments, that a reduction in transmitter output power to the degree which may be necessary to produce the required, antenna input power, in an instance where substantial restriction is involved, sometimes may not be practicably achieved. Power reductions of a given magnitude may be reached in some types of transmitters more feasibly than in others. For this reason, the employment of transmitter power reduction techniques in lieu of the use of dissipative networks should be made optional, and, in appropriate cases, a combination of the two methods should be authorized.[1]

9. Both AFCCE and NAB, the only two parties which discussed this particular facet of the question, suggest that transmitter power output may be reduced safely by about 20 percent without appreciable degradation of transmitter performance, and, accordingly, no special showing that performance is satisfactory should be required in instances where the proposed reduction in output power is less than this percentage of the rated power. These conclusions are based principally on the facts that (1) transmitters are designed to operate satisfactorily within the tolerances set in the Commission's rules, which specify a 10 percent negative tolerance, and (2) during World War II all broadcast stations were required to operate with power reduced 1 db (79.4 percent of normal power) and no serious difficulty was experienced.

10. With respect to the showing required with the proposal to operate a transmitter with output power reduced to a greater degree, AFCCE suggests that equipment measurements covering all aspects of transmitter performance specified in § 73.47, including the observation for harmonics and spurious signals, should be conducted at the proposed output power, and that aural performance measurements be repeated with 95 percent modulation at power levels 10 percent above and 10 percent below the proposed power, to demonstrate that satisfactory performance can be maintained over the normally expected operating range. It suggests that the Commission also require a manual capability for adjusting transmitter power output over a ±10 percent range around the proposed power level.

11. Those who commented on the Commission's proposal that stations be licensed on the basis of their actual antenna input powers favored this approach, and the use of the term "nominal power" to refer to a station's rated power. AFCCE has offered specific amendments to §§ 73.14 and 73.47 which reflect its proposals.

12. In our notice, we did not indicate specifically whether we contemplated the total elimination of dissipative networks, with the imposition of appropriate power reductions in all cases where such networks are presently employed, although it perhaps might be inferred from the language of paragraph 14 of that document that we intended such networks be removed at the time of license renewal, at the latest. While the assumption was implicit that any licensee presently employing a dissipative network would choose to dispense with it if a feasible alternative were offered, left undetermined was the status of those licensees now with such networks whose transmitters cannot be adjusted easily for lower power operation, or, when so adjusted, fail to meet the performance requirements of § 73.40.

13. In the light of NAB's and AFCCE's comments it appears that we should provide for the continued employment of dissipative networks in such cases, either to effect the full required power reduction, or to provide, where necessary, for an increment in power reduction beyond that which can be obtained feasibly by changes in the operating parameters of the transmitter. Subject to a full disclosure of the method or combination of methods to be employed, and the submission, where appropriate, of measurements demonstrating that no degradation of transmitter performance is involved, we are willing to leave the choice of methods to each licensee.

14. In the absence of a dissipative network, and assuming, as is customary, no losses in the transmission line, the measured antenna input power is effectively equal to the transmitter output power, and there is no need to specify the latter value separately in the license. If we are to avoid a separate specification of transmitter output power in an instance where a dissipative network is employed, it will be necessary to establish the licensed antenna resistance as the resistance at the input terminals of the dissipative network, which becomes the load to which the transmitter delivers its power. This, of course, is what is done presently in comparable circumstances. In any event, it is probably impossible to specify the actual antenna resistance and actual antenna input power in all cases, since a directional antenna may include a dissipative element as a mesh in the power dividing network, and a resistance measurement at the common point, the last access point to the array, includes the effect of this element.

15. We have decided to require the submission of equipment performance measurements with applications for authority to operate at less than 90 percent of rated transmitter power. While we believe it safe to assume that standard broadcast transmitters may be reduced in power to this level without appreciable degradation of their performance, we have insufficient information to justify such an assumption for greater power reductions. While, as AFCCE and NAB have pointed out, the power of all standard broadcast stations was reduced by 1 db (about 20 percent) during World War II, we do not believe this fact can be taken as evidence that a reduction of such magnitude can be accomplished generally without problems. The wartime power reduction was mandatory, for the purpose of conserving power and materials. It is quite possible that, in many instances, the resulting transmitter performance was less than satisfactory, but was tolerated in furtherance of the overriding wartime objective. Such a compromise, of course, is now unnecessary.

16. We are adopting AFCCE's suggestions as to the nature of the showing to be made in connection with a request to operate with reduced transmitter output power, together with its recommendations as to the kinds of performance measurements which should be made. However, we have decided to incorporate the rules pertinent to this matter as amendments to § 73.51, rather than to section 73.47, as AFCCE proposes. While such a showing will be necessary at this time in each case when regular operation of a transmitter at less than rated output power is contemplated, the adoption of these rules may lead eventually to the type acceptance of standard broadcast transmitters which are demonstrated to operate satisfactorily at other than the fixed power levels specified in the rules. To provide for this contingency, § 73.51 (c) (2) permits a showing that a transmitter is type accepted for the proposed power output level as an alternative to the provision of the more detailed technical information otherwise required.

17. We have no existing rule which contemplates the use of dissipative networks. However, since we propose to continue to permit their installation where appropriate, either separately or in connection with transmitter power reductions, it appears desirable and perhaps necessary that our rules expressly recognize this fact, and include provisions governing their employment. Accordingly, Sections 73.51 and 73.54, as amended herein, include conditions applying to antenna input power reductions achieved

[1] NAB suggests that if the Commission intends to require that all specified antenna input power reductions be accomplished by reductions in transmitter output power a 7-year period for the full implementation of the requirement should be provided.

by this means, or by transmitter output power limitations, or both.

18. Other amendments to these two sections involve the substitution of the term "antenna input power" for "operating power". This change was made in the interest of specificity. While "operating power" as it has been used in these sections is obviously synonomous with "antenna input power", the former term is used in other sections of the rules (e.g., §§ 73.21, 73.23, 73.25) for power as designated in the station system of classification—which is "nominal power", under our revised nomenclature.

19. A definition of "nominal power" has been included in § 73.14 and the definition of "operating power" has been modified to reflect its usage in the revised rules.

20. Section 73.52 is amended to specify "antenna input power" in lieu of "operating power", for the reasons set forth in paragraph 17. In addition, we have taken the opportunity to further amend paragraph (b) of this section, which concerns temporary operation with less than licensed power. The rule as presently formulated requires that the Commission and Engineer in Charge be notified when any period of operation with reduced power is begun, and again, when operation with full power is resumed. Since, in many cases, periods of operation with reduced power are quite short, and have no significant effect on general station operation, the existing notification requirement is unnecessarily strict, and burdensome, both to the station licensee and to the Commission. We, accordingly, are amending § 73.52(a) so as to make it parallel the provisions of corresponding sections (§§ 73.267(c) and 73.689(b)(3)) of the FM and television broadcast rules, which we have found to be generally satisfactory in application, and which permit reduced power operation for periods up to 10 days without further authority from the Commission. While this particular amendment has not been the subject of a rule making notice, its nature and effect is such as to make prior notice unnecessary.

21. Existing station licenses will be converted to specify separate values of nominal and antenna input power as the amended rules contemplate at normal renewal times. However, any station presently required to employ a dissipative network, and desiring to reduce transmitter output power pursuant to the amended rules, so as to eliminate the network, or to reduce the power wasted by this means, may file an application for modification of license, supplying the information required by the amended rules, at any time after their effective date.[2]

[2] The rules specify that such applications be filed on FCC Form 302. If the contemplated changes would affect the method of power reduction for presunrise operation authorized pursuant to § 73.99, modification of Presunrise Service Authority should be requested separately by letter, signed in the manner specified in § 1.513. Neither kind of application need by accompanied by a filing fee.

22. *Accordingly, it is ordered,* That effective May 19, 1972, Part 73 of the Commission's rules and regulations is amended as set forth below.

23. Authority for adoption of these rule amendments is found in sections 4 (i) and 303(r) of the Communications Act of 1934, as amended.

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

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

Adopted: April 5, 1972.

Released: April 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]

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

1. In § 73.14, a new paragraph (c) "Nominal Power" is added and paragraph (c) "Operating Power" is amended, as set forth below, and redesignated (d); old paragraphs (d) through (r) are redesignated (e) through (s).

§ 73.14 Technical definitions.

* * * * *

(c) *Nominal power.* "Nominal power" is the power of a standard broadcast station, as specified in a system of classification which includes the following values; 50 kw., 25 kw., 10 kw., 5 kw., 1 kw., 0.5 kw., 0.25 kw.

(d) *Operating power.* Depending on the context within which it is employed, the term "operating power" may be synonomous with "nominal power" or "antenna power."

* * * * *

2. Section 73.51, and headnote, are amended to read as follows:

§ 73.51 Antenna input power; how determined.

(a) Except in those circumstances described in paragraph (d) of this section, the antenna input power shall be determined by the direct method, i.e., as the product of the antenna resistance at the operating frequency (see § 73.54) and the square of the unmodulated antenna current at that frequency, measured at the point where the antenna resistance has been determined.

(b) The authorized antenna input power for each station shall be equal to the nominal power for such station, with the following exceptions:

(1) For stations with nominal powers of 5 kilowatts, or less, the authorized antenna input power to directional antennas shall exceed the nominal power by 8 percent.

(2) For stations with nominal powers in excess of 5 kilowatts, the authorized antenna input power to directional antennas shall exceed the nominal power by 5.3 percent.

(3) In specific cases, it may be necessary to limit the radiated field to a level below that which would result if nominal power were delivered to the antenna. In such cases, excess power may be dissipated in the antenna feed circuit (see § 7354 (a) and (d)), and/or the transmitter may be operated with power output at a level which is less than the nominal value.

(i) Where a dissipative network is employed, the authorized antenna current and resistance, and the authorized antenna input power shall be determined at the input terminals of the dissipative network.

(ii) Where the authorized antenna input power is less than the nominal power, subject to the conditions set forth in paragraph (c) of this section, the transmitter may be operated at the reduced power level necessary to supply the authorized antenna input power.

(c) Applications for authority to operate with antenna input power which is less than nominal power and/or to employ a dissipative network in the antenna system shall be made on FCC Form 302. The technical information supplied on section II–A of this form shall be that applying to the proposed conditions of operation. In addition, the following information shall be furnished, as pertinent:

(1) Full details of any network employed for the purpose of dissipating radio frequency energy otherwise delivered to the antenna (see § 73.54).

(2) A showing that the transmitter has been type accepted for operation at the proposed power output level, or, in lieu thereof:

(i) A full description of the means by which transmitter output power will be reduced.

(ii) Where the proposed transmitter power output level is less than 90 percent of nominal power, equipment performance measurements, as specified in § 73.47, conducted at the proposed power output level; in addition, the measurements and observations required by § 73.47(a) (1), (2), (3), and (5) for power output levels 10 percent above, and 10 percent below, the proposed output level, but at a modulation level of 95 to 100 percent only. Such measurements must demonstrate that, operating at the proposed power output level, the transmitter meets the performance requirements of § 73.40.

(iii) A showing that, at the proposed power output level, means are provided for varying the transmitter output within a tolerance of ±10 percent, to compensate for variations in line voltage or other factors which may affect the power output level.

(d) The antenna input power shall be determined on a temporary basis by the indirect method described in paragraphs (e) and (f) of this section in the following circumstances: (1) In an emergency, where the authorized antenna system has been damaged by causes beyond the control of the licensee or permittee (see § 73.45), or (2) pending completion of authorized changes in the antenna system, or (3) if changes occur in the antenna system or its environment which affect or appear likely to affect the value of antenna resistance or (4) if the antenna current meter becomes defective

[3] Commissioner Robert E. Lee absent; Commissioner Wiley concurring in the result.

(see § 73.58). Prior authorization for the indirect determination of antenna input power is not required. However, an appropriate notation shall be made in the operating log.

(e) (1) Antenna input power is determined indirectly by applying an appropriate factor to the plate input power, in accordance with the following formula:

Antenna input power = $Ep \times Ip \times F$

Where:
Ep=Plate voltage of final radio stage.
Ip=Total plate current of final radio stage.
F=Efficiency factor.

(2) The value of F applicable to each mode of operation shall be entered in the operating log for each day of operation, with a notation as to its derivation. This factor shall be established by one of the methods described in paragraph (f) of this section, which are listed in order of preference. The product of the plate current and plate voltage, or, alternatively, the antenna input power, as determined pursuant to subparagraph (1) of this paragraph, shall be entered in the operating log under an appropriate heading for each log entry of plate current and plate voltage.

(f) (1) If the transmitter and the antenna input power utilized during the period of indirect power determination are the same as have been authorized and utilized for any period of regular operation, the factor F shall be the ratio of such authorized antenna input power to the corresponding plate input power of the transmitter for regular conditions of operation, computed with values of plate voltage and plate current obtained from the operating logs of the station for the last week of regular operation.

(2) If a station has not been previously in regular operation with the power authorized for the period of indirect power determination, if a new transmitter has been installed, or if, for any other reason, the determination of the factor F by the method described in subparagraph (1) of this paragraph is impracticable:

(i) The factor F shall be obtained from the transmitter manufacturer's letter or test report retained in the station's files, if such a letter or test report specifies a unique value of F for the power level and frequency utilized; or

(ii) By reference to the following table:

Factor (F)	Method of modulation	Maximum rated carrier power	Class of amplifier
0.70	Plate	0.25–1.0 kw.	
.80	Plate	5 kw. and over	
.35	Low level	0.25 kw. and over	B
.65	Low level	0.25 kw. and over	BC [1]
.35	Grid	0.25 kw. and over	

[1] All linear amplifier operation where efficiency approaches that of Class C operation.

NOTE: When the factor F is obtained from the table, this value shall be used even though the antenna input power may be less than the maximum rated carrier power of the transmitter.

(iii) If a station has been authorized to operate with antenna input power which is lower than nominal power, the factor F shall have the value established when such operation was authorized.

3. Section 73.52 and headnote are amended to read as follows:

§ 73.52 Antenna input power; maintenance of.

(a) The actual antenna input power of each station shall be maintained as near as is practicable to the authorized antenna input power and shall not be less than 90 percent or greater than 105 percent of the authorized power; except that, if, in an emergency, it becomes technically impossible to operate with the authorized power, the station may be operated with reduced power for a period of 10 days, or less, without further authority from the Commission: *Provided,* That the Commission and the Engineer in Charge of the radio district in which the station is located shall be immediately notified in writing if the station is unable to maintain the minimum operating schedule, specified in § 73.71, with authorized power, and shall be subsequently notified upon resumption of operation with authorized power.

(b) In addition to maintaining antenna input power within the above limitations, each station employing a directional antenna shall maintain the relative amplitudes of the antenna currents in the elements of its array within 5 percent of the ratios specified in its license or other instrument of authorization, unless more stringent limits are specified therein.

4. In § 73.54, paragraphs (a), (d), and (e) (2) are amended to read as follows:

§ 73.54 Antenna resistance and reactance: how determined.

(a) The resistance of an omnidirectional series fed antenna shall be measured at the base of the antenna without intervening coupling networks or components. The resistance of a shunt excited antenna shall be measured at the point the radio frequency energy is transferred to the feed wire circuit, without intervening networks (with the exception that, if the termination of the feed wire is highly reactive a network containing no shunt element may be interposed between the feed wire termination and the point where the resistance is determined). Any network inserted in the antenna circuit for the express purpose of dissipating a portion of the radio frequency energy provided by the transmitter shall be located at the base of the antenna, and the antenna resistance specified in the license or other instrument of authorization shall be the effective resistance at the input terminals of the dissipative network.

* * * * *

(d) Any element included in the antenna circuit for the express purpose of dissipating a portion of the energy delivered by the transmitter to the directional antenna shall be included at the point of common radio-frequency input, and the authorized common point resistance shall include the effect of the dissipative element.

(e) * * *

(2) A schematic diagram showing clearly all components of coupling circuits, the point of resistance measurement, location of antenna ammeter, connections to and characteristics of all tower lighting isolation circuits, static drains, and any other fixtures, sampling lines, etc., connected to or supported by the antenna, including other antennas and associated circuits. Any network or circuit component incorporated for the purpose of dissipating radio frequency power shall be specifically identified, and the impedances of all components which control the level of power dissipation, and the effective input resistance of the network shall be indicated.

* * * * *

[FR Doc.72-5777 Filed 4-14-72;8:51 am]

[Docket No. 19249; FCC 72-330]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Certain Cities in North Carolina

Report and order. In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations (Kinston, Wilmington, Washington, Morehead City-Beaufort, and Farmville, N.C.), Docket No. 19249, RM-1608, RM-1667.

1. The Commission here considers the notice of proposed rule making in Docket No. 19249, adopted May 19, 1971 (36 F.R. 9569), proposing amendment of the FM Table of Assignments (§ 73.202(b) of the rules) with respect to Kinston (RM-1608) and Wilmington, N.C. (RM-1667). In connection with Wilmington, channels assigned to other cities would have to be changed. The persons filing comments in this proceeding are: Farmville Broadcasting Co. (Farmville); Arlington-Fairfax Broadcasting Co., Inc. (Arlington-Fairfax), licensee of Station WKLM, Wilmington, N.C.; and Farmers Broadcasting Service, Inc. (Farmers).[1]

2. As pointed out in the notice, the 1970 Census populations of the cities involved and the respective counties are as follows:

City	Population	County	Population
Kinston	22,309	Lenoir	55,204
Morehead City	5,233	Carteret	31,603
Beaufort	3,368	Carteret	31,603
Washington	8,961	Beaufort	25,980
Wilmington	46,169	New Hanover	82,996
Farmville	4,424	Pitt	73,900

The notice also pointed out that Wilmington is now a Standard Metropolitan

[1] The latter party filed its comments late because of a misunderstanding about the order extending the dates for filing comments and reply comments to August 9 and 19, 1971, respectively, for Arlington-Fairfax only. Farmers later filed a motion for leave to accept late filing.

Statistical Area (SMSA), consisting of its county and Brunswick County (population 24,223) with a total population of 107,219 persons.

3. Farmers Broadcasting Service, Inc., licensee of AM Station WELS, proposed the assignment of Channel 249A to Kinston, N.C., by deleting and shifting that channel at Washington, N.C. Arlington-Fairfax Broadcasting Co., Inc., licensee of AM Station WKLM, proposed the assignment of Channel 269A to Wilmington, N.C., which would have been accomplished by exchanging Channel 270 for the 277 assignment at Morehead City-Beaufort, N.C. The notice also considered the application (BPH–7438) for Channel 232A at Wallace, N.C., at the transmitter site of Station WLSE (which since has been granted), because of a 2.5 mile short-spacing to the cochannel assignment at Farmville, N.C. In the latter respect, the Notice proposed the substitution of Channel 249A for Channel 232A at Farmville thus permitting the assignment of Channel 272A at Kinston; this was made possible by the Arlington-Fairfax proposal to change the assignment at Morehead City-Beaufort.

4. Kinston, N.C. (RM–1608). The proposal would assign a second FM channel (272A) to Kinston where Channel 236 is occupied by FM Station WRNS; other service at Kinston consists of three AM stations, one a daytime-only. As already noted, the proposed assignment of Channel 249A would have required the deletion of that channel from Washington, which appeared to be justified on the basis that that community already has another FM channel assigned to it (FM Station WITN–FM, Channel 277) and also two AM stations, and use of that channel at Farmville in lieu of Channel 232A. From the public interest viewpoint, it was argued that Kinston, seat of Lenoir County, is the largest city and the active center of a more populated area, and a rapidly growing community; Kinston, it was urged, is the functional center of nine counties including its own, Carteret, Craven, Duplin, Greene, Jones, Onslow, Pamlico, and Wayne (see footnote 1 of the notice of proposed rule making). We had rejected the Channel 249A proposal because of preclusion to two large cities in the area each larger than Washington—New Bern, population 14,660 (located in Craven County, population 62,554) and Greenville, population 29,063 (Pitt County, with a population of 73,900), both of which have FM and AM stations. Our proposal to substitute Channel 272A for the 249A proposal is faulty because we did not take into account the fact that the First Report and Order in Docket No. 18883, 27 FCC 2d 844, 846 and 850 (1971), assigned Channel 272A to Goldsboro, N.C. In the circumstances, we are going to assign Channel 249A as originally proposed by the petitioner. In this respect, the requirements of notice have been met; see Owensboro On the Air, Inc. v. United States, et al., 262 F. 2d 702, 707–8 (C.A.D.C., 1959), certiorari denied, 360 U.S. 911.

5. Wilmington, N.C. (RM–1667). In this proceeding Arlington-Fairfax Broadcasting Co. (Arlington-Fairfax), licensee of Station WKLM, petitioned for the assignment of Channel 269A to Wilmington, N.C. In order to make this assignment, a transmitter site southeast of the community would be required because of mileage separation requirements to Channels 268 and 269A at Raleigh, N.C., and Myrtle Beach, S.C., respectively. It was proposed to substitute Channel 277 for 270 at Morehead City-Beaufort, N.C., which we noted were both located in Carteret County with a total population of 31,603 (the populations of Morehead City and Beaufort, respectively, are 5,233 and 3,368), and that Channels 270 and 248 are assigned to those communities jointly. Our notice referred to the broadcast service at Wilmington consisting of four standard broadcast stations, one a daytime-only, and two commercial television stations plus an educational CP, and four FM assignments (three occupied there). In the latter respect, particular note was made that the other channel in fact is utilized at Burgaw, N.C., by Station WPGF–FM, Channel 260, some 22 miles north of Wilmington. The notice pointed out that a city the size of Wilmington (less than 50,000) is not entitled to more than two channels and that it already has four assignments (see footnote 2 below), although we also pertinently noted that one is used in another city. Nonetheless, it was felt that the matter should be considered for rule making, since Wilmington is a central city of a SMSA, and the only other channel change required, i.e., substitution of the channel at Morehead City-Beaufort, was necessary to use Channel 272A at Kinston. Note was made of the fact that being noticed for rule making does not mean that the additional channel for Wilmington is warranted. In the latter respect, the Notice stated that the petitioner or other interested parties should submit a showing as to why another channel assignment should be made to Wilmington and that a preclusion study should be submitted as to the impact on six adjacent channels.

6. Arlington-Fairfax has submitted a study showing preclusion on future assignments only on Channels 269A and 270 in limited areas where there is no community of significant size where either channel can be utilized. No further arguments were made as to assigning a fifth FM channel to Wilmington; Arlington-Fairfax again urges that the nighttime FM situation would become competitive (it is the only AM station there that is not affiliated with an FM station). This argument is not persuasive for it serves a private rather than the public interest. On further consideration, on the basis of balancing all considerations, we do not deem it advisable to make a further assignment to Wilmington. Not only are we concerned by our population criteria,[2] but also because the number of available channels for assignment in this area are already becoming scarce.

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

8. In accordance with the foregoing: *It is ordered*, That effective May 19, 1972, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the cities listed below to read as follows:

City	*Channel No.*
Kingston, N.C.	236, 249A
Washington, N.C.	227

9. *It is further ordered*, That the petition of Arlington-Fairfax Broadcasting Co., is denied.

10. *It is further ordered*, That farmers Broadcasting Service, Inc., request for leave for late filing of comments is granted.

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

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: April 5, 1972.

Released: April 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]

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

[FR Doc.72–5780 Filed 4–14–72;8:51 am]

[2] See further notice of proposed rule making, Docket No. 14185, adopted July 25, 1962 (FCC 62–867), and incorporated by reference in paragraph 25 of the Third Report, memorandum opinion and order adopted July 23, 1963, 23 R.R. 1859, 1871.

[3] Commissioner Robert E. Lee absent; Commissioner Johnson concurring in the result.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 111]

CUSTOMHOUSE BROKERS

Limitation of Liability to Importers; Notice of Extension of Time for Submission of Data, Views, or Arguments

Notice of proposed amendment to the Customs Regulations to explicitly prohibit the limitation of potential liability of customhouse brokers to importers arising out of the wrongful or negligent action of the broker, was published in the FEDERAL REGISTER on Wednesday, March 22, 1972 (37 F.R. 5820). Thirty days from the date of publication of the notice were given for submission of data, views, or arguments pertinent to the proposed amendment.

A number of requests have been received for extension of the time for submission of comments. Therefore, the period for submission of data, views, or arguments relating to the revision is extended to May 31, 1972.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

[FR Doc.72-5762 Filed 4-14-72;8:49 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 231]

GRAZING

Revocation and Suspension of Grazing Permits

Reference is made to the notice of proposed rule making on the above subject published in the FEDERAL REGISTER on Friday, March 24, 1972, page 6106.

The time for comment on the proposal is hereby extended to expire on Monday, May 15, 1972, rather than 30 days after publication as originally provided.

T. K. COWDEN,
Assistant Secretary of Agriculture.

APRIL 12, 1972.

[FR Doc.72-5766 Filed 4-14-72;8:51 am]

[36 CFR Part 261]

TRESPASS

Use of Pesticides and Chemical Toxicants

Reference is made to the notice of proposed rule making on the above subject published in the FEDERAL REGISTER on Friday, March 24, pages 6106 and 6107.

The time for comment on the proposal is hereby extended to expire on Monday, May 15, 1972, rather than 30 days after publication as originally provided.

T. K. COWDEN,
Assistant Secretary of Agriculture.

APRIL 12, 1972.

[FR Doc.72-5767 Filed 4-14-72;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

EPINEPHRINE AND ISOPROTERENOL INHALATION PREPARATIONS

Proposed Statement of Policy Regarding Prescription Dispensing and Warnings

On the basis of a number of reports of severe paradoxical bronchoconstriction and sudden unexplained deaths associated with repeated, excessive use of isoproterenol preparations, the Food and Drug Administration published a statement of policy (21 CFR 3.67) in the FEDERAL REGISTER of June 18, 1968 (33 F.R. 8812), requiring a warning statement directed to physicians to alert the medical profession of the possibility of severe reactions. Warnings were also required to be included in the packages intended for patients. A number of reports are now available concerning severe paradoxical bronchoconstriction episodes occurring as a result of excessive and repeated use of epinephrine inhalation preparations. Though no deaths have been reported, the evidence is such that the Commissioner of Food and Drugs concludes that epinephrine preparations are no longer suitable for over-the-counter sale and that warnings similar to those required for isoproterenol are necessary in order to protect the public health. This conclusion is supported by recent reports of increasing abuse of the drug by nonasthmatics using epinephrine aerosols for a stimulant effect.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 503(b), 505, 701(a), 52 Stat. 1050–53 as amended, 1055; 21 U.S.C. 352, 353(b), 355, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes Part 3 be amended by revising § 3.67 *Isoproterenol inhalation preparations (pressurized aerosols, nebulizers, powders) for human use; warnings* to read as follows:

§ 3.67 Isoproterenol preparations (pressurized aerosols, nebulizers, powders) and epinephrine preparations (pressurized aerosols, nonpressurized solutions) for human use; warnings.

(a) Just as severe paradoxical bronchoconstriction has been associated with repeated and excessive use of isoproterenol inhalation preparations, so has it been associated with repeated and excessive use of epinephrine inhalation preparations. The cause of this paradoxical reaction is unknown; it has been observed, however, that patients have not responded completely to other forms of therapy until use of the preparations were discontinued. In addition, sudden unexpected deaths have been associated with the excessive use of isoproterenol inhalation preparations. The mechanism of these deaths and their relationship, if any, to the cases of severe paradoxical bronchospasm are not clear. Cardiac arrest was noted in several of these cases of sudden death.

(b) On the basis of experience with such drugs and on recommendations of expert advisors, the Commissioner of Food and Drugs concludes that, in order for the labeling of isoproterenol and epinephrine inhalation preparations to bear adequate information for their safe and effective use as required by § 1.106(b) of this chapter:

(1) The following statement must be included:

Warning. Occasional patients have been reported to develop severe paradoxical airway resistance with repeated, excessive use of -------- (isoproterenol or epinephrine, whichever is appropriate) inhalation preparations. The cause of this refractory state is unknown. It is advisable that in such instances the use of this preparation be discontinued immediately and alternative therapy instituted, since in the reported cases the patients did not respond to other forms of therapy until the drug was withdrawn.

(2) The following additional statement must be included for isoproterenol inhalation preparations:

Warning. Deaths have been reported following excessive use of isoproterenol inhalation preparations and the exact cause is unknown. Cardiac arrest was noted in several instances.

(3) Isoproterenol and epinephrine inhalation preparations are not suitable for over-the-counter sale, and the label must therefore bear the legend, "Caution: Federal law prohibits dispensing without prescription."

(c) (1) The Commissioner also concludes that, in view of the manner in which isoproterenol and epinephrine preparations are self-administered for relief of attacks of bronchial asthma and other chronic bronchopulmonary disorders, it is necessary for the protection of users that warning information to patients be included as a part of the label

and as part of any instructions to patients included in the package dispensed to the patient as follows:

Warning. Do not exceed the dose prescribed by your physician. If difficulty in breathing persists, contact your physician immediately.

(2) The warning on the label may be accomplished (i) by including it on the immediate container label with a statement directed to pharmacists not to remove the label or (ii) by including in the package a printed warning with instructions to pharmacists to place the warning on the container prior to dispensing.

(d) The marketing of isoproterenol and epinephrine inhalation preparations may be continued if all the following conditions are met:

(1) Within 30 days following the date of publication of this section in the FEDERAL REGISTER:

(i) The label and labeling of such preparations shipped within the jurisdiction of the act are in accordance with paragraphs (b) and (c) of this section.

(ii) The holder of an approved new drug application for such preparation submits a supplement to his new drug application to provide for appropriate labeling changes as described in paragraphs (b) and (c) of this section.

(2) Within 90 days following the date of publication of this section in the FEDERAL REGISTER, the manufacturer, packer, or distributor of any drug containing isoproterenol or epinephrine intended for inhalation for which a new drug approval is not in effect submits a new drug application (see § 130.4(c) of this chapter) including appropriate labeling as described in paragraphs (b) and (c) of this section. (It is recommended that applicants discuss the kinds of clinical studies needed with representatives of the Food and Drug Administration.)

(e) The statement of policy concerning isoproterenol inhalation preparations (21 CFR 3.67) published in the FEDERAL REGISTER of June 18, 1968 (33 F.R. 8812) stated: "After 270 days following expiration of said 90 days, regulatory proceedings based on section 505(a) of the Federal Food, Drug, and Cosmetic Act may be initiated with regard to any such drug shipped within the jurisdiction of the act for which an approved new-drug application is not in effect." Accordingly, 270 days likewise is provided for epinephrine inhalation preparations.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. The comment period is being limited to 30 days because of safety considerations. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: April 7, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-5722 Filed 4-14-72;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[24 CFR Part 43]

[Docket No. R-72-179]

PROVISION OF REPLACEMENT HOUSING UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Seed-Money Loans

Pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601), the Department is proposing to amend Part 43 by adding proposed criteria and procedures governing relocation "seed-money" loans in a new Subpart B. The present criteria and procedures pertaining to last-resort housing replacement by the displacing agency are redesignated as Subpart A. The title of Part 43 is also proposed to be amended to cover both programs.

Subpart B prescribes for all Federal and State agencies that cause residential displacement in the administration of direct Federal or federally assisted projects the criteria and procedures for the implementation of section 215 of the Act. Section 215 authorizes the provision of loans for planning and obtaining federally insured mortgage financing for the construction or rehabilitation of housing to meet the need of persons displaced by Federal or federally assisted projects.

The head of the Federal agency must approve the use of project funds for seed-money loans to assist in the provision of the needed replacement housing. In the case of a federally assisted project, the head of the displacing agency determines that project funds must be used, and requests approval from the head of the Federal agency providing the financial assistance.

As defined in § 43.28, any nonprofit, limited dividend, cooperative or public corporation or entity that may be eligible to sponsor federally insured housing, may apply for a section 215 loan.

The criteria and procedures contain broad guidelines for loan processing by the displacing agency, in consultation with the appropriate HUD Area Office, as well as the steps to be followed in the provision of the loan funds.

A list of the federally insured mortgage programs for which section 215 loans generally may be utilized appears in § 43.36.

These criteria and procedures have been developed on the basis of extensive consultation with the Office of Management and Budget, major Federal agencies with activities causing displacement, and a number of public and citizen interest groups, most of whose comments have been incorporated in this version.

This Department is considering revising the terms and conditions for loans to include an additional requirement that loans to limited dividend and other profitmaking sponsors be secured by the personal pledges of the principals.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements concerning the rule itself and the above suggestion that personal pledges be required to secure loans to profitmaking sponsors. Communications should identify the proposed rule by the docket number and title, and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material received on or before May 18, 1972, will be considered before adoption of a final rule. Copies of comments submitted will be available for examination during business hours at the above address.

PART 43—PROVISION OF REPLACEMENT HOUSING UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Accordingly, Part 43 is proposed to be amended as follows:

1. The title of Part 43 is revised to read as set forth above.

2. The table of contents is amended by inserting before the listing of sections and headings a new center heading "Subpart A—Last Resort Housing Replacement by Displacing Agency."

3. A new Subpart B is added to read as follows:

Subpart B—Loans for Planning and Preliminary Expenses—Relocation Seed-Money Loans

Sec.
- 43.25 Purpose.
- 43.26 Legislative authority.
- 43.27 Applicability to Federal agencies.
- 43.28 Definitions.
- 43.29 Eligible applicants.
- 43.30 Eligible expenses.
- 43.31 Terms and conditions for loans.
- 43.32 Procedures for provision of section 215 loans.
- 43.33 Approval of Federal agency.
- 43.34 Processing the loan application.
- 43.35 Review by head of Federal agency.
- 43.36 Housing programs for which section 215 loans generally may be utilized.
- 43.37 Aggregate housing under jointly financed programs.

Sec.
43.38 Conformity with the Act and other statutes, policies and procedures.
Appendix I—Guide Form of Loan Contract and Trust Agreement.
Appendix II—Request for Preliminary Determination of Eligibility as Nonprofit Sponsor or Mortgagor.

AUTHORITY: The provisions of this Part 43 issued under secs. 206, 213, and 215, 84 Stat. 1898, 1900, 1901; 42 U.S.C. 4626, 4633, 4635. (Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d))

§ 43.25 Purpose.

It is the purpose of this subpart to set forth criteria and procedures for the implementation of section 215 of the Act. The procedures in this subpart shall be applied and administered by all Federal agencies so as to encourage and facilitate the rehabilitation and construction of suitable standard housing to meet the needs of displaced persons.

§ 43.26 Legislative authority.

Section 215 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), hereinafter referred to as the Act, authorizes the provision of loans for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing to meet the needs of persons displaced by Federal projects and federally assisted projects. Such a loan may be made as part of the cost of a project which causes displacement if it is approved by the head of the Federal agency administering the project or the Federal agency providing financial assistance for the project.

§ 43.27 Applicability to Federal agencies.

Pursuant to paragraph 6 of the President's memorandum of January 4, 1971, to the heads of Departments and agencies concerning the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, these criteria and procedures are applicable to all Federal agencies administering Federal projects or providing Federal financial assistance to State agencies carrying out activities that cause displacement of persons from their dwellings.

§ 43.28 Definitions.

In addition to the definitions contained in § 43.4 of Subpart A, the following definitions apply to this subpart:

(a) "Nonprofit sponsor" means a corporation or association organized for purposes other than the making of profit or gain for itself or persons identified with it, and which is in no manner controlled by nor under the direction of persons or firms seeking to derive profit or gain from it.

(b) "Limited dividend sponsor" means a corporation, trust, partnership, individual, association, or other legal entity (including such special limited dividend sponsors as are eligible for mortgage insurance under HUD regulations) which is restricted by law or other regulations as to the distribution of income and rate of return on investment.

(c) "Cooperative sponsor" means: (1) A nonprofit cooperative ownership housing corporation or trust which restricts permanent occupancy of the housing units to members of the corporation or trust and which maintains requirements for membership eligibility and transfers of membership; or (2) a nonprofit organization which agrees to use the proceeds of a loan received under section 215 for the expenses of planning and obtaining an insured mortgage for housing to be owned by a cooperative as described in subparagraph (1) of this paragraph.

(d) "Public body sponsor" means a public corporation or entity which is a Federal instrumentality, a State or political subdivision thereof, or an instrumentality of a State or of a political subdivision thereof, eligible to sponsor federally insured housing.

(e) "Condominum" means a combination of coownership and ownership in severalty. It is an arrangement under which a family or individual in a housing development holds full title to a one-family dwelling unit, including an undivided interest in common areas and facilities, and such restricted common areas and facilities as may be designated.

§ 43.29 Eligible applicants.

Any nonprofit, limited dividend, cooperative, or public corporation or entity, eligible to sponsor housing insured under the National Housing Act or Title V of the Housing Act of 1949, may apply for a section 215 loan.

§ 43.30 Eligible expenses.

Section 215 loans shall not exceed 80 percent of the necessary and reasonable expenses which have been or are expected to be incurred for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for persons displaced. Eligible expenses include but are not limited to:

(a) Preliminary surveys and analysis in implementation of site selection criteria;

(b) Preliminary site engineering;

(c) Preliminary architectural fees;

(d) Title and recording fees;

(e) Application and mortgage commitment fees;

(f) Construction loan fees and/or discounts;

(g) Legal and organizational expenses;

(h) Consultant fees (nonprofit sponsor);

(i) Land options and site acquisition costs;

(j) Staff, office expenses, travel.

§ 43.31 Terms and conditions for loans.

(a) *General.* No section 215 loan shall exceed 80 percent of the reasonable and eligible expenses expected to be incurred in planning and obtaining federally insured mortgage financing, and which are expected to be recovered from the proceeds of the insured mortgage.

(b) *Interest rate.* (1) A loan to an organization established for profit shall bear interest at the current market rate as determined by the head of the Federal displacing or funding agency, as applicable. In the interest of uniformity, the head of the appropriate agency shall be guided by the interest rate established by the Secretary of Housing and Urban Development pursuant to section 236 of the National Housing Act, as amended. Information on the current rate applicable to this section is available from all HUD Area and Insuring Offices. (2) A loan to an eligible nonprofit, cooperative, or public body sponsor shall be without interest.

(c) *Loan disbursement.* (1) The head of the displacing agency shall disburse the section 215 loan in accordance with the terms of the loan agreement. Ordinarily, a requisition for advance of funds to cover cash needs for each succeeding month following the initial disbursement, should be submitted by the sponsor. (2) Before approving the request for funds for the succeeding month, the displacing agency must determine that the development of an application for a commitment is progressing satisfactorily, and that funds advanced are being used for the purpose for which the loan was made. (3) At the time of receipt of each disbursement, the applicant must certify on the receipt that it has spent or incurred expenses (with a description of the expenditures), made in kind contributions, or made deposits in the trust account in an amount equal to the specified portion of its share of the expenditures to date, or estimated to be made in the next month, or such other period as is established by the head of the Federal agency (see § 43.30 for a description of eligible expenses). (4) The loan funds and applicant's portion shall be deposited in a trust account, separate from all other applicant accounts in a bank whose deposits are insured by the Federal Deposit Insurance Corporation. The applicant is not required to spend its portion first, nor deposit its cash contribution in such account in advance of its receipt of the initial disbursement of section 215 loan funds.

(d) *Loan repayment.* The following provisions apply to loan repayment: (1) Repayments of all or any portion of the loan shall be made, and unused section 215 loan funds shall be returned, to the head of the displacing agency and credited back to the account from which they were taken. In the case of a federally assisted project, the Federal share of such moneys shall be credited to the program account of the Federal funding agency; (2) principal and interest, where applicable, shall be payable in full at the time of the first disbursement of the mortgage proceeds; (3) if any portion of a section 215 loan is not recovered from the first disbursement of mortgage proceeds, the maturity date for such portion

not recovered shall be extended to the date of the final disbursement of mortgage proceeds; (4) if the commitment of mortgage insurance expires before an initial endorsement can occur, the entire amount of the loan shall become due and payable on the date of expiration. In any event, the entire amount of the loan shall be due and payable not more than 2 years from the date of the first disbursement, unless the date is extended by the head of the agency making the loan; (5) if the loan is made for planning for the development of a project of individual sales type homes, the loan disbursements shall be repaid in installments of principals with interest thereon, if any, as mortgage proceeds on the individual homes are disbursed. The amount of the installment payments of principal shall be prorated in accordance with the number of individual homes for which the mortgage insurance commitment has been issued. The entire principal and interest thereon, if any, shall be paid in full in any event not more than 2 years after the first installment under the loan agreement, unless such time for repayment has been extended by the head of the agency making the section 215 loan; (6) repayment of all or any portion of a loan which cannot be recovered from the mortgage proceeds, or from the sale of real property acquired with loan funds, may be waived by the head of the Federal agency financing the loan, except for an organization established for profit.

(e) *Conditions to be included in section 215 loan contract.* A Guide Form Loan Contract and Trust Agreement is attached hereto as Appendix I and made a part hereof. Each contract covering a section 215 loan shall contain the following conditions:

(1) The mortgage application for housing planned with a section 215 loan shall be filed within 9 months following approval of the loan, unless the head of the Federal agency determines that an extension of the time period is justified.

(2) For a loan disbursement, the conditions shall be in accordance with § 43.31(c).

(3) For repayment of the loan, the conditions shall be in accordance with § 43.31(d).

(4) Section 215 loan funds, including the applicant's portion (which may be in cash or in kind), shall be used only for the purposes set forth in the approved loan application.

(5) Assurance of compliance with the statutes, Executive orders, regulations, and policies specified in § 43.38 shall be given.

(6) Priority for occupancy shall be given to those displaced by the project(s) providing the loan funds.

§ 43.32 Procedures for provision of section 215 loans.

(a) The head of the Federal displacing or funding agency may make a section 215 loan as part of the project cost, or approve a loan as part of the cost of a federally assisted project, respectively, to assist in the development of replacement housing, if such a loan would stimulate the rehabilitation or construction of housing to meet the needs of the persons to be displaced by the project. In the case of a federally assisted project, loans made under section 215 shall be treated in the same manner as other costs of relocation payments and assistance and shall be subject to the provisions of section 211 of the Act with respect to Federal-local cost sharing. If necessary for assuring economic feasibility, the head of the displacing agency may approve a section 215 loan to plan for housing that would not be occupied entirely by persons displaced by the displacing agency.

(b) Whenever, in connection with the planning, development or execution of a direct Federal or a federally assisted project, it appears to the head of the displacing agency that adequate replacement housing may not be available to satisfy the requirements of the Act, or that such housing is not available on a nondiscriminatory basis, either (1) in the case of a federally assisted project, the head of the displacing agency wishing to make a section 215 loan may seek approval from the head of the Federal agency providing the assistance; or (2) in the case of a direct Federal project, the head of the Federal agency may decide to provide loans under section 215 to stimulate the development of the housing.

(c) A determination that replacement housing must be constructed or rehabilitated should be based, as a minimum, upon an analysis of the needs and choices of those to be displaced by the proposed project, by income, family size, and type of housing in relation to the nature and volume of competing demands for standard housing of appropriate size and cost in the locality; and information secured from officials administering other programs in the community which will result in displacement, as to their relocation housing resource plans. Existing data, supplemented where necessary, may be used to ascertain precisely the need to utilize section 215 to provide the required housing.

(d) *Invitations to prospective sponsors of housing who may be eligible for a loan.* When an assessment has been made of the number and types of housing units which will be required, the displacing agency shall make a diligent effort to find and encourage potential sponsors of housing to apply for a section 215 loan (e.g., by advertisement of the particulars on the required housing, or personal appearances before possible sponsors). A prospective applicant should be instructed to submit, in writing, a general outline or description of the proposed housing plan. Whenever possible, an estimate of the approximate costs for planning and production of the housing should be included. Advice on the standards and requirements for mortgage insurance and on the contents of the proposed housing plan, and assistance in preparing such a plan are available from HUD Area Offices.

(e) *Displacing agency's preliminary assessment of sponsor's eligibility.* The head of the displacing agency shall make a preliminary determination, based upon HUD standards for housing sponsors, as to whether the applicant and the loan request are apparently acceptable, and whether the items included in the proposal are reasonable and necessary to cover the planning and other preliminary expenses identified in § 43.30 of this issuance (see Appendix II for guide form which, though it applies only to nonprofit sponsors, also indicates the information required from other sponsors). If based upon his preliminary assessment, the head of the displacing agency decides that a prospective sponsor appears to meet the eligibility requirements for a section 215 loan to develop all or a portion of the kind and number of housing units required, he shall notify HUD in writing, with a copy to the applicant. In the case of a federally assisted project, a copy should also be sent to the head of the Federal agency. The notification should request from HUD a preliminary evaluation of the tentative plan for the proposed housing and the eligibility of the applicant for Federal mortgage insurance, and such other advice as may be useful to the displacing agency and the prospective applicant.

(f) *Conference with the applicant on project and mortgage financing eligibility.* If HUD's preliminary evaluation is favorable, the displacing agency shall advise the applicant to arrange a conference with the HUD Area Office. During the conference HUD will review the tentative plan for the proposed housing, the applicant's eligibility to apply for Federal mortgage insurance, and the general soundness of the plan for the housing. HUD will also advise the applicant on the standards and requirements for mortgage financing approval. Whenever practical, a representative of the displacing agency should attend the conference. The conference with HUD should be held before the section 215 loan applicant makes any definite plans for land acquisition or professional services. Within 20 days following the conference, HUD shall notify the head of the displacing agency in writing, with a copy to the applicant, of its preliminary determination that the proposed housing plan is acceptable; or if the plan or the sponsor is not acceptable, an explanation of the reasons therefor, and steps that need to be taken in order to make the proposal acceptable. Approval of an application to cover expenses incidental to the development of an application for mortgage insurance, does not assure that the application so developed will necessarily receive approval for mortgage insurance.

(g) *Formal application.* Upon receipt by the displacing agency of a HUD notification of acceptability pursuant to § 43.32(f), the prospective loan applicant shall be advised to make formal application to the displacing agency for a section 215 loan. If deficiencies were described in the notification, the displacing agency, in consultation with HUD,

shall work with the prospective loan applicant to correct the deficiencies, if possible. The formal application should include a housing plan, which as a minimum specifies how, when and where the housing will be provided, what insured program(s) (see § 43.36(a)) will be utilized, the prices at which the housing will be rented or sold to the families to be displaced, the arrangements for housing management and social services, as appropriate, the environmental suitability of the location(s), if known, of the proposed housing, and the arrangements for maintaining rent levels appropriate for the persons to be rehoused.

§ 43.33 Approval of Federal agency.

In the case of a federally assisted project, the head of the Federal agency providing the assistance to the project causing displacement shall establish procedures either (a) to require his approval prior to processing the section 215 loan applicant pursuant to § 43.34, or (b) withhold such approval until after the amount of the principal and interest, if any, of the loan has been determined according to §§ 43.34(b) and 43.34(c).

§ 43.34 Processing the loan application.

When in the case of a federally assisted project, the displacing agency has received approval of the Federal agency providing the financial assistance, and in the case of a Federal project the head of the Federal agency determines that a section 215 loan application is appropriate, the application should be processed as follows:

(a) The total amount of the costs necessary to cover the preliminary expenses (see § 43.30) shall be computed. Each individual item of expense should be examined. HUD will provide the displacing agency with advice on the reasonableness of the applicant's proposed expenses for planning and obtaining federally insured mortgage financing, including an indication of expenses which may not be reimbursed from mortgage proceeds, and its approximation of the total amount required.

(b) The displacing agency shall then calculate the amount of the loan which shall not exceed 80 percent of the necessary expenses.

(c) In the case of an organization operating for profit, the interest rate on the dollar amount calculated under § 43.34 (b) shall be determined in accordance with § 43.31(b). (No interest shall be charged on loans to nonprofit organizations.)

(d) A loan contract shall be prepared by the displacing agency, which shall be signed by the sponsor and the displacing agency. (See § 43.31.)

§ 43.35 Review by head of Federal agency.

If at any time the applicant's proposal is rejected by the displacing agency, the prospective applicant may have the plan reviewed by the head of the Federal agency which has the authority for final approval. In making this review, the head of the Federal agency shall consult HUD if the rejection of the applicant's proposal was based on HUD–FHA standards for housing sponsors.

§ 43.36 Housing programs for which section 215 loans generally may be utilized.

(a) The following are examples of housing programs (which include rental, single-family homeownership, cooperative and condominium) for which section 215 loans generally may be utilized. Except as otherwise indicated, the programs listed below are authorized by the National Housing Act, as amended (12 U.S.C. 1701 et seq.).

(1) Section 203(b) homes and 203(i) homes in outlying areas.

(2) Section 207 rental housing.

(3) Section 213 cooperative housing.

(4) Section 220 rental housing in urban renewal areas, homes in urban renewal areas.

(5) Section 234 condominium.

(6) Section 236 rental and cooperative housing for lower income families.

(7) Section 515 of the Housing Act of 1949, as amended.

(8) Section 235 interest subsidies for housing for sale to lower income families.

(9) Section 221(d)(2) mortgage insurance for housing for low and moderate income families.

(10) Section 221(d)(4) mortgage insurance for rental housing.

(11) Section 221(d)(3) market rate mortgage insurance with rent supplements.

(12) Housing developed under section 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 where such housing involves a federally insured mortgage.

§ 43.37 Aggregate housing under jointly financed programs.

Where several agencies are administering programs resulting in residential displacement, opportunities shall be sought out for the joint planning and development of housing through aggregating section 215 loan funds to plan for the provision of federally insured replacement housing for all such programs. Where project funds from more than one displacing agency are to be aggregated for this purpose, they may be apportioned among such agencies according to the expected occupancy of such housing by persons displaced by each project.

§ 43.38 Conformity with the Act and other statutes, policies and procedures.

(a) *Civil rights and other Acts and executive orders.* The administration of section 215 loans shall be in conformity with the provisions of section 1 of the Civil Rights Act of 1866 (42 U.S.C. 1982), title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968, the National Environmental Policy Act of 1969, and Executive Orders 11063 and 11246, as amended, and regulations pursuant thereto.

(b) *Title VI assurance.* Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. Every contract for a loan under section 215 and every application for such a loan shall, as a condition of its approval and the extension of any assistance, contain or be accompanied by an appropriate assurance, as specified by the head of the Federal agency providing funds for the loan, that the housing and preliminary planning and other activity assisted will be operated and administered in compliance with all requirements imposed by title VI and the title VI implementing regulations of the Federal agency.

(c) *Affirmative marketing.* Housing produced with the assistance of a section 215 loan shall be marketed on a nondiscriminatory basis to affirmatively promote equal housing opportunity as prescribed in the Affirmative Fair Housing Marketing Regulations contained in 24 CFR Part 200, Subpart M (37 F.R. 75, January 5, 1972, effective February 25, 1972) and as further prescribed in Circular 8000.4, issued by the Department of Housing and Urban Development pursuant to the Affirmative Fair Housing Marketing Regulations. An assurance of compliance with this affirmative marketing requirement must be submitted by each loan applicant, and incorporated in the contract. Among the applications resulting from both affirmative marketing efforts and referrals from the displacing agency, those from persons displaced by the project providing the loan funds must be given preference.

(d) *Project selection.* From information available at the time, it must appear that housing planned with a section 215 loan for financing under a federally insured mortgage will not receive an unfavorable rating under HUD's Project Selection Criteria contained in 24 CFR Part 200, Subpart N (37 F.R. 203, January 7, 1972) and will meet all other requirements normally applicable to a federally insured mortgage.

(e) *Location.* A site may not be approved if it is occupied by persons or business concerns who would have to be displaced unless the head of the Federal agency determines that other sites or locations are not available. In any event no site may be approved if those to be displaced would not be eligible for relocation assistance and payments under the Act. Each Federal agency must determine, based on the nature of its programs, whether persons displaced to enable the provision of housing for which planning and other preliminary expenses are financed with project funds loaned pursuant to section 215 are entitled to relocation payments and assistance under the Act.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

APPENDIX I

GUIDE FORM OF LOAN CONTRACT AND TRUST AGREEMENT

(Relocation Seed Money Loans)

This Loan Contract and Trust Agreement made and entered into this _____ day of _____, 197__ by and between the

---------- (enter name of (1) Federal agency if loan is made under a direct Federal project; or (2) State agency if loan is made under a federally assisted project) (herein called Agency) and ----------, a ------ ------ organized and existing under and by virtue of the laws of the State of ------ ------, having its principal offices at ------ ------ (herein called Sponsor).

Whereas, the Sponsor intends to develop a housing project and to make or cause to be made an application to the Agency for a commitment to insure a loan under the provisions of section ------ of ---------- (enter citation to appropriate statutory provision under which application for federally insured mortgage will be made), and the regulations issued pursuant thereto, and

Whereas, the Sponsor has applied for a loan in accordance with section 215 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (herein called Relocation Seed Money Loan) which application has been submitted to the Agency and the ---------- (enter name of Federal Department or Agency if loan is made under a federally assisted project) for approval, which application is incorporated in and made a part of this agreement.

Now, therefore, the parties mutually agree as follows:

1. The Sponsor has commenced planning a housing project identified as: (Herein called Project) and hereby represents that it possesses sufficient financial and/or other resources, combined with the advance to be made by the Agency, to complete successfully the processing preliminary to disbursement of mortgage proceeds to finance construction or rehabilitation of the project. The Sponsor convenants that it shall use its best efforts to meet the requirements of the ---------- (enter Federal Housing Commissioner or Farmers Home Administrator, as appropriate) to obtain a commitment for insurance under ---------- (enter citation to appropriate statutory provision under which application for federally insured mortgage will be made) and the relevant regulations. The Sponsor further convenants that it shall file an application for such commitment within 9 months following the date of approval of the relocation seed money loan, unless the ---------- (enter title of head of Federal Department or Agency administering the project or federally assisted project under which loan is made) determines that an extension of such 9 months period is justified.

2. Upon approval of the application for the relocation seed money loan the Agency will deliver to the Sponsor a check for the first disbursement. Delivery of this check shall constitute the Agency's acceptance of the terms of this agreement and both parties shall thereafter be fully bound by the terms of this agreement and application. The advance or advances to be made by the Agency pursuant to this agreement shall total $------.

3. The Sponsor certifies that it has spent $------ (if any) for the expenses listed in the application and that it will contribute $------, representing ------% (not less than 20%) of the estimated cost of planning the project, as its share, and further agrees that this contribution and all funds received hereunder from the Agency shall be held in trust by the Sponsor and shall be deposited in a trust account, separate from all other accounts in a bank whose deposits are insured by the Federal Deposit Insurance Corporation. Where the Agency's advance is made in a series of staged payments, the Sponsor may make its contribution on the same basis. The Sponsor agrees to certify on the receipt for each advance that it has spent, incurred expenses for, or deposited in the trust account an amount equal to ------% (not less than 20% of the expenditures to date and estimated to be made in the next month for planning this project). Sponsor's expenditures and funds in the trust account shall be used only for the purposes stated herein and unexpended funds shall be returned to the Agency as beneficiary of the trust for appropriate adjustment. Any member of the sponsoring organization receiving funds from the trust account in violation of this agreement shall hold such funds in trust for the Agency.

4. Funds in the trust account shall be expended only for the purposes set forth in the application and in the amounts specified therein, unless such other or additional expenditure shall be approved in advance by the Agency in writing. The Sponsor expressely covenants to exercise its best efforts to obtain all services at the least possible expense. The Sponsor agrees to maintain and keep complete records of all disbursements from the trust account and to make such records available to the Agency upon request.

5.[1] The Sponsor promises to repay to the Agency the full amount of the advance made in accordance with this agreement together with interest at the rate of ------% per annum. Interest on each disbursement shall be computed on a daily basis from the date of receipt by the Sponsor.

5a.[1] Principal and interest, where applicable, shall be payable in full at the time of the first disbursement of the mortgage proceeds. Where any portion of the funds disbursed from the trust account is not authorized by ---------- (enter HUD or Farmers Home Administration, as appropriate) to be recovered from the first disbursement of mortgage proceeds, the maturity for this portion of the funds shall be further extended to the date of the final disbursement of mortgage proceeds. In the event the ---------- (enter HUD or Farmers Home Administration as appropriate) commitment expires before mortgage proceeds are disbursed the entire amount shall be due and payable on that date. In any event the entire amount shall be due and payable not more than two years from the date of the first disbursement under this agreement unless extended by the Agency in writing.

5b.[1] In the event this contract is for the development of a project of individual sales type homes, principal, and where applicable, interest shall be payable in full, in installments as the mortgage proceeds on the individual homes are disbursed. The amount of the installment payments will be prorated in accordance with the number of individual houses in the project for which ---------- (enter HUD or Farmers Home Administration as appropriate) issues mortgage insurance commitments. In any event, the entire amount of principal and, where applicable, interest, shall be due 2 years from the date of the first installment under this agreement unless extended by the Agency in writing.

6.[2] The Agency agrees to waive repayment of any expended portion of the loan that it determines cannot be included in the mortgage proceeds or recovered from the sale or real property acquired with loan funds, provided that the Sponsor submits a full and complete accounting, satisfactory to the Agency, of all funds expended, including funds disbursed from the trust account together with the Sponsor's certification that all sums were in payment of expenditures listed in the application and approved by the Agency. Any unexpended funds in the trust account shall be transferred to the Agency for appropriate adjustment. The Agency will not cancel repayment of that portion of the loan which is determined to be in excess of ------% (enter percentage specified in section 3 above) of the total expenditures certified to by the Sponsor and approved by the Agency.

7.[2] In the event the Sponsor is unable to obtain a federally insured mortgage, the Agency agrees to waive repayment of the loan, provided the Sponsor has complied with all the foregoing requirements of this agreement, has diligently tried to obtain a federally insured mortgage and submits a full and complete accounting satisfactory to the Agency of all funds expended, including funds disbursed from the trust account together with the Sponsor's certification that all sums were in payment of expenditures listed in the application and approved by the Agency; provided that (subject to section 6 above) repayment shall not be waived if the Sponsor shall obtain mortgage financing from some source not insured by ---------- (enter HUD or Farmers Home Administration as appropriate) for this or a similar project on the same site. Any unexpended funds in the trust account shall be returned to the Agency for appropriate adjustment. The Agency will not cancel repayment of that portion of the loan which is determined to be in excess of ------% (enter percentage specified in section 3 above) of the total expenditures certified to by the Sponsor and approved by the Agency.

8. *Special conditions*—a. *Compliance with Title VI of the Civil Rights Act of 1964.* The Sponsor agrees to comply with all requirements imposed by Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241) and the statement assuring compliance with that title executed as part of the loan application which is hereby incorporated and made a part of this contract and the applicable regulations implementing that title issued by ---------- (enter name of Federal Department or agency administering Federal project or federally assisted project).

b. *Compliance with equal employment opportunity requirements.* The Sponsor agrees to comply with the provisions of Executive Order 11246 and the regulations of the Secretary of Labor at 41 CFR Chapter 60, and to incorporate or cause to be incorporated into any contract for construction work or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

The Sponsor hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion,

---

[1] (The references in paragraph 5, 5a, and 5b regarding interest are applicable only to loans made to a borrower organized for profit as determined by the Secretary.)

[2] (Paragraphs 6 and 7 are not applicable to loans made to any borrower organized for profit as determined by the Secretary.)

sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, That in the event a contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

The Sponsor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Sponsor agrees that it will assist and cooperate actively with the Department and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Department and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Department in the discharge of its primary responsibility for securing compliance.

The Sponsor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Department or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the Department may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

c. *Compliance with affirmative fair housing marketing requirements.* The Sponsor agrees to comply with all fair housing and equal housing opportunity requirements, including affirmative marketing, imposed by Executive Order 11063 (27 F.R. 11527) and Title VIII of the Civil Rights Act of 1968 (Public Law 90-284, 82 Stat. 73) and all regulations issued by the Department of Housing and Urban Development thereunder.

d. *Compliance with project selection criteria.* The Sponsor agrees to make every effort to plan and develop housing that would be acceptable under the Project Selection Criteria Regulations issued by the Department of Housing and Urban Development.

e. *Environmental protection requirements.* The sponsor agrees to supply all information requested by the _____ (enter name of Federal Department or agency) in order to permit compliance with that (Department's) (Agency's) implementing the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852) and the Guidelines of the Council on Environmental Quality.

f. *Preference to "displaced persons".* The sponsor agrees that among the applications resulting from both affirmative marketing efforts and referrals from the displacing agency, those from persons displaced by the project providing the loan funds must be given preference.

_____
(Sponsor)

By: _____

APPENDIX II

FHA FORM NO. 3433
Rev. 1/68

Form Approved Budget Bureau No. 63-R1055

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL HOUSING ADMINISTRATION

REQUEST FOR PRELIMINARY DETERMINATION OF ELIGIBILITY AS NONPROFIT SPONSOR OR MORTGAGOR

Under section 221, 231, or 232 of the National Housing Act:

To: The Federal Housing Commissioner,
c/o _____
_____
_____
_____
(Name of proposed project)
_____
(Location)

Section _____
(221, 231, or 232)

The instructions relating to this request have been read and are fully understood. A preliminary determination as to the eligibility of the proposed mortgagor as a nonprofit corporation or association is requested. In order to assist in the determination, the following information and that on the attached exhibit is supplied.

1. The_____
(name of sponsoring group)
received its Charter on _____ pursuant
(date)
to _____ of the laws of the State of
(cite statute)
_____.

2. Purpose for which the sponsoring group was formed (as stated in its Charter):_____
_____

3. Motivation of the sponsoring group with respect to the proposed project:_____
_____

4. Record of achievement in such fields as housing, human rehabilitation, social service, medical assistance, etc. (Describe the projects, give present status and periods in which involved.)

5. In an attached exhibit, furnish complete information for each of the items set forth below. Where arrangements have not been made, it must be so stated and information supplied as to what is contemplated.

a. List of the officers and directors of the sponsoring group including names, addresses, and title of positions.

b. Relationship between sponsoring group and mortgagor (existing connections or proposed, if mortgagor has not been formed).

c. Statement as to the source or sources from which the sponsor acquired its capital and acquires its income.

d. Source and amount of funds for the following expenses requiring cash outlay by the sponsor prior to receipt of the insured loan advances (if borrowed, give terms of the loan):

(1) FHA application and commitment fees,

(2) Option on project site, and

(3) Advance legal, housing consultant, and architect fees.

e. Detailed statement of the arangements made or proposed for the following, listing the principals involved, the relationship between such principals and the sponsor and mortgagor, giving the terms of the arrangements and describing the circumstances surrounding each:

(1) Land upon which the project is to be built,

(2) Construction of the project, including the selection of the general contractor, subcontractors and architect,

(3) Legal and housing consultant services,

(4) Financing of the project, and

(5) Management of the project.

To the best of my knowledge and belief, the foregoing information and that contained in the attached exhibit is true and correct.

(Signature)

(Date)

(Title—officer of sponsoring group)

FHA Form No. 3433—Instructions
(January 1968)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FEDERAL HOUSING ADMINISTRATION

INSTRUCTIONS RELATING TO REQUEST FOR PRELIMINARY DETERMINATION OF ELIGIBILITY AS NONPROFIT SPONSOR OR MORTGAGOR

Sections 221, 231, and 232 of the National Housing Act, as amended, provide financing for nonprofit mortgagors. A nonprofit mortgagor is defined in FHA Regulations as follows:

"The mortgagor shall be a corporation or association organized for purposes other than the making of a profit or gain for itself or persons identified therewith and which the Commissioner finds is in no manner controlled by nor under the direction of persons or firms seeking to derive profit or gain therefrom."

The purpose of these instructions and form is to obtain the information required to enable the FHA Commissioner to make a determination prior to issuance of a letter of feasibility and acceptance of an application, that the sponsor of a mortgagor and the mortgagor itself, if the mortgagor has been created, is truly nonprofit in accordance with the definition above. The purpose of the preliminary determination is to prevent, as far as possible, unnecessary outlay of funds for FHA fees, plans, etc., by a sponsor or proposed mortgagor, who may be found ineligible. If found ineligible, the application will not be accepted. If tentatively found eligible, sponsor, mortgagor and the parties supplying land and services, in accordance with the terms of the commitment to insure, will be required to formally certify as to motives and relationships prior to initial endorsement of the note for insurance. A determination as to eligibility will be made at that time.

Determination of nonprofit eligibility requires a knowledge of the motivation of the sponsor and mortgagor, relationship between the sponsor and mortgagor, and relationship between the mortgagor or sponsor and the various parties or firms concerned with the project and mortgage transaction. It is essential that there be a full disclosure of all relationships and of all facts pertaining to each relationship.

QUALIFICATIONS FOR SUCCESSFUL SPONSORSHIP

It is most important that nonprofit sponsors should have continuity, and a serious and long-range desire to provide housing for low- and moderate-income families and individuals. Well-established institutional sponsors such as churches, labor unions, and fraternal organizations, are more likely to have continuity and a history of community and social service than a group organized for the specific purposes of initiating the project. In certain circumstances, however, a nonprofit group could have been recently formed with sufficiently broad base of community or neighborhood support so as to assure continuity and successful operation of the proposed project.

A group with deep roots in the community or neighborhood will probably be stronger than a national or regional organization without established roots in the community. Moreover, such a locally oriented sponsor is more likely to produce tenants for the project.

A nonprofit sponsor should be motivated not only by a desire to develop an adequate housing project, but also by a concern for the project's continuing successful operation. The entire membership of the sponsoring organization, not just a few of its representatives, should be thus motivated.

ESTABLISHING ELIGIBILITY

In order to establish that a nonprofit sponsor is properly qualified to initiate, complete, and operate a housing project for low- and moderate-income families, FHA requires that:

1. The sponsor is acting on its own behalf and is not, either knowingly or unwittingly, under the influence, control, or direction of any outside party seeking to derive profit or gain from the proposed project, such as a landowner, real estate broker, contractor, or consultant.

2. The sponsor fully understands the responsibilities and obligations that attach to sponsorship of a housing project and its continuing successful operation. The principals and membership of the nonprofit sponsor organization should be prepared to explore in depth with the FHA director problems connected with land acquisition, interim and permanent financing, selection of architects and contractors, construction, rent-up, and management.

3. The sponsor is prepared by resolution of its directors or trustees to acknowledge the responsibilities and obligations of sponsorship and continuing ownership and that this position reflects the will of its membership.

4. The sponsor is reliable on the basis of its reputation and past performance or that of its principals. In determining reliability, consideration will be given to any previous experience the sponsor has had in providing housing or related social or community services.

5. The sponsor either has within its own organization or has made arrangements for the necessary professional and management skills which are essential for the successful initiation, development, completion, and operation of the proposed project.

CAPACITY OF SPONSOR

The proposed project should not be beyond the capacity of the sponsor.

One would not expect a small bank to take on the underwriting of a major industrial financing venture. Similarly, it would not be reasonable to expect a small church to assume responsibility for a large housing project. The size of the project must be in keeping with the size and capabilities of the sponsoring organization.

If a well-motivated and reliable sponsor proposes a project beyond its capabilities; effort should be made to obtain cosponsors which will permit the combining of capabilities to the extent necessary to satisfy the requirements of the proposal, or the size of the project should be reduced.

RESPONSIBILITIES OF SPONSORSHIP

Some nonprofit sponsors may assume that the responsibility for the project, particularly in time of stress, rests with the government, the builder, or someone other than themselves; and that their role as sponsor is merely to lend their name to the project. If this attitude exists, it must be dispelled. Sponsors must understand that it is their project, and must evidence a serious intent to provide continuing support and an effective management.

The FHA commitment and mortgage insurance are predicated upon FHA's estimate (1) that there will be sufficient mortgage proceeds plus required escrows to build the project, and (2) that the rental or project income will be sufficient to meet all operating expenses and mortgage payments during the full term. Nonprofit sponsors should understand, however, that owning and operating a housing project involves difficult and trying problems, including the possibility that some unforeseen circumstances could cause project funds to run short. They should understand that FHA would expect them to cope with these problems at the time of need by all means at their disposal, such as promotional help, contributive management or services, appeals to membership or affiliated organizations. They are not legally required to provide such support, but any nonprofit sponsor should by definition feel a strong sense of moral duty to help in these circumstances. There is no reason to distinguish between a housing project and any other social purpose asset of a nonprofit organization, such as an elderly home, a medical facility, a convalescent center or a day-care facility.

It is stressed, however, that FHA does not insist upon or require a pledge or guaranty, except in rare cases where deficits are anticipated during "rent-up." What is required is a full understanding of responsibility on the part of the nonprofit sponsor. Sponsors must, of course, establish that they have the capabilities to meet expenses prior to the drawdown of mortgage funds, including expenses for achitectural services, legal and other professional services, etc. Such expenses need not be covered by the sponsor's funds alone. They may be met through assured advances from such other parties as a bank, a federal, state or municipal fund, a foundation, a church hierarchy, or another nonprofit organization.

It is permissible to borrow funds from the contractor or other parties connected with the project if they are for items to be covered by the insured mortgage and if such sums are paid in full at the time the mortgage proceeds are advanced.

POTENTIAL SPONSORS

Although it is not desirable to attempt to establish rigid criteria for determining eligibility of nonprofit sponsors, certain factors will indicate strength, other factors will suggest weakness, and some factors will make the sponsor ineligible. An evaluation of factors applicable to a particular sponsor will assist in reaching a judgment about the eligibility of the sponsor and his ability to successfully carry out the proposed project.

Among factors which indicate strength are: (1) A serious desire to provide housing for qualified low- and moderate-income families and individuals, (2) deep roots in the neighborhood and community, (3) previous experience in successfully operating housing projects, (4) widespread support for the proposal within the membership of the nonprofit organization, (5) professional expertise within the nonprofit organization or available to it from qualified outside sources, (6) adequate financial capacity to meet initial expenses and to provide for unforeseen contingencies during construction and operation of the project, and (7) absence of conflicts of interest.

Among factors which suggest weakness are: (1) No previous housing experience, (2) no previous experience or contacts in the neighborhood in which the proposed project would be located, (3) evidence that a builder, landowner, consultant, or some other party expecting to benefit financially had initiated the project and dominates the sponsorship, (4) lack of assured continuity of support by the nonprofit group as a whole, or the support of individuals who may not continue their association with the sponsoring organization, (5) heavy commitments in other fields which would tax the financial capacity of the group and weaken its support of the proposed project in times of stress, and (6)

lack of professional competence to build and operate the project successfully.

Eligible nonprofit sponsors will be found among organizations such as:

A strong local chapter of a national service organization.

A broadly based community action group—such could be recently formed if there is positive assurance of continuity.

An established church with a good record of social services.

A national or State church organization.

An active charitable foundation of long standing—such could be a family foundation with unquestionable motivation, continuity, and no relationship to profit parties.

A labor union with an active local and full support of the membership.

An outstanding local service organization such as a Junior Chamber of Commerce.

Some sponsors are clearly ineligible without considering factors of strength and weakness, such as a nonprofit foundation controlled by the builder or his family, or by any other person or persons who would derive a profit or fee from the project.

SPECIAL CONSIDERATIONS FOR SECTION 221(h) REHABILITATION SALES SPONSORSHIP

The nature of the program, i.e., the rehabilitation and sale of properties to low-income purchasers, requires a special type of sponsorship.

The responsibility as it pertains to the real estate is relatively short term; whereas the responsibility for continued social services to the individual low-income owners is a long-term one. The sponsor must have the capacity or ability to arrange for the continued services required to aid the purchasers to become responsible home owners.

A group of public spirited citizens organized specifically for the purposes of the program may be qualified if it can be demonstrated that the group has the motivation, determination, and capacity to assemble, rehabilitate, and market the properties to qualified purchasers and at the same time provide the required long-term services to the new home owners.

[FR Doc.72-5741 Filed 4-14-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 71, 91]

[Docket No. 9471; Notice 72-12]

RADAR BEACON TRANSPONDER REQUIREMENTS

Supplemental Notice of Proposed Rule Making

In April, 1965, an advance notice of proposed rule making was published in the FEDERAL REGISTER (Notice 65-9; 30 F.R. 6074), which alerted the public to plans for the development and improvement of the National Airspace System (NAS), and informed the public of the new equipment that would be required for the operation of that system.

This development of the system was necessitated by the problems resulting from the increasing mix of high speed and low speed traffic in the airspace, the increase density of traffic, and the mix of both IFR and VFR and the mix of unknown and known traffic. These factors, coupled with the continuing estimates of dramatic growth in numbers and sophistication by all types of users, create real problems in traffic management and increased midair collision hazards.

On March 14, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (Notice 69-9; 34 F.R. 5259), which proposed to require all aircraft operating in certain designated controlled airspace be equipped with an improved radar beacon transponder having both a Mode 3/A, 4096 Code capability, and a Mode C automatic altitude reparting capability. The objective of the proposal was to improve air traffic control system effectiveness through additional IFR beacon tracking and automatic altitude reporting capability. The proposal was also designed to reduce the midair collision potential by requiring VFR flights operating in selected airspace to respond to interrogations by transmitting position and altitude automatically.

Briefly, Notice 69-9, issued March 14, 1969, proposed that a 4096 Code Mode 3/A transponder with Mode C automatic altitude reporting capability would be required, effective January 1, 1973, by both VFR and IFR aircraft in the following airspace:

1. At or above 10,000 feet MSL in the 48 contiguous States.
2. In positive control airspace.
3. In specified terminal areas.

As stated in Notice 69-9, the implementation of Mode C altitude reporting would provide the following ATC system benefits:

1. Improved ATC system safety by automatically displaying the altitude of all aircraft operating in selected airspace.
2. Reduced midair collision potential through eliminating previously unknown integral data.
3. Reduced volume of communications by eliminating the need for oral altitude reports.
4. Improved utilization of airspace through continuous altitude data on climbing and descending aircraft.
5. Increased effectiveness through greater controller selectivity in viewing targets.
6. Reduced number of traffic advisories or avoidance vectors during the provision of radar service.

Most comments received in response to Notice 69-9 were unfavorable (approximately 80 percent), and were to the effect that the proposed rule would impose excessive equipment requirements or airspace restrictions on certain classes of users. In general, the favorable comments received in response to Notice 69-9 were based upon an anticipated increase in air safety and airspace utilization. The concern on the part of many users along with other pertinent developments since the issuance of Notice 69-9 has caused the FAA to review the entire planned national airspace configuration. The FAA has also carefully weighed the original objectives along with the comments received in response to Notice 69-9.

We have concluded that our original proposal was more restrictive than actually necessary and have determined that further opportunity should be afforded to interested persons to submit comments on a modified, less restrictive concept of improved transponder employment. This supplemental notice, therefore, contains certain new proposals pertaining to the airspace and conditions in which the improved transponder would be required.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel: Attention Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before June 29, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

While the FAA understands that the implementation of the proposed rule would add to equipment costs for users of high altitudes and the busier terminals, it, nevertheless, believes that the cost factor is far outweighed by the increase in air traffic control effectiveness, reduced collision potential in the designated airspace and the additional airspace freed over the previous proposal. In the current proposal, an effort is made to minimize the amount of airspace in which the improved transponder would be required. In addition, advances in technology have significantly reduced the cost of airborne transponders and there is valid evidence that this trend will continue.

This supplemental notice differs from Notice 69-9 in that it provides that only above 12,500 feet MSL would the improved radar beacon transponder be required for en route operations. It would also lessen the impact of the transponder requirement by allowing IFR and VFR flights being provided separation service to operate without a transponder in terminal airspace at 42 locations designated as Terminal Areas and it comprehends encompassing limited amounts of airspace at these terminals.

Briefly, the proposed amendment set forth below would require the improved radar beacon transponder:

En route:

1. Within positive control area.
2. Within controlled airspace at and above 12,500 feet MSL excluding the airspace less than 1,500 feet AGL, in the 48 contiguous States, effective July 1, 1975.

Terminal airspace:

1. Within designated terminal airspace at Group I and Group II Terminal Control Areas and Terminal Areas as described below. The traffic density and complexity at the terminal locations are

of sufficient magnitude to require maximum protection for all aircraft within designated terminal airspace, and Mode C altitude reporting equipment is necessary to take advantage of automation capability and to provide maximum system efficiency.

a. *Group I.* Nine high activity locations designated as Terminal Control Areas: Atlanta, Boston, Chicago, Dallas-Fort Worth, Los Angeles, Miami, New York, San Francisco-Oakland, and Washington-National. The exceptions to the transponder requirement in the current rules would no longer apply and all aircraft, including helicopters, would be required to have the improved transponder in the Group I terminal control areas.

b. *Group II.* Twelve high-activity locations designated as Terminal Control Areas: Cleveland, Denver, Detroit, Houston, Kansas City, Las Vegas, Minneapolis, New Orleans, Philadelphia, Pittsburgh, Seattle, and St. Louis. All aircraft would be required to have the improved transponder, but those VFR flights not wishing to receive radar separation service would not need to communicate with the radar facility. Although traffic density and complexity are less at these locations than at the above nine, the need exists to provide maximum protection for all aircraft and at the same time allow flights not wishing to receive radar service to operate in these areas. The altitude data provided by all aircraft will greatly assist controllers in vectoring aircraft receiving separation service clear of uncontrolled aircraft if necessary.

c. Forty-two additional terminal locations equipped with Automated Radar Teminal System (ARTS) equipment and designated as Terminal Areas. These terminals would be listed in a new Subpart L of Part 71 of the regulations. At these locations, a transponder would not be required of an IFR flight or a VFR flight being provided separation service. An improved transponder would be required for all other flights in the area. The altitude data provided by the transponder of aircraft not receiving separation service will assist controllers in separating controlled flights from uncontrolled aircraft. Only that vectoring airspace required for the descent and climb-out operations of high performance aircraft will be encompassed.

It is believed that Part 71 of the Federal Aviation Regulations is the appropriate place to designate the terminal airspace within which the new rules would operate. Therefore, it is proposed that Part 71, which is currently in use for the designation of Group I and Group II Terminal Control Areas be expanded to incorporate Terminal Areas. Formal airspace actions will be proposed to further amend Part 71 to designate the airspace around each Terminal Area where the improved transponder will be required. The operation of the improved transponder rule for any location would not take place until the related airspace action was completed.

At present, most Group I Terminal Control Areas have a ceiling of 7,000 feet AGL. It is planned that the ceiling of these Terminal Control Areas eventually will be raised to 12,500 feet MSL so as to provide protection to all aircraft in this airspace. This action, when taken, will expand the improved transponder requirement at the Group I locations.

At the Group II Terminal Control Areas and the additional Terminal Areas, the designated airspace within which the improved transponder requirement would apply will be established on a case by case basis. The airspace size and configuration will be designed to contain standard instrument approach paths, departure and arrival routes, sufficient vectoring airspace, and other essential airspace activity. As in the currently established five Group I Terminal Control Areas, the amount of regulated airspace will be kept to a minimum and will be coordinated with user organizations prior to designation. It is anticipated that in most cases the Group II Terminal Control Area and the Terminal Area airspace will ultimately extend upward to 12,500 feet MSL to provide maximum protection for high performance aircraft transitioning between the en route Mode C altitude transponder airspace and the terminal airspace. In effect, this will eliminate airspace in which there would be unknown aircraft and will at the same time free much of the airspace around terminals for the lower performance aircraft.

A few commentators objected to the waiver procedure provided for in Notice 69–9. They believed that the minimum time needed in requesting a waiver was unreasonable, particularly where the request was to be made in writing at least 4 days in advance of the planned activity. Because of those objections, the FAA has restudied this situation and has determined that 12-hour notice will be sufficient to handle such requests and that in no case should it be required that such requests be in writing. Therefore, the proposed amendment set forth below reflects this change.

Because of various delays, it has been decided to adjust the proposed amendment effective date to January 1, 1974, for designated terminal airspace, and July 1, 1975, for en route airspace.

Finally, Notice 69–9 proposed a requirement for 4096 Code capability in § 91.97, "Positive Control Areas and Route Segments." Since the time when Notice 69–9 was published, it has been decided that § 91.97 should be left intact until the improved transponder requirement becomes effective, since transponders having at least a 64 Code capability will continue to be required in positive control airspace and in certain other airspace designated in the appropriate Federal Aviation Regulations.

Section 91.90, "Flight in Terminal Control Areas; Operating Rules and Pilot and Equipment Requirements," will be changed when the new rule for improved transponders in terminal control areas becomes effective.

For the reasons stated above, as well as those stated in Notice 69–9, it is proposed to amend Parts 71 and 91 of the Federal Aviation Regulations as follows:

1. Part 71 would be amended as follows:

a. A new paragraph (e) would be added to § 71.1 to read as follows:

§ 71.1 Applicability.

* * * * *

(e) The airspace assignments described in Subpart L of this part are designated as Terminal Areas.

b. A new § 71.20 following § 71.19 would be added to read as follows:

§ 71.20 Terminal areas.

The terminals listed in Subpart L of this part consist of airspace within which aircraft are subject to operating rules, and equipment requirements specified in Part 91 of this Chapter. Each such location is designated as a terminal area.

c. A new Subpart L would be added to Part 71 as follows:

Subpart L—Terminal Areas

§ 71.501 Designation.

The locations listed below are designated as terminal areas.

Albany.	Omaha.
Albuquerque.	Orlando.
Baltimore.	Portland, Oreg.
Birmingham.	Phoenix.
Buffalo.	Providence.
Burbank.	Raleigh-Durham.
Charlotte.	Ontario, Calif.
Cincinnati.	Rochester, N.Y.
Columbus, Ohio.	Sacramento.
Dayton.	Salt Lake City.
Des Moines.	San Antonio.
El Paso.	San Diego.
Hartford.	San Juan.
Honolulu.	Santa Ana/Long Beach.
Indianapolis.	Shreveport.
Jacksonville.	Syracuse.
Louisville.	Tampa.
Memphis.	Tucson.
Milwaukee.	Tulsa.
Nashville.	Washington-Dulles.
Norfolk.	
Oklahoma City.	

2. Part 91 would be amended as follows:

a. Paragraph (a) (3) (i) and (iii), and paragraph (b) of § 91.90 would be amended, effective January 1, 1974, to read as follows:

§ 91.90 Flight in terminal control areas and designated terminal areas; operating rules and pilot and equipment requirements.

(a) *Group I terminal control areas—*

* * * * *

(3) *Equipment requirements.* * * *

(i) An operable VOR or TACAN receiver.

* * * * *

(iii) An operable radar beacon transponder having a Mode 3/A 4096 Code capability that is capable of replying to Mode 3/A interrogations on the code specified by ATC, and a Mode C capability that automatically replies to Mode C interrogations by transmitting pressure altitude information in 100-foot increments.

(b) *Group II terminal control areas.* No person may operate an aircraft within

a Group II terminal control area designated in Part 71 of this chapter except in compliance with the following rules:

(1) Unless otherwise authorized by ATC, each person operating a large turbine engine powered airplane to or from a primary airport shall operate at or above the designated floors while within the lateral limits of the terminal control area.

(2) Unless authorized by ATC in the case of a transponder failure occurring at any time, no person may operate an aircraft within a Group II terminal control area unless that aircraft is equipped with an operable radar beacon transponder having a Mode 3/A 4096 Code capability that is capable of replying to Mode 3/A interrogations on the code specified by ATC, and a Mode C capability that automatically replies to Mode C interrogations by transmitting pressure information in 100-foot increments.

b. A new § 91.96 is added to read as follows:

§ 91.96 Improved radar beacon transponder.

(a) Except as provided in paragraph (b) of this section, and except for those flights being provided separation service in the terminal areas designated in Subpart L of Part 71 of this chapter, no person may operate an aircraft for which an operable radar beacon transponder is required by this chapter unless the transponder is an improved radar beacon transponder having a Mode 3/A 4096 Code capability that is capable of replying to Mode 3/A interrogations on the code specified by ATC, and a Mode C capability that automatically replies to Mode C interrogations by transmitting pressure altitude information in 100-foot increments—

(1) After January 1, 1974, in those terminal areas and terminal control areas so designated in Subparts K and L of Part 71 of this chapter.

(2) After July 1, 1975, in positive control areas on positive control route segments, or in the controlled airspace of the 48 continguous States, and the District of Columbia which is both at or above 12,500 feet MSL and at or above 1,500 feet above ground level.

(b) ATC may authorize immediate deviations from the requirements of paragraph (a) of this section to allow an aircraft with an inoperative transponder to continue to the airport of ultimate destination, including any intermediate stops, or to proceed to a place where suitable repairs can be made, or both. ATC may also authorize a deviation from the requirements of paragraph (a) of this section for an operation other than one involving an inoperative transponder, however, the request for a deviation must be submitted to the ATC facility having jurisdiction over the airspace concerned at least 12 hours before the proposed operation. The deviation may be issued on a continuing basis or for individual flights as appropriate.

These amendments are proposed under the authority of sections 307 and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1340 and 1354), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on April 11, 1972.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[FR Doc.72-5792 Filed 4-14-72;8:50 am]

[14 CFR Part 135]

[Docket No. 11860; Notice 72-11]

FLOTATION GEAR

Proposed Requirements for Land Aircraft Operated Over Water

The Federal Aviation Administration is considering amending Part 135 of the Federal Aviation Regulations to permit the use of land helicopters to carry passengers over water when equipped with helicopter flotation devices.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before June 14, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the rules Docket, for examination by interested persons.

A number of land helicopters are unable to meet the performance requirements of § 135.147 and, therefore, cannot be used to carry passengers over water in Part 135 operations. On the other hand, Part 127 of the Federal Aviation Regulations, which governs air carriers engaged in scheduled interstate air transportation using helicopters, permits the operation of a single-engine helicopter over water beyond autorotative gliding distance from land if, among other things, it is equipped with helicopter flotation devices. In addition, since May 1971 the FAA has exempted certain Part 135 certificate holders engaged in off-shore oil activities and law enforcement activities from compliance with § 135.147 to permit them to operate over water with helicopters equipped with suitable flotation devices. On the basis of this operating experience, the FAA believes it is appropriate to propose an amendment to § 135.147 to permit a land helicopter carrying passengers to be operated over water when it is equipped with helicopter flotation devices, notwithstanding it cannot meet the performance requirements presently prescribed in that section.

In consideration of the foregoing, it is proposed to amend § 135.147 of the Federal Aviation Regulations to read as follows:

§ 135.147 Performance requirements: Land aircraft operated over water.

No person may operate a land aircraft carrying passengers over water unless—

(a) It is operated at an altitude that allows it to reach land in the case of engine failure;

(b) It is necessary for takeoff or landing;

(c) It is a multiengine aircraft operated at a weight that will allow it to climb, with the critical engine inoperative, at least 50 feet a minute, at an altitude of 1,000 feet above the surface; or

(d) It is a helicopter equipped with helicopter flotation devices.

This amendment is proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on April 10, 1972.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.72-5708 Filed 4-14-72;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 1-18; Notice 7]

FAN CONTROL, LOCATION, IDENTIFICATION, AND ILLUMINATION

Proposed Clarification of Standard

This notice proposes the adoption of wording for the identificaion of the fan control in Motor Vehicle Safety Standard No. 101a, 49 CFR 571.101a.

It has come to the agency's attention that there is some confusion as to whether the fan control is considered part of the heating and air conditioning system. Since the fan is an adjunct to such system and serves to supplement its effectiveness, the NHTSA considers it part of the system. In terms of the current requirements of Standard No. 101a, this means that the control must be identified by words chosen by the manufacturer, such as "Fan" or "Blower," and that no symbol may be used. Many manufacturers, however, have used a fan symbol and NHTSA has tentatively determined that a symbol should be permitted. Accordingly, NHTSA is proposing to adopt the identifying word "FAN," with the use of a symbol, and the choice of symbol, at the option of the manufacturer.

In consideration of the foregoing, it is proposed that 49 CFR 571.101a be amended by adding the following entries to Table I, Control Identification and Illumination:

Column 1	Column 2	Column 3	Column 4
Motor vehicle equipment controls.	Word or abbreviation.	Permissible symbol.	Illumination.
* * *	* * *	* * *	* * *
Fan control...	FAN.....	[Manufacturer's Option.]	Yes.

Interested persons are invited to submit written data, views, or arguments on this proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on May 15, 1972, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: September 1, 1973.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegation of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on April 10, 1972.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-5740 Filed 4-14-72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 13, 74]

[Docket No. 19488; FCC 72-332]

CERTAIN RADIO-TELEPHONE OPERATOR REQUIREMENTS

Experimental, Auxiliary, and Special Broadcast, and Other Program Distributional Services

In the matter of amendment of Part 74 (experimental, auxiliary, and special broadcast, and other program distributional services) as to certain operator requirements, Docket No. 19488.

1. The Commission here gives notice of proposed rule making to consider amending Part 74 (experimental, auxiliary, and special broadcast, and other program distribution services) as concerns certain radio-telephone operator requirements. This notice is promulgated under the authority of section 553 (b) of the Administrative Procedure Act (5 U.S.C. 553(b)).

2. Specifically, the Commission here proposes possible deletion from Part 74 of the requirements for licensed operators whenever a restricted radiotelephone operator is allowed to perform the function (see §§ 13.2(c)(1)(i), 13.22(h), and 13.61(h) of the Commission's rules and regulations). The Commission here considers these changes because restricted radiotelephone operators (referred to hereafter at times as "RP's") perform duties and functions not unlike those performed in other services where there are no requirements for a licensed operator and the deletion of licensed operator requirements would not be a detriment to broadcasting. These operator requirements were included in our rules as a matter of discretion rather than statutory mandate. In this respect, section 318 of the Communications Act of 1934 as amended, provides:

> The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: *Provided, however,* That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except * * * (3) stations engaged in broadcasting (other than those engaged solely in the function of rebroadcasting the signals of television broadcast stations) * * *.[1]

3. Since the present restricted radiotelephone operator requirements attach only to broadcast-related services which do not operate within frequency bands allocated to radio and television broadcasting and do not disseminate radio communications intended to be received by the general public, they do not relate to "stations engaged in broadcasting" and their elimination as herein proposed would not contravene the provisions of section 318. The proposed changes are set forth in the attached appendix.

4. Authority for this action is set forth in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

5. Pursuant to applicable procedures set out in § 1.415 of the Commission's Rules, interested persons may file comments on or before May 19, 1972, and reply comments on or before May 30, 1972. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

6. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. These documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, DC.

Adopted: April 5, 1972.

Released: April 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

1. Amend subparagraph (3) of § 13.61 (h) to read as follows:

§ 13.61 Operating authority.

* * * * *

(h) * * *

(3) Any of the various classes of broadcast stations other than FM translator and booster stations, or

* * * * *

2. Amend paragraph (h) of § 74.437. As amended, § 74.437 reads as follows:

§ 74.437 Special rules relating to low power broadcast auxiliary stations.

* * * * *

(h) A low power broadcast auxiliary transmitting station may be operated only by a person designated by and under the control of the licensee and need not be a licensed operator under Part 13 of this chapter (Commercial Radio Operators). Any adjustments or repairs that could affect the proper operation of transmitting units shall be made by or under the immediate supervision of an operator holding a valid first or second class radiotelephone license.

* * * * *

3. Delete paragraph (b) of § 74.464 and paragraph designator "(a)", and redesignate paragraph (a) (1), (2), and (3) as paragraphs (a), (b), and (c). As amended § 74.464 reads as follows:

§ 74.464 Posting of station licenses.

The station license and any other instrument of authorization or individual order concerning the construction of the equipment or manner of operation of the station shall be posted so that all terms thereof are visible in a conspicuous place in the room in which the transmitter is located: *Provided:*

* * * * *

NOTE: The term portable-mobile as here used is intended to include any type of portable or mobile operation.

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[1] The parenthetical portion of clause (3) exempting "television rebroadcasting" was added in 1960; see Public Law 86-609, approved July 7, 1960, 74 Stat. 363.

Prior to Public Law 26, 75th Cong., effective March 29, 1937, 50 Stat. 56, section 318 read as follows:

> The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder. No person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission.

[2] Commissioner Robert E. Lee absent.

4. Amend paragraph (a) of § 74.465, and delete paragraph (e). As amended, § 74.465 reads as follows:

§ 74.465 **Operator requirements.**

(a) A remote pickup broadcast station may be operated only by a person designated by and under control of the licensee and need not be a licensed operator under Part 13 of this chapter (Commercial Radio Operator).

* * * * *

(e) [Deleted]

(Sec. 318, 48 Stat. 1089, as amended by Public Law 86-609, 74 Stat. 363; 47 U.S.C. 318)

5. Amend subparagraph (1) of paragraph (a) and subparagraph (4) of subparagraph (b) of § 74.533. As amended, § 74.533 reads as follows:

§ 74.533 **Remote control and unattended operation.**

(a) * * *

(1) The operating position shall be under the control and supervision of the licensee;

* * * * *

(b) * * *

(4) Whenever an intermediate relay station is in operation, appropriate observations shall be made at the receiving end of the STL or intercity relay circuits at intervals not exceeding 1 hour only by a person designated by and under control of the licensee and need not be a licensed operator under Part 13 (Commercial Radio Operators) of our rules.

* * * * *

(Sec. 318, 48 Stat. 1089, as amended by Public Law 86-609, 74 Stat. 363; 47 U.S.C. 318)

6. Delete paragraph (b) of § 74.564 and paragraph-designator "(a)". As amended § 74.564 reads as follows:

§ 74.564 **Posting of station licenses.**

The station license and any other instrument of authorization or individual order concerning the construction of the equipment or manner of operation of the station shall be posted so that all terms thereof are visible, in a conspicuous place in the room in which the transmitter is located: *Provided*, That if the transmitter operator is located at a distance from the transmitter pursuant to § 74.533 the station license shall be posted in the above-described manner at the operating position.

7. Amend § 74.565 to read as follows:

§ 74.565 **Operator requirements.**

An aural broadcast STL and intercity relay may be operated only by a person designated by and under the control of the licensee and need not be a licensed operator under Part 13 (Commercial Radio Operators) of our rules.

8. Amend § 74.734 to read as follows:

§ 74.734 **Unattended operation.**

(a) A television broadcast translator station may be operated without a licensed radio operator in attendance if the following requirements are met:

* * * * *

(c) Unless the applicant specifically requests unattended operation and makes the showing required by paragraph (b) of this section, a person meeting the requirements of § 74.766 shall be on duty at the transmitter site whenever the station is operated.

9. Amend § 74.766 to read as follows:

§ 74.766 **Operator requirements.**

(a) A television broadcast translator station may be operated only by a person designated by and under the control of the licensee and need not be a licensed operator under Part 13 (Commercial Radio Operators) of our rules.

* * * * *

(Sec. 318, 48 Stat. 1089, as amended by Public Law 86-609, 74 Stat. 363; 47 U.S.C. 318)

10. Amend the authority citation to § 74.866 to read as follows:

§ 74.866 **Operator requirements.**

* * * * *

(Sec. 318, 48 Stat. 1089, as amended by Public Law 86-609, 74 Stat. 363; 47 U.S.C. 318)

[FR Doc.72-5784 Filed 4-14-72;8:52 am]

[47 CFR Part 25]

[Docket No. 16495; FCC 72-314]

ESTABLISHMENT OF DOMESTIC COMMUNICATIONS-SATELLITE FACILITIES BY NONGOVERNMENTAL ENTITIES

Order Regarding Oral Argument

In the matter of establishment of domestic communications-satellite facilities by nongovernmental entities, Docket No. 16495.

Upon consideration of the notices of intent to participate in oral argument, submitted in response to the memorandum opinion and order released on March 17, 1972, in this proceeding (FCC 72-229; 37 F.R. 5066, March 22, 1972, *It is hereby ordered*, That:

1. The Department of Defense and Columbia University (Network Project) are granted leave to participate in the oral argument.

2. Parties participating in the oral argument and filing written comments shall submit brief, separate summaries of such written comments on or before April 19, 1972, for the convenience of the Commission.

3. The Commission will hear oral argument by the following parties, in the order and for the amount of time specified below, in the Commission meeting room at Washington, D.C., commencing at 9 a.m. on May 1-2, 1972. If desired, participation need not be limited to counsel.

May 1, 1972

Morning:	
Opening statement by the Chairman.	10 min.
The Western Union Telegraph Co.	30 min.
Hughes Aircraft Co	30 min.
The GTE Companies	30 min.
The RCA applicants	30 min.
Department of Justice	30 min.
Total	2 hr. 40 min.
Afternoon:	
Phoenix Satellite Corp. and the Network Affiliates Associations.	15 min.
TelePrompTer et al	20 min.
The Network Companies	20 min.
National Cable Television Association.	20 min.
Corporation for Public Broadcasting and Public Broadcasting Service.	30 min.
Joint Council on Educational Telecommunications.	15 min.
National Association of Educational Broadcasters.	15 min.
Total	2 hr. 15 min.

May 2, 1972

Morning:	
Communications Satellite Corp.	30 min.
American Telephone & Telegraph Co.	30 min.
Western TeleCommunications, Inc.	30 min.
MCI Lockheed Satellite Corp.	30 min.
Fairchild Industries, Inc	30 min.
Office of Telecommunications Policy.	30 min.
Total	3 hr.
Afternoon:	
State of Alaska	25 min.
State of Hawaii	15 min.
Commonwealth of Puerto Rico.	15 min.
Department of Defense	15 min.
United States Independent Telephone Association.	15 min.
Western Union International.	15 min.
General Electric Co	15 min.
American Newspaper Publishers Association.	5 min.
Columbia University (Network Project).	10 min.
Total	2 hr. 10 min.

Adopted: April 5, 1972.

Released: April 12, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-5781 Filed 4-14-72;8:52 am]

[47 CFR Part 73]

[Docket No. 18179; FCC 72-306]

TELEVISION PROGRAMS SUPPLIED BY NON-NETWORK SUPPLIERS

Availability to Commercial Television Systems and CATV Systems

In the matter of amendment of Part 73 of the Commission's rules with respect

[1] Commissioner Robert E. Lee absent.

to the availability of television programs produced by nonnetwork suppliers to commercial television stations and CATV systems, Docket No. 18179.

1. This notice substitutes for the further notice issued on January 18, 1971 (36 F.R. 935, January 20, 1971) and is designed to delineate anew the issues upon which the Commission seeks comment.

2. A number of the matters discussed in the further notice (71–42, paragraphs 4–7), constituted, in effect, an alternative way of promoting cable television's entry into the major markets in a fair and orderly manner. The Cable Television Report and Order issued February 3, 1972, 37 F.R. 3252, February 12, 1972, represents our resolution of that most important policy issue. Therefore, until we have obtained experience from the operation of the policies embodied in the Cable Television Report, we do not believe it appropriate to explore further the approaches set forth in the further notice (paragraphs 4–7).

3. It is, however, still important to continue our study of the "undue length" and "warehousing" issues set forth in paragraphs 2–3 of the further notice. Clearly, in view of possible impact on development of UHF independent programing and to assure fairness in the cable area (because television licensees in the top 50 markets listed in § 76.51(a) are afforded "run-of-the-contract" exclusivity), we should explore fully (i) whether the outerlimits of "time" exclusivity now found in the industry are reasonably called for or are unduly extended; and (ii) whether material is being "warehoused", that is, acquired not to be broadcast in any normal fashion but rather simply to preclude a competitor from gaining access to it. These, then, are the issues upon which we desire comment. We stress that we are not putting in doubt the issue of exclusivity itself. On the contrary, the Commission recognizes the need to afford a reasonable degree of exclusivity, both from the standpoint of the licensor copyright owner and the licensee (the broadcaster or cable system). See, e.g., First Report and Order, 38 FCC 683, 703–04 (1965); Cable Television Report, supra. The sole purpose of the proceeding is to obtain all necessary data and then make evaluations as to whether some action, minor or major, is called for in the area of the above two issues. We have of course reached no conclusion, even of a tentative nature, on the two issues set forth above.

4. We shall seek to conclude the geographical aspect of the proceeding in the near future, and this "time" aspect speedily after receipt of all the comments. While the two aspects are interrelated, we nevertheless believe that, in light of issuance of the Cable Television Report with its new relationship to "time" exclusivity, it is important to press forward now with that aspect—and not await the issuance of our action on the original "geographical" notice. Accordingly, we call for comments on the two issues raised in this further notice.[1] Since parties have already had a considerable period of time to gather data on these issues, we do not believe that an extended period will be required any longer to collect the necessary data.

5. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules and regulations, interested persons may file comments on or before June 19, 1972, and reply comments on or before July 19, 1972. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, briefs, and other documents shall be furnished the Commission. All relevant and timely comments and reply comments will be considered by the Commission before the final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: April 5, 1972.

Released: April 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–5782 Filed 4–14–72;8:52 am]

[47 CFR Part 73]

[Docket No. 19487; FCC 72–328]

TELEVISION BROADCAST STATIONS

Table of Assignments, Melbourne, Fla.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations (Melbourne, Fla.), Docket No. 19487, RM–1909.

1. Notice of proposed rule making is hereby given concerning amendment of the TV Table of Assignments (§ 73.606(b)) concerning Melbourne, Fla., with respect to the petition filed by Florida Central East Coast Educational Television, Inc. (Florida Central), licensee of Station WMFE–TV, Channel 24, Orlando, Fla., on January 6, 1972 (RM–1909). This notice accords with section 553 of the Administrative Procedure Act (5 U.S.C. 553).

2. Florida Central requested the assignment of Channel 56 in lieu of Channel 31 to Melbourne, Fla., so that the transmitter site proposed in its pending application (BPET–421) for modification of license will not be short-spaced to the presently unused Channel 31 assignment at Melbourne. Station WMFE–TV is now operating at a site approximately 13 miles west of Orlando near Winter Garden. The requested site relocation would be approximately 46 miles from the Melbourne reference point for Channel 31. Commission rules require a minimum mileage separation of 60 miles for the oscillator radiation "taboo" relationship between Channel 24 and Channel 31. Site selection for future use of Channel 31 at Melbourne could be difficult because of this short-spacing if a waiver of this rule were granted.

3. Several channels are available for assignment to Melbourne which could be used as a substitute for Channel 31; petitioner's request for Channel 56 in lieu of Channel 31 at Melbourne would not be an inefficient reassignment. This reallocation could provide for early operation of Station WMFE–TV from its proposed site at the Orlando "antenna farm" with facilities providing better coverage than at its licensed site. The Commission believes that petitioner's request has merit and warrants the institution of a rule making proceeding.

4. In accordance with the provisions of sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules insofar as the community listed, to read as follows:

City	Channel No.	
	Present	Proposed
Melbourne, Fla.	31, 43	43, 56

5. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before May 19, 1972, and reply comments on or before May 30, 1972. All submissions by parties to this proceeding, or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

6. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission. Responses filed in this proceeding will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: April 5, 1972.

Released: April 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc.72–5783 Filed 4–14–72;8:52 am]

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[1] Authority for the adoption of this proposal is contained in sections 4(i), 303, 307, and 309 of the Communications Act of 1934, as amended.

[2] Commissioner Robert E. Lee absent; Commissioners Johnson and Wiley concurring in the result.

[3] Commissioner Robert E. Lee absent.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release No. 34-9571]

NONMEMBER BROKER-DEALERS

Annual Fees for Fiscal 1972

The Commission has announced a proposal to amend Rule 15b9-2 (17 CFR 240.15b9-2) under the Securities Exchange Act of 1934 (the Act) and Form SECO-4 and to set fees for the fiscal year 1972 for registered broker-dealers who are not members of the National Association of Securities Dealers, Inc. (nonmember broker-dealers).

Sections 15(b)(8) and 15(b)(9) under the Act authorize the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to nonmember broker-dealers. Pursuant to the above sections the Commission has adopted Rule 15b9-1 (17 CFR 240.15b9-1) (32 F.R. 7849, May 30, 1967) to establish initial fees and Rule 15b9-2 (33 F.R. 7075, May 11, 1968) to provide for annual assessments. These rules prescribe the fee structure and the actual fees are set in the applicable forms required to be filed. This proposal deals with the amendment of Rule 15b9-2 and of Form SECO-4 under Rule 15b9-2 providing for annual assessments. The forms requiring initial fees (Forms SECO-5 and SECO-2) would not be changed.[1]

Annual fees—Rule 15b9-2. In general, Rule 15b9-2 now provides for an annual assessment payable by nonmember brokers or dealers which is comprised of: (1) A base fee applicable to all such brokers and dealers; (2) a fee for each associated person engaged, directly or indirectly in securities activities for or on behalf of the broker or dealer; and (3) a fee for each office of the broker or dealer which was maintained prior to May 15 during the fiscal year, at any time in which the firm was a nonmember.

Proposed annual fees for fiscal year 1972. Each fiscal year the annual assessment is set forth on Form SECO-4 for that particular year. This year's assessment, to be set forth on Form SECO-4-72, will include a base fee of $150 and a fee of $7.50 for each associated person. These increases have been necessitated by increased costs to the Commission in administering the SECO program. In addition, it is proposed that no maximum amount payable by a firm in annual charges be prescribed this year in order to provide for a more equitable distribution of the assessment burden, to raise possible additional funds and to maintain comparability with the dues structure of the National Association of Securities Dealers, Inc. (NASD) in this area.

Text of proposed amendment to rule. It is proposed that subparagraph (b)(3) of Rule 15b9-2 which provides for a charge for each office of the broker or dealer be deleted. As revised, paragraph (b) of § 240.15b9-2 of Chapter II of Title 17 of the Code of Federal Regulations would read as follows:

§ 240.15b9-2 Annual fees for registered brokers and dealers not members of a registered national securities association.

* * * * *

(b) Fees—On or before June 1 of each year every broker or dealer to whom this section applies shall file Form SECO-4 (17 CFR 249.504 et seq.) provided for the particular fiscal year and pay the total fees prescribed by the form. Such fees shall include: (1) A base fee applicable to all such brokers or dealers and (2) a fee for each associated person engaged, directly or indirectly, in securities activities for or on behalf of the broker or dealer prior to May 15 during the fiscal year, at any time in which the broker or dealer was a nonmember broker or dealer: *Provided, however,* That the fee shall not be paid for any person who confines his securities activities to areas outside the United States, its territories and possessions, and who does not deal with or act for any United States resident or national wherever located.

* * * * *

§ 249.504f Form SECO-4-72; 1972 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed on or before June 1, 1972, pursuant to § 240.15b9-2 of this chapter, accompanied by the annual assessment fee required thereunder, for the fiscal year ended June 30, 1972, by every registered broker and dealer not a member of a registered national securities association.

The Commission proposes to adopt the foregoing amendments to be effective on June 1, 1972. All interested persons may submit their comments to the Commission at its office in Washington, D.C. 20549 no later than April 25, 1972. Copies of the Form SECO-4 as proposed to be amended have been filed with the Office of the Federal Register, and additional copies are available on request from the Commission at the above address.

(Sec. 15(b), 48 Stat. 895, as amended 78 Stat. 565, 15 U.S.C. 78o)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

APRIL 11, 1972.

[FR Doc.72-5831 Filed 4-14-72;8:52 am]

[1] The initial fees now in effect which would remain unchanged are as follows: $150 fee required to accompany Form SECO-5 which is filed on behalf of the broker-dealer; $35 fee required by Form SECO-2 which is filed for each associated person of the broker-dealer.

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

RECORD CHANGERS FROM THE UNITED KINGDOM

Antidumping Proceeding Notice

On March 17, 1972, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that record changers from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for exportation to countries other than the United States.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

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

Approved: April 13, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-5884 Filed 4-14-72;9:33 am]

DEPARTMENT OF THE INTERIOR

National Park Service

[Order 74]

DEPUTY DIRECTOR, NATIONAL PARK SERVICE

Delegation of Authority Concerning Duties of the Executive Director of the Advisory Council on Historic Preservation

SECTION 1. *Delegation.* The authority of the Director, National Park Service to serve as the Executive Director of the Advisory Council on Historic Preservation is hereby redelegated to the Deputy Director, National Park Service.

SEC. 2. *Redelegation.* The authority delegated in section 1 of this order may not be redelegated.

(80 Stat. 919; 16 U.S.C. 470m)

Dated: April 6, 1972.

GEORGE B. HARTZOG, Jr.,
Director,
National Park Service.

[FR Doc.72-5715 Filed 4-14-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

MAJOR LEWIS LIVESTOCK AUCTION SALES ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AR-146, Major Lewis Livestock Auction Sales, Conway, Ark.
IA-242, Central Iowa Stock Yards, Webster City, Iowa.
MO-222, Cassville Livestock Market, Inc., Cassville, Mo.
NY-152, John Tyrrell & Sons, Bullville, N.Y.
OK-188, Poor Boy Cattle Company, Wister, Okla.
TX-294, Jones Dairy Auction, Sulphur Springs, Tex.
VT-109, Central Vermont Commission Sales, Inc., East Montpelier, Vt.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 11th day of April 1972.

EDWARD L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.72-5768 Filed 4-14-72;8:51 am]

PRESCOTT'S PONY AND HORSE SALE ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility number, name, location of stockyard, and date of posting

ID-122, Prescott's Pony and Horse Sale, Twin Falls, Idaho, Mar. 16, 1962.
IN-132, Ridgeville Livestock, Inc., Ridgeville, Ind., Sept. 10, 1963.
KY-136, Middlesboro Livestock Auction Co., Middlesboro, Ky., Dec. 8, 1959.
MI-103, Big Rapids Livestock Sales, Big Rapids, Mich., May 4, 1959.
MI-106, Carson City Stockyards, Carson City, Mich., Apr. 22, 1959.
SC-103, S and T Stockyard, Bennettsville, S.C., Feb. 20, 1960.
SC-115, Nichols Auction Market, Nichols, S.C., Oct. 19, 1960.
TX-230, Morton Livestock Auction Co., Morton, Tex., Sept. 4, 1970.
VT-103, Campbell's Commission Sales, Inc., Newport, Vt., June 28, 1966.
VA-112, Front Royal Livestock Market, Inc., Front Royal, Va., Mar. 2, 1959.
WA-124, Columbia Auction Market, Vancouver, Wash., Sept. 28, 1959.
WY-104, Laramie Livestock Exchange, Inc., Laramie, Wyo., Nov. 7, 1965.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 11th day of April 1972.

EDWARD L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.72-5769 Filed 4-14-72;8:51 am]

VALLEY STOCKYARDS, INC., ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility number, name, location of stockyard, and date of posting

CALIFORNIA

CA-166, Valley Stockyards, Inc., El Centro, Mar. 24, 1972.

IOWA

IA-241, Council Bluffs Livestock Exchange, Inc., Council Bluffs, Feb. 17, 1972.

MASSACHUSETTS

MA-104, Crowley's Commission Sales, Inc., Agawam, Mar. 14, 1972.

MISSISSIPPI

MS-148, Harrell Stockyard, Inc., Morton, Mar. 2, 1972.

MISSOURI

MO-221, Miller Livestock Auction Co., Miller, Mar. 9, 1972.

TEXAS

TX-293, Lockhart Auction, Incorporated, Lockhart, Feb. 1, 1972.
TX-289, Cattlemen's Livestock Auction, Palestine, Mar. 22, 1972.

Done at Washington, D.C., this 11th day of April 1972.

EDWARD L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.72-5770 Filed 4-14-72;8:51 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-578]

LESTER P. BRAY

Notice of Loan Application

APRIL 10, 1972.

Lester P. Bray, 107 Chenault Avenue, Hoquiam, WA 98550, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used fiber glass vessel, about 40-foot in length, to engage in the fishery for salmon, bottomfish, tuna, and Dungeness crab off the coasts of Washington, Oregon, and California.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-5707 Filed 4-14-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9760]

CERTAIN ANTILIPEMIC DRUGS: NIACIN AND SITOSTEROLS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following antilipemic drugs:

1. Nicotinic Acid Tablets containing 500 mg. niacin; formerly marketed by Walker Laboratories, Division Richardson-Merrell, Inc., 110 East Amity Road, Cincinnati, Ohio 45215 (NDA 11-313).

2. Efacin Tablets containing 500 mg. niacin; marketed by Person & Covey, Inc., 236 South Verdugo Road, Glendale, Calif. 91205 (NDA 11-578).

3. Cytellin Suspension containing 3 grams sitosterols per 15 cubic centimeters; marketed by Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 9-760).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required for any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new-drug applications and supplements to previously approved new-drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. Niacin given at a dosage rate of 1 to 2 grams a day and sitosterols are effective for the reduction of elevated levels of blood cholesterol and beta lipoproteins (blood lipids).

2. Niacin and sitosterols are possibly effective for their labeled indications which tend to associate a reduction of cholesterol levels with a consequent lessening of arteriosclerotic complications.

3. Sitosterols suspension is possibly effective for its other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* Niacin preparations are in tablet form and sitosterols preparations are in suspension form, suitable for oral administration. Niacin tablets contain an amount of drug appropriate for administration in the dosage known to be effective.

2. *Labeling conditions.* a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug (see effectiveness classification) and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

For the reduction of elevated levels of blood cholesterol and beta lipoproteins (blood lipids).

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is, or is intended to be marketed, as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above); continued use as described in paragraphs (d), (e), and (f) of that notice.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 9760, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD–67), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 11, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–5749 Filed 4–14–72;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–72–166]

ACTING ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Designation

SECTION A. *Designation.* The officials appointed to, or designated to serve as Acting during a vacancy in, the following positions are hereby designated to serve as Acting Assistant Secretary for Housing Management during the absence of the Assistant Secretary for Housing Management with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Housing Management: *Provided,* That no official is authorized to serve as Acting Assistant Secretary for Housing Management unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

1. Deputy Assistant Secretary for Housing Management.

2. Executive Assistant to the Assistant Secretary for Housing Management.

3. Director, Office of Housing Programs.

4. Director, Office of Property Disposition.

SEC. B. *Authorization.* Each head of an organizational unit of Housing Management is authorized to designate an employee under his jurisdiction to serve as Acting during the absence of the head of the unit.

SEC. C. *Supersedure.* This designation supersedes the designation of Acting Assistant Secretary for Housing Management published at 36 F.R. 10897, June 4, 1971.

(Secretary's delegation of authority to designate Acting officials, 36 F.R. 5004, March 16, 1971)

Effective date. This delegation of authority is effective as of March 17, 1972.

NORMAN V. WATSON,
Assistant Secretary for housing Management.

[FR Doc.72–5742 Filed 4–14–72;8:47 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–407]

INSTITUTIONAL COUNCIL OF THE UNIVERSITY OF UTAH

Notice of Receipt of Application

The Institutional Council of the University of Utah has filed an application for licenses to construct and operate a TRIGA Mark I reactor facility located on the campus of the University of Utah, Salt Lake City, Utah. The proposed reactor would be operated at steady state power levels up to 100 kilowatts (thermal).

A copy of the application is available for public inspection in the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Bethesda, Md., this 30th day of March 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[FR Doc.72–5728 Filed 4–14–72;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24400; Order 72–4–45]

AIRLIFT INTERNATIONAL, INC.

Order of Investigation and Suspension Regarding "Daylight" Container Rates on Various Textile Articles From San Juan to Miami

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of April 1972.

By tariff revisions[1] filed March 13, and marked to become effective April 12, 1972, Airlift International, Inc. (Airlift) proposes to add "daylight" Type A container rates and charges on wearing apparel and partly manufactured clothing from San Juan to Miami. The proposed rates would be subject to time of tender provisions, from 8 a.m. to 6 p.m., to space-available restrictions, and to a minimum weight of 20,000 pounds. Under the proposal, containers weighing up to 3,400 pounds[2] would be charged $170 and a rate of $5 per hundred pounds would be charged for weight in excess of 3,400 pounds. The proposed rates would effect a reduction of 29 percent below the currently applicable bulk specific rate for the same commodities. The proposal is marked to expire with December 31, 1972.

A complaint requesting suspension and investigation has been filed by Eastern Air Lines, Inc. (Eastern). The complaint maintains, inter alia, that the proposed rates are not compensatory; that losses experienced by both Airlift and Eastern in the market would be increased; that all of Eastern's traffic of commodities covered by the proposal, which provides 20 percent of its revenues in the San Juan-Miami market, might be diverted by the proposal; and that Airlift's comparison of its proposed rates with bulk rates on yarn, thread, and fibers is invalid since these commodities are of much smaller value and thus more price sensitive in accordance with the value of service principle.

In answer to the complaint and in support of its proposal, Airlift asserts, inter alia, that the proposed rates would divert significant amounts of traffic presently moving by ocean vessel; that the present imbalance of movements in the market results in low utilization of northbound capacity, which the proposal would help to correct; and that the proposed rates would not divert much traffic currently moving by air because of the restricting conditions, such as the high minimum weight, daylight time of tender, and the space-available requirements to which the rates would be subject.

The Board, in its decision in Docket No. 22340, Container Rates for B–747 Aircraft Proposed by Continental Air Lines, Inc., Order 71–7–156, found that discounts for multicontainer shipments for 10 or more containers proposed by Continental Air Lines, Inc., were unjustly discriminatory because they were not justified by cost of service, value of service, or promotional considerations. Airlift's proposal, for shipments with a minimum weight of 20,000 pounds, necessarily involves the consignment of at least two containers, since the maximum weight per container is 10,000 pounds. Airlift, however, does not attempt to justify the proposal on the grounds indicated above.

Consistent with the above decision, and upon consideration of all other relevant matters, the Board finds that Airlift's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or

[1] Revisions to Tariff CAB No. 4 issued by Airlift International, Inc.

[2] For the contents.

otherwise unlawful, and should be investigated. We further conclude that the rates should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof.

It is ordered, That:

1. An investigation is instituted to determine whether the rates, charges, and provisions on first revised page 25 of Airlift International Inc.'s, Tariff CAB No. 4, and rules, regulations, and practices affecting such rates, charges, and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges, and provisions, and rules, regulations, or practices affecting such rates, charges, and provisions;

2. Pending hearing and decision by the Board, the rates, charges, and provisions on first revised page 25 of Airlift International Inc.'s, Tariff CAB No. 4 are suspended and their use deferred to and including July 10, 1972, 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;

3. Except as to the extent granted herein; the complaint of Eastern Air Lines, Inc., in Docket No. 24336, is dismissed;

4. The proceeding herein designated Docket No. 24400, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be filed with the tariff and served upon Airlift International, Inc., and Eastern Air Lines, Inc., which are hereby made parties to Docket No. 24400.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-5772 Filed 4-14-72;8:49 am]

[Docket No. 23073]

REA AIR FREIGHT FORWARDING, CONTROL, AND INTERLOCKING RELATIONSHIPS INVESTIGATION

Notice of Reassignment of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that public hearing in the above-entitled proceeding previously assigned to be held on March 20, 1972 (37 F.R. 3470, February 16, 1972), is reassigned to be held on May 8, 1972, at 10 a.m., local time, in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned.

Dated at Washington, D.C., April 11, 1972.

[SEAL] ROSS I. NEWMANN,
Hearing Examiner.

[FR Doc.72-5774 Filed 4-14-72;8:49 am]

[Docket No. 24112]

BRANIFF AIRWAYS, INC.

Notice of Hearing Regarding U.S. Mainland-Hawaii First-Class Excursion Fares

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding will be held on April 27, 1972, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the prehearing conference report and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 12, 1972.

[SEAL] RICHARD M. HARTSOCK,
Hearing Examiner.

[FR Doc.72-5773 Filed 4-14-72;8:49 am]

[Dockets Nos. 24401, 24225; Order 72-4-46]

WESTERN AIR LINES, INC., AND NORTHWEST AIRLINES, INC.

Order of Investigation and Suspension Regarding Round-Trip Group Inclusive Tour Basing Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of April 1972.

By tariff revisions [1] marked to become effective April 13, 1972, Western Air Lines, Inc. (Western), proposes to establish round-trip group inclusive tour basing fares of $179 per person for groups of 40 or more applicable mid-week between its California gateway points and Hawaii. The fares are applicable on flights scheduled to depart on Monday through Thursday only, and require that $20 minimum be spent for ground services. Passengers must stay a minimum of 2 days; must travel to Hawaii with the group but may return individually; and reservations are required 14 days in advance of the date of departure. The fares are marked to expire September 30, 1972.[2]

Western states that the purpose of the filing is to alleviate the extreme peaking of demand it experiences for accommodations on Saturday which is created by the existing GIT group-of-40 fares which are available at all times. The total cost of Western's proposed GIT fare would be $199 (tour add-on included) versus $229 under the existing GIT fares.[3]

Continental Air Lines, Inc. (Continental), and Northwest Airlines, Inc. (Northwest), have filed complaints against Western's instant off-peak GIT fare proposal requesting its suspension and investigation.[4] The complainants allege that the proposed fares would be very diversionary and would appeal to the type of traveler who would make the trip in any event at higher regular fares. The complainants further contend that, whatever the merits of Western's argument concerning Saturday traffic peaking it would appear that the same may not be true of other carriers in the market. In answer Western states that there is no reason why a peak/off-peak concept should not be employed with respect to GIT fares in order to equalize loads throughout the week, and that it is the first to feel the weekend capacity squeeze since it does not have the lift capacity of the larger carriers.

Upon consideration of the tariff proposal, the complaints and answer thereto, and all other relevant matters the Board finds that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

In our opinion, the minimal restrictions on the use of the proposed fares are not adequate to prevent significant diversion of regular fare passengers, particularly since the total cost of the proposed GIT travel (land arrangements included) will undercut the existing mid-week economy fare by $17 [5] and could well result in throwaway packages. We believe it is important to maintain restrictions on the use of special fares which assure to the maximum extent possible that they will serve their intended purpose of generating new traffic, rather than diverting traffic already moving.

Western has also filed a complaint against the existing GIT group-of-40 fares published by Northwest and requests their investigation. Northwest has answered Western's complaint asserting, inter alia, that the fares in question conform to the Board's decision in the Group Inclusive Tour Basing Fares to Hawaii case, Docket 20580, and that nothing has happened since that decision which necessitates a reinvestigation of these GIT fares.

Western has consistently taken the position that a marketing tool such as GIT fares has no place in the dense and tourist-oriented West Coast-Hawaii market, where it asserts the net effect is more likely to be diversionary than generative. In addition, it alleges that existing GIT fares have severely disrupted the delicate balance of traffic distribution between weekdays and weekends achieved previously by the offering of off-peak fares.

The level of existing GIT group-of-40 fares is consistent with the fare per mile

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[1] Revisions to Airline Tariff Publishers, Inc., agent, Tariffs CAB Nos. 136 and 142.

[2] Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (Trans World), and United Air Lines, Inc. (United), have filed to match Western.

[3] Existing GIT group-of-40 fares require: A tour add-on of at least $50; minimum stay of at least 7 days; group travel together to and from Hawaii; and advance reservations at least 30 days prior to departure.

[4] Pan American filed an answer in support of the complaints.

[5] The proposed GIT fares are applicable in economy (second class) services.

prescribed by the Board in the Group Inclusive Touring Basing Fares to Hawaii case, Docket 20580. While Western's complaint rests largely upon contentions of diversion of higher rated traffic and the adverse economic consequences of applying these fares during periods of peak traffic demand, the carrier has not furnished enough factual data for the Board to reach a conclusion that these fares may be unreasonable. Moreover, Western has made no showing that the high level of GIT traffic carried on weekends has adversely affected its profits. On the contrary, the weekend flights may well be profitable because of high load factors. In these circumstances, and since the fares expire on September 30, 1972, and December 10, 1972, we are unable to conclude that sufficient cause has been shown at this time to investigate these fares.

However, we are requesting all carriers offering the fares to file with the Board's Bureau of Economics total revenue passenger miles, revenue passenger miles related to the GIT fares for groups of 40 or more, and available seat miles, by day of the week and by direction on a monthly basis in each of the following markets where nonstop service and GIT 40 fares are provided—Los Angeles, Portland, San Francisco, and Seattle to and from Honolulu/Hilo. Such data shall be filed not later than 30 days after each month for the months of December 1971 through December 1972.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A hereto,[6] and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto are suspended and their use deferred to and including July 11, 1972, 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;

3. The complaint of Western Air Lines, Inc., in Docket 24225 is hereby dismissed;

4. Except to the extent granted herein, the complaints in Dockets 24348 and 24349 are hereby dismissed;

5. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

6. Copies of this order be filed in the aforesaid tariffs and be served upon Continental Air Lines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,[7]
Secretary.

[FR Doc.72-5775 Filed 4-14-72;8:49 am]

[6] Filed as part of the original document.

[7] Concurring statement of Minetti, Member filed as part of the original document.

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality, April 3–April 7, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388–7803.

ANIMAL AND PLANT HEALTH SERVICE

Final, March 27

1972 Gypsy Moth Suppression and Regulatory Program. Proposed USDA cooperation with State agencies in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and Wisconsin to suppress and/or regulate the gypsy moth. Approximately 200,000 acres would be sprayed with carbaryl. Certain beneficial nontarget insects and arthropods will be reduced in number; the possibility exists for runoff into area water supplies. Comments made by DOC, HEW, DOI, State agencies, and concerned citizens. (ELR Order No. 4079, 255 pages) (NTIS Order No. PB–205 589–F)

FARMERS HOME ADMINISTRATION

Final, March 24

O'Brien and Sioux Counties, Iowa. Proposed issuance of a $1,900,000 loan to Rural Water System No. 1 in order to develop water resources to serve over 500 rural families in a 170 square-mile area. Comments made by USDA, EPA, HEW, DOI, and concerned citizens. (ELR Order No. 4081, 60 pages) (NTIS Order No. PB–202 790–F)

FOREST SERVICE

Draft, March 30

Chairlift No. 2, Mount Ashland, Oreg. Proposed construction of a second chairlift at an existing winter sports complex. The lift will increase the chances of polluting the Ashland Municipal Watershed. (ELR Order No. 4075, 16 pages) (NTIS Order No. PB–207 770–D)

DEPARTMENT OF DEFENSE

DEPARTMENT OF AIR FORCE

Contact: Col. Cliff M. Whitehead, Room 5E 425, The Pentagon, Washington, D.C. 20330, 202 OX 5–2889.

Draft, March 28

Air Force Academy Airmanship Program, Colorado Springs, Colo. Proposed relocation of T–41 training facilities from Peterson Field to the Academy Airstrip. (ELR Order No. 4090, 115 pages (NTIS Order No. PB–207 908–D)

DEPARTMENT OF ARMY

Corps of Engineers

Contact: Colonel Barnes, Executive Director, Attention: DAEN–CWZ–C, Office of Chief of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693–7168.

Draft, March 28

New Kent County, Va. Proposed treatment of the waters of the Walker Dam Impoundment with a 50–50 mixture of diquat and potassium endothal. The purpose of the treatment is to control the Brasilian waterweed. Elodea fish will be killed; a reduction of the amount of oxygen in the water will occur; the reservoir will be rendered not potable for 1 week; and there is potential for damage to an adjacent farm. (ELR Order No. 4074, 14 pages) (NTIS Order No. PB–207 771–D)

Bayou Plaquemine, Iberville Parish, La. Proposed filling of Bayou Plaquemine to an elevation 26 feet above m.s.l. from west end of closed lock structure to a point approximately 200 feet west of the Texas and Pacific Railway bridge, preparatory to the construction of Highway 1 relocation fill will be obtained by dredging the Mississippi River Waterway. Several businesses will be lost to the action; a 4(f) statement will be required as public land will be taken (ELR Order No. 4080, 127 pages) (NTIS Order No. PB–207 772–D)

Cordell Hull Dam and Reservoir, Cumberland River, Tenn. Proposed construction of a dam including a 100 MWE power facility; a spillway; and a 13,900-acre reservoir. The purposes of the project are navigation, hydroelectric power, and recreation. Construction is more than 80 percent complete; conversion of a 72-mile stretch of stream to a lake will result in the displacement of residents, utilities, roads, and cemetaries. (ELR Order No. 4110, 20 pages) (NTIS Order No. PB–207 921–D)

Final, March 15

Las Cruces, Don Ana County, N. Mex. Proposed construction of a dry flood control dam and diversion ditch with outlet works, spillway structures and an open discharge channel. Loss of an unspecified amount of wildlife habitat will occur. Comments made by USDA, EPA, DOI, International Boundary and Water Commission, State and local agencies, and concerned citizens. (ELR Order No. 3063, 50 pages) (NTIS Order No. PB–202 923–F)

FEDERAL POWER COMMISSION

Contact: Frederick H. Warren, Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386–6084.

Draft, March 31

Project No. 2692, Macon and Clay Counties, N.C. Proposed approval of a renewal operating license for the Nantahala Power and Light Co.'s Project No. 2692. The project consists of 1,042' long, 250' high

dam, a 1,605 acre reservoir, a 5.6-mile conduit, two diversion dams, and a powerhouse with installed capacity of 43,200 kw. (ELR Order No. 4087, 63 pages) (NTIS Order No. PB–207 901–D)

Schoolfield Project No. 2411, Danville, Va. Proposed approval of an application by the Dan River Co. for Project No. 2411. This is a run-of-river development with a 5,300 kw. powerhouse. (ELR Order No. 4088, 29 pages) (NTIS Order No. PB–207 907–D)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Contact: Robert Lanza, Office of the Assistant Secretary for Health and Scientific Affairs, Room 4062 HEWN, Washington, D.C. 20202, 202—962–2241.

Draft, March 29

Tri-Service Incinerator, Forest Glenn Station, Montgomery County, Md. Proposed construction of an 87.5 tons per day capacity incinerator to dispose of trash, animal, and infectious research wastes from Walter Reed Army Medical Center, the National Institute of Health, and the National Navy Medical Center. Twelve acres of land will be committed to the two-furnace project; traffic will increase in the area; emissions will result; sediment from construction will be discharged to a Rock Creek tributary. (ELR Order No. 4108, 124 pages) (NTIS Order No. PB–207 898–D)

DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Washington, D.C. 20240, 202—343–6416.

NATIONAL PARK SERVICE

Draft, March 29

White Sands National Monument, N. Mex. A proposed revised master plan for maintenance of the Monument during the next 5 years. Missile impact within the monument necessitates the use of vehicles and other mechanical equipment. Designation as wilderness is therefore precluded. (ELR Order No. 4070, 44 pages) (NTIS Order No. PB–207 776–D)

NATIONAL CAPITAL PLANNING COMMISSION

Contact: Donald F. Bozarth, Director of Current Planning and Programming, Washington, D.C. 20576, 202—382–1471.

Draft, March 10

Comprehensive plan for the National Capital, Washington, D.C. Proposed modification to the Comprehensive Plan in order to make it conform to the Urban Renewal Area. The proposal involves relocation of the "Uptown Center," realignment of Fort Lincoln Park, etc. (ELR Order No. 2080, 56 pages) (NTIS Order No. PB–207 439–D)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, 615—755–2002.

Final, March 31

Colbert Steam Plant, Colbert County, Ala. Proposed addition of gas turbine peaking units 1–8 at Colbert Steam Plant. SO_2 and NO_x will be emitted; the possibility of oil spillage or leakage will result. Comments made by USDA, DOC, DOD, EPA, FPC, HEW, HUD, DOI, DOT, State and regional agencies. (ELR Order No. 4109, 41 pages) (NTIS Order No. PB–200 365–F)

Thomas H. Allen Steam Plant, Shelby County, Tenn. Proposed addition of gas peaking units 17–20 to the Steam Plant, in order to provide additional power SO_2 and NO_x will be emitted; the possibility of oil spillage or leakage will result. Comments made by USDA, DOC, DOD, EPA, FPC, HEW, HUD, DOI, DOT, State and regional agencies. (ELR Order No. 4114, 40 pages) (NTIS Order No. PB–199 231–F)

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser,[1] Director, Office of Program Coordination, 400 Seventh Street SW., Washington, D.C. 20590, 202—462–4357.

Draft, March 27

Walton County, Fla. Proposed reconstruction of 16.8 miles of two-lane F.A.S. Route 12. An unspecified amount of land will be lost to the project. (ELR Order No. 4053, 18 pages) (NTIS Order No. PB–207 727–D)

Draft, March 21

Escambia County, Fla. Proposed reconstruction of S.R. 95 (U.S. 29), a four-lane highway. The total length of the project is 8.2 miles (ELR Order No. 4055, 19 pages) (NTIS Order No. PB–207 722–D)

Draft, March 28

P.R. 149, Puerto Rico. Proposed construction of 7.49 miles of P.R. 149, a non-controlled access highway. The Manati River will be crossed by the project; 25 families will be displaced. (ELR Order No. 4065, 21 pages) (NTIS Order No. PB–207 734–D)

Draft, March 27

Project F–625( ), Lawrence County, Ohio. Proposed construction of 10 miles of new four-lane limited access highway. Approximately 106 families, businesses, and farms will be displaced by the action. A 4(f) statement would be required as public use land will be utilized. (ELR Order No. 4066, 20 pages) (NTIS Order No. PB–207 735–D)

Draft, March 30

L.R. 16059, Clarion County, Pa. Proposed construction of 5.7 miles of Legislative Route 16059, a new, 2-lane free-access roadway. A 4(f) statement is required as the highway will require land from Cook Forest State Park. (ELR Order No. 4073, 67 pages) (NTIS Order No. PB–207 769–D)

Project US–680(4), Pinellas County, Fla. Proposed reconstruction of 1.4 miles of S.R. 699 from two to four lanes. (ELR Order No. 4076, 34 pages) (NTIS Order No. PB–207 775–D)

Draft, February 29

Project S–0145(4), Washington County, Wis. Proposed reconstruction of 3 miles of FAS Route 145. Approximately 16.2 miles of land would be lost to the project. Cedar Creek would be exposed to contamination. A 4(f) statement would be required as land would be taken from a wildlife refuge. (ELR Order No. 4091, 9 pages) (NTIS Order No. PB–207 925–D)

Draft, March 28

Plaquemines, Orleans, and St. Bernard Parishes, La. Proposed construction of 14.8 miles of I–410, a controlled access six-lane highway. Approximately 540 acres of land will be lost to the project; three families will be displaced; four major streams will be crossed. (ELR Order No. 4096, 50 pages) (NTIS Order No. PB–207 912–D)

I–410, St. Charles Parish, La. Proposed construction of 1.35 miles of six-lane I–410. Thirty-seven families will be displaced, 876.36 acres of land will be lost to the project. (ELR Order No. 4097, 30 pages) (NTIS No. PB–207 924–D)

Final, March 30

Project F–82, LeFlore County, Okla. Proposed relocation and reconstruction of 5.4 miles of U.S. 270. Nine families would be displaced and 85 acres taken by the project. Comments made by State agencies. (ELR Order No. 4092, 18 pages) (NTIS Order No. PB–199 574–F)

Project F–236, Coal County, Okla. Proposed reconstruction of 6 miles of S.H. 3. One family would be displaced and 220 acres would be lost to the project. Comments made by DOI and State agencies. (ELR Order No. 4093, 20 pages) (NTIS Order No. PB–199 593–F)

Project F–405( ), Houston County, Tex. Proposed reconstruction of 6.1 miles of U.S. 287, from two to four lanes. Approximately 147 acres of land will be required by the project; 11 residences, three businesses, and one church will be displaced, two lakes, totaling 2.8 acres, will be drained. Comments made by USDA, EPA, HEW, DOT, State agencies, and concerned citizens. (ELR Order No. 4094, 46 pages) (NTIS ORDER No. PB–202 073–F)

Project F–413( ), Morgan, Cass, and Schuyler Counties, Ill. Proposed construction of 51 miles of Supplemental Freeway F.A.P. 413, a four-lane, fully access controlled facility. An unspecified number of residences and amount of land will be lost to the project. Comments made by USDA, Army COE, DOC, EPA, FPC, DOT, USCG, and State and local agencies. (ELR Order No. 4095, 91 pages) (NTIS ORDER No. PB–202 073–F)

Final, March 29

Project F–180, Garfield and Major Counties, Okla. Proposed construction of 20.15 miles of U.S. 60. Twenty-two families, four businesses, and two nonprofit organizations will be displaced by the project; 315 acres of grass and farm lands will be lost. Comments made by DOI, and State agencies. (ELR Order No. 4098, 23 pages) (NTIS Order No. PB–200 759–F)

Project S–296(5), Shelby County, Ind. Proposed construction of 1 mile of highway to connect with I–74. Comments made by USDA, EPA, HUD, DOI. (ELR Order No. 4099, 23 pages) (NTIS Order No. PB–202 176–F)

Final, March 30

Project F–037–1( ), Whitman County, Wash. Proposed construction of 5 miles of new two and four lane limited access highway. An unspecified amount of land will be lost to the project. Comments made by USDA, Army COE, EPA, HUD, DOT, State and local agencies. (ELR Order No. 4100, 45 pages) NTIS Order No. PB–207 915–F)

Project I–86, Towns of Ashford and Union, Conn. Proposed reconstruction of I–86 for a length of approximately 7.16 miles. Comments made by USDA, EPA, HUD, DOI, State Department, State and local agencies. (ELR Order No. 4101, 101 pages) (NTIS Order No. PB–201 299–F)

Project S–1117(102), Chilton County, Ala. Proposed reconstruction of 5.2 miles of FAS Route 1117. Comments made by USDA, DOC, DOD, DOI, State and local agencies. (ELR Order No. 4102, 28 pages) (NTIS Order No. PB–201 249–F)

Project No. S–6012, Payne County, Okla. Proposed construction of 2 miles of FAS Route 6012. Thirteen acres of grasslands will be lost to the project. Comments made by USDA, EPA, and State agencies. (ELR Order No. 4103, 18 pages) (NTIS Order No. PB–201 849–F)

[1] Mr. Convisser's office will refer you to the regional office from which the statement originated.

Projects F–152 and F–252, Osage County, Okla. Proposed construction of 20.4 miles of U.S. 60, a four-lane highway. Approximately 430 acres would be lost to the project. Comments made by DOI, State and local agencies. (ELR Order No. 4104, 30 pages) (NTIS Order No. PB–200 206–F)

Meeting Street Expressway, Richland and Lexington Counties, S.C. Proposed construction of 3.3 miles of urban highway. Approximately 20 businesses and 125 residences would be displaced by the project. Comments made by Army COE, HUD, DOI, DOT, State, local, and regional agencies. (ELR Order No. 4105, 31 pages) (NTIS Order No. PB–200 526–F)

Projects S–661 and 612, Floyd County, Ky. Proposed replacement of Bailey Bridge and reconstruction of 1.10 miles of highway, on KY 1426 and KY 979. Fifteen families would be displaced and 12 acres lost to the project. Comments made by DOC, EPA, DOI, DOT, and one State agency. (ELR Order No. 4106, 21 pages) (NTIS Order No. PB–202 011–F)

Project S–453, Cumberland County, N.C. Proposed reconstruction of 9.1 miles of NC 53–210. Six families and one business would be displaced by the project. Comments made by USDA, EPA, GSA, DOI, State and local agencies. (ELR Order No. 4107, 36 pages) (NTIS Order No. PB–201 848–F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72–5771 Filed 4–14–72;8:51 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 591]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

APRIL 10, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

6955–C2–P–(2)–72—Massachusetts-Connecticut Mobile Telephone Co. (KCI300), for additional facilities to operate on 152.21 MHz and change the antenna system operating on 152.03 MHz at location No. 1: Provin Mountain, Off West Street, Agawan, Mass.

6961–C2–P–(3)–72—Contact of Texas (KKD284), for additional facilities to operate on 152.18 MHz and change the antenna system operating on 152.03 MHz and 152.01 MHz located at Ranger Peak, Franklin Mountain, El Paso, Tex.

6962–C2–MP–(2)–72—Intrastate Radio Telephone, Inc., of Los Angeles (KSV977), replace transmitter and change the antenna system operating on 152.24 MHz at location No. 1: End of TV Row, Mount Wilson, Calif., and for additional facilities to operate on 152.24 MHz at a new site described as location No. 2: 8999 Cedro Drive, Los Angeles, CA.

6963–C2–P–(3)–72—Tel-Car, Inc. (KSV957), for additional facilities; at location No. 1: Flattop Butte, 5.5 miles east of Jerome, Idaho, add 152.03 MHz base and 459.25 MHz repeater and at location No. 2: 408 Sixth Avenue West, Twin Falls, ID, add 454.25 MHz control.

6965–C2–P–(2)–72—Mobile Radio Telephone Service, Inc. (KAQ606), for an additional antenna at location No. 2: 8500 Zuni Street, Westminister, CO, to operate on 35.58 MHz.

6978–C2–AL–72—Great Eastern Communications Co., consent to assignment of license from Great Eastern Communications Co., Inc., Assignor, to Francis Lambert & Virginia Clauretie trading as Chayce 'n You, Assignee. Station: KRS638 New Bedford, Mass.

6979–C2–P–(3)–72—Airsignal International, Inc. (KIE953), to add FM transmitters to operate on 35.58 MHz at location No. 1: Forsyth and Marietta Streets, Atlanta, Ga.; at Location No. 2: 3390 Peachtree Road NE., Atlanta, GA, and at location No. 3: 1001 International Boulevard, Atlanta, GA.

6980–C2–P–72—Communications Industries, Inc., doing business as Mobilfone (KKG565), for additional facilities to operate on 152.21 MHz at location No. 1: U.S. Highway No. 80, approximately 2 miles southwest of Midland, Tex.

6986–C2–P–72—Southwestern Bell Telephone Co. (KKG413), for additional facilities to operate on 152.75 MHz located 1.5 miles west of El Dorado, Ark.

6987–C2–P–(2)–72—Ace Commercial Services, Inc. (KQZ741), change base frequency to 152.06 MHz at location No. 1: 4 miles northeast of Columbus on Highway No. 12, WCBI–TV Tower, Columbus, Miss., and establish two-way facilities to operate on 152.03 MHz at a new site described as location No. 3: East of Ridge Road North, Columbus, Miss.

7008–C2–P–(2)–72—Charles L. Slocum (KCI770), for additional facilities to operate on 152.18 MHz base at location No. 2: Coal Bed Road, Elk Township, 6 miles northeast of Warren, Pa., and 454.275 MHz control facilities at location No. 3: Lindsley Hollow Road, 2.5 miles south of Corry, Pa.

7009–C2–ML–72—Mountain States Telephone and Telegraph Co. (KSV985), change base frequency to 152.72 MHz located at 2.3 miles northwest of Bisbee, Ariz. (Mule Mountain).

7010–C2–P–72—Mobile Radio Communications, Inc. (New), for a new one-way station to be located at 922 Linwood Street, Kansas City, MO, to operate on 35.58 MHz.

7011–C2–P–72—Telephone Answering Service, Inc. (KJU799), relocate facilities operating on 152.03 MHz to 805 Kentucky Avenue, Paducah, KY.

7080–C2–P–72—George E. Kitchen & Associates (KLF562), for additional facilities to operate on 152.09 MHz at a new site described as location No. 2: 552½ West Columbia, Battle Creek, MI.

7092–C2–P–(4)–72—Mountain States Telephone and Telegraph Co. (KOE513), relocate facilities operating on 152.57, 152.63, 152.69, and 152.75 MHz at 6 miles south-southwest of Casper, Wyo.

7093–C2–P–72—Northern Illinois Radio Phone and Paging (New), for a new two-way station to be located west of Martin Road on south side of Route No. 120, McHenry, Ill., to operate on 454.100 MHz.

7095–C2–P–72—Airsignal International, Inc. (KIE653), for additional facilities to operate on 35.22 MHz at location No. 3: 3243 Tulane, Memphis, TN.

7097–C2–P–(4)–72—Victor E. Duane (New), for a new two-way station to be located at location No. 1: 917 West Galbraith Road, Cincinnati, OH, to operate on 454.150 and 454.275 MHz and at location No. 2: 2345 Symmes, Cincinnati, OH, to operate on 454.050 and 454.225 MHz.

Major Amendment

6524–C2–P–71—Airsignal International, Inc. (KIF653), amend to read: For additional facilities to operate on frequency 35.22 MHz at a new site described as location No. 2: 475 North Highland Street, Memphis, TN. See Public Notice No. 545, dated May 24, 1971.

7506–C2–P–71—Yakima Telephone Answering Service (New), amend to indicate transfer of control from Jack H. Goetz and Margaret A. Goetz to Dale W. Blair. See Public Notice No. 551, dated July 6, 1971.

[1] All applications listed in the appendix below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

Frequency 152.24 MHz

Texas:
Houston Mobilfone, Inc. (New), 2202–C2–P–69.
Radio Paging, Inc. (New), 3685–C2–P–69.

It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

Frequency 158.70 MHz

Texas:
Radio Dispatch, Inc. (New), 2203–C2–P–69.
Robert E. Franklin (New), 3786–C2–P–69.

POINT-TO-POINT MICROWAVE RADIO SERVICE

6953–C1–P–72—American Microwave & Communications, Inc. (KYO48), 2 miles southeast of Perrinton, Mich., at latitude 43°09'37'' N., longitude 84°39'11'' W. C.P. to change frequency from 6338.1H MHz to 6345.5H MHz on azimuth 347°55'.

6954–C1–P–72—American Microwave & Communications, Inc. (KYO49), Mount Pleasant, 2 miles south of Mount Pleasant, Mich., at latitude 43°33'38'' N., longitude 84°46'15'' W. C.P. to change polarization of frequency 5945.2 from Horizontal to Vertical on azimuth 353°02'.

6956–C1–P–72—American Telephone & Telegraph Co. (KEA77), 0.8 mile north of Cherryville, N.J. Latitude 40°34'18'' N., longitude 74°54'22'' W. C.P. to add 3990H MHz toward Mount Airy, N.J.

6957–C1–P–72—American Telephone & Telegraph Co. (KYS55), 1.5 miles southeast of Mount Airy, N.J. Latitude 40°23'06'' N., longitude 74°52'58'' W. C.P. to add 3950H MHz toward Cherryville, N.J., and 3950V MHz toward Monmouth Junction, N.J.

6958–C1–P–72—American Telephone & Telegraph Co. (KYS56), 2.2 miles northwest of Monmouth Junction, N.J. Latitude 40°23'37'' N., longitude 74°35'07'' W. C.P. to add 3990V MHz toward Mount Airy and Navesink, N.J.

6959–C1–P–72—American Telephone & Telegraph Co. (KEE54), 0.5 mile west of Navesink, N.J. Latitude 40°24'11'' N., longitude 74°02'38'' W. C.P. to add 3950V MHz toward Monmouth Junction, N.J., and 3950H MHz toward Hempstead, N.Y.

6960–C1–P–72—American Telephone & Telegraph Co. (KEE55), Terrace and Fulton Avenue, Hempstead, N.Y. Latitude 40°42'28'' N., longitude 73°37'43'' W. C.P. to add 3990H MHz toward Navesink, N.J.

6967–C1–P–72—American Telephone & Telegraph Co. (KVD82), 4 miles north-northeast of Bates, Ark. Latitude 34°57'45'' N., longitude 94°22'29'' W. C.P. to add 4198H MHz toward Union Hill, Ark.

6968–C1–P–72—American Telephone & Telegraph Co. (KVD81), 8.2 miles south of Sugar Grove, Ark. Latitude 34°57'41'' N., longitude 93°49'08'' W. C.P. to add 4190H MHz toward Bates, Ark., and 4190V MHz toward Danville, Ark.

6969–C1–P–72—American Telephone & Telegraph Co. (KVD80), 2.1 miles south-southwest of Danville, Ark. Latitude 35°00'58'' N., longitude 93°24'40'' W. C.P. to add 4198V MHz toward Union Hill, Ark., and 4198H MHz toward Paron, Ark.

6970–C1–P–72—American Telephone & Telegraph Co. (KVD79), 8.2 miles west-northwest of Paron, Ark. Latitude 34°50'13'' N., longitude 92°52'54'' W. C.P. to add 4190H MHz toward Danville, Ark., and 4190V MHz toward Alexander, Ark.

6971–C1–P–72—American Telephone & Telegraph Co. (KTG45), 1.7 Miles south of Alexander, Ark. Latitude 34°36'07'' N., longitude 92°26'55'' W. C.P. to add 4198V MHz toward Paron, Ark.

6972–C1–P–72—Rock Hill Telephone Co., Inc. (KJA67), 330 East Black Street, Rock Hill, SC. Latitude 34°55'19'' N., longitude 91°01'29'' W. C.P. to change frequencies 6293.9V and 6382.6V MHz to 6286.2V and 6404.8V MHz toward Lesslie, S.C.

6973–C1–P–72—Rock Hill Telephone Co., Inc. (KJA68), 1,200 feet west of Lesslie, S.C. C.P. to correct coordinates on latitude 34°53'29'' N., longitude 80°57'35'' W. and change frequencies 6041.6V, 6011.9H, and 6160.2V to 6034.2H, 6152.8H, and 6093.5H MHz toward Rock Hill, S.C. Also change frequencies 5997.1V and 6115.7V MHz to 6034.2V and 6152.8V MHz toward Pleasant Hill, S.C.

6974–C1–P–72—Rock Hill Telephone Co., Inc. (KJA69), 500 feet north of Pleasant Hill, S.C. C.P. to correct coordinates on latitude 34°37'20'' N., longitude 80°41'13'' W. and change frequencies 6249.1H, 6278.8V, and 6397.4V MHz to 6345.5H, 6286.2H, and 6404.8H MHz toward Lesslie, S.C.; change frequencies 6263.9V and 6382.6V MHz to 6286.2V and 6404.8V MHz toward Camden, S.C., and change frequencies 6189.8V, 6219.5H, and 6338.1H MHz to 6345.5V, 6256.5H, and 6375.2H MHz toward Lancaster, S.C.

6975–C1–P–72—Rock Hill Telephone Co., Inc. (KJA70), 205 West Gay Street, Lancaster, S.C. C.P. to correct coordinates on latitude 34°43'04'' N., longitude 80°46'19'' W. and change frequencies 5937.8H and 6056.4H MHz to 6004.5V and 6123.1V MHz toward Pleasant Hill, S.C.

6976–C1–P–72—American Telephone & Telegraph Co. (KGH83), 2.5 miles east-southeast of Lionville, Pa. Latitude 40°03'06'' N., longitude 75°36'40'' W. C.P. to add 3890H MHz toward Oxford, Pa.

6977–C1–P–72—American Telephone & Telegraph Co. (KGH84), 3.5 miles south of Oxford, Pa. Latitude 39°44'00'' N., longitude 75°57'56'' W. C.P. to add 3830H MHz toward Fairlee, Md.

6988–C1–P–72—Frank K. Spain, doing business as Microwave Service Co. (New), C.P. for a new station, 2.3 miles northeast of Chunky, Miss., at latitude 32°20'31'' N., longitude 88°53'41'' W. Frequency 11,245V MHz on azimuth 268°25'.

6989–C1–P–72—Frank K. Spain, doing business as Microwave Service Co. (New), C.P. for a new station 0.1 mile northeast of Newton, Miss., at latitude 32°20'08'' N., longitude 89°-09'03'' W. Frequency 10,755H MHz on azimuth 268°30'.

6990–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), C.P. for a new station 2 miles southeast of Forest, Miss., at latitude 32°19'39'' N., longitude 89°25'42'' W. Frequency 11,525V MHz on azimuth 254°15'.

6991–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), C.P. for a new station 5 miles north of Polkville, Miss., at latitude 32°15'59'' N., longitude 89°41'22'' W. Frequency 10,835H MHz on azimuth 285°00'.

6992–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), C.P. for a new station 4.7 miles northeast of Brandon, Miss., at latitude 32°19'09'' N., longitude 89°55'40'' W. Frequency 11,485V MHz on azimuth 285°15'. Applicant proposes to provide the television signal of station WWOM–TV of New Orleans, La., to Capitol Cablevision, Inc., in Jackson, Miss. See also major amendment to File No. 684–C1–P–72 which was filed simultaneously herewith.

6993–C1–P–72—Western Tele-Communications, Inc. (KZA87), East Butte, 32 miles west of Idaho Falls, Idaho, at latitude 43°30'00'' N., longitude 112°39'48'' W. C.P. to power split frequency 6390.0H MHz on azimuth 63°38'. Applicant proposes to provide the signal of station KBYU–TV to Rex TV, Inc., in Rexburg, Idaho.

6994–C1–P–72—American Telephone & Telegraph Co. (KSQ43), 2.7 miles west-southwest of Casselton, N. Dak. Latitude 46°52'42'' N., longitude 97°15'26'' W. C.P. to add 3910V MHz toward Walcott, N. Dak.

6995–C1–P–72—American Telephone & Telegraph Co. (KSQ42), 3.7 miles north of Walcott, N. Dak. Latitude 46°36'06'' N., longitude 96°55'42'' W. C.P. to add 3790V MHz, 3870V MHz toward Casselton, N. Dak., and 3870V MHz toward Rollag, Mont.

6996–C1–P–72—American Telephone & Telegraph Co. (KAK49), 3 miles southeast of Rollag, Minn. Latitude 46°42'03'' N., longitude 96°13'10'' W. C.P. to add 3830V, 3910V MHz toward Walcott, N. Dak., and 3910H MHz toward Luce, Mont.

6997–C1–P–72—American Telephone & Telegraph Co. (KAK73), 1.5 miles southwest of Luce, Minn. Latitude 46°38'32'' N., longitude 95°40'20'' W. C.P. to add 3790H, 3870H MHz toward Rollag, Mont., and 3870H MHz toward Sebeka, Mont.

6998–C1–P–72—American Telephone & Telegraph Co. (KAK74), 4 miles south-southwest of Sebeka, Minn. Latitude 46°34'10'' N., longitude 95°07'05'' W. C.P. to add 3830H, 3910H MHz toward Luce, Mont., and 3910H MHz toward Motley, Mont.

6999–C1–P–72—American Telephone & Telegraph Co. (KAK75), 1 mile south of Lincoln, Minn. Latitude 46°11'37'' N., longitude 94°38'53'' W. C.P. to add 3790H, 3870H MHz toward Sebeka, Mont., and 3870H MHz toward Little Falls, Mont.

7000–C1–P–72—American Telephone & Telegraph Co. (KAK76), 2.5 miles southwest of Little Falls, Minn. Latitude 45°56'38'' N., longitude 94°24'03'' W. C.P. to add 3830H, 3910H MHz toward Motley, Mont., and 3910H MHz toward Gilman, Mont.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

7001–C1–P–72—American Telephone & Telegraph Co. (KAK77), 3 miles northeast of Gilman, Minn. Latitude 45°46'48" N., longitude 93°56'12" W. C.P. to add 3790H, 3870H MHz toward Little Falls, Mont., and 3870H MHz toward Zimmerman, Mont.

7002–C1–P–72—American Telephone & Telegraph Co. (KAK78), 3 miles southeast of Zimmerman, Minn. Latitude 45°24'59" N., longitude 93°32'42" W. C.P. to add 3830H, 3910H MHz toward Gilman, Mont.

7003–C1–P–72—American Telephone & Telegraph Co. (KAI71), 6.5 miles southeast of Moville, Iowa. Latitude 42°24'43" N., longitude 95°59'57" W. C.P. to add 3770V MHz toward Adaville, Iowa.

7004–C1–P–72—American Telephone & Telegraph Co. (KAM41), 6.2 miles northwest of Merrill, Iowa. Latitude 42°45'02" N., longitude 96°22'00" W. C.P. to add 3730V MHz toward Moe, S. Dak.

7005–C1–P–72—American Telephone & Telegraph Co. (KAM42), 7.7 miles southwest of Fairview, S. Dak. Latitude 43°10'00" N., longitude 96°37'37" W. C.P. to add 3770H MHz toward Pumpkin Center, S. Dak.

7006–C1–P–72—American Telephone & Telegraph Co. (KAM43), 7.1 miles southwest of Hartford, S. Dak. Latitude 43°32'26" N., longitude 97°01'42" W. C.P. to add 3950H MHz toward Chester, S. Dak.

7007–C1–P–72—American Telephone & Telegraph Co. (KBI46), 3.9 miles north-northeast of Chester, S. Dak. Latitude 43°56'54" N., longitude 96°54'36" W. C.P. to add 3990H MHz toward Arlington, S. Dak.

7012–C1–P–72—Northwestern Bell Telephone Co. (New), 6.2 miles east-northeast of Arlington, S. Dak. Latitude 44°22'59" N., longitude 97°00'36" W. C.P. for a new station on frequency 4110V MHz toward Brookings, S. Dak.

7013–C1–P–72—Northwestern Bell Telephone Co. (New), 7.75 miles southwest of Fairview, S. Dak. Latitude 43°10'03" N., longitude 96°37'39" W. C.P. for a new station on frequency 4150V MHz toward KUSD–TV, Beresford, S. Dak.

7014–C1–P–72—KHC Microwave Corp. (New), C.P. for a new station at Tangipahoa, 3.5 miles southeast of Wilmer, La., at latitude 39°50'21" N., longitude 90°18'48" W. Frequency 5974.8V MHz on azimuth 345°16'.

7015–C1–P–72—KHC Microwave Corp. (New), C.P. for a new station in McComb, Miss., at latitude 31°14'59" N., longitude 90°26'24" W. Frequency 6375.2V MHz on azimuth 12°59'.

7016–C1–P–72—KHC Microwave Corp. (New), C.P. for a new station at Wesson, 1 mile east-northeast of Huecks, Miss., at latitude 31°37'35" N., longitude 90°20'30" W. Frequency 6034.2V MHz on azimuth 5°56'.

7017–C1–P–72—KHC Microwave Corp. (New), C.P. for a new station 3 miles east of Crystal Springs, Miss., at latitude 31°59'55" W., longitude 90°17'57" W. Frequency 6315.9V MHz on azimuth 18°34'. Applicant proposes to provide the television signal of station WWOM–TV of New Orleans, La., to McComb Cablevision, Inc., in McComb, Miss., and to Capitol Cablevision in Jackson, Miss.

7018–C1–P–72—Southern Bell Telephone & Telegraph Co. (KIY59), 1645 Hampton Street, Columbia, SC. Latitude 34°00'29" N., longitude 81°01'42" W. C.P. to delete frequencies 6011.9V and 6130.5V and change polarization from H to V on frequencies 5974.8V and 6093.5V and add 6152.8V MHz toward Blaney, S.C.

7019–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJB47), two blocks southeast of U.S. Highway No. 1, S.C. Latitude 34°10'10" N., longitude 80°47'15" W. C.P. to delete frequencies 6263.9V and 6382.6V and add 6404.8H MHz toward Columbia, S.C., and add 6404.8V MHz toward Camden, S.C., and delete frequencies 6249.1H and 6367.7H and 6280.2V MHz toward Spring Hill, S.C.

7020–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJA71), 1209 Broad Street, Camden, SC. Latitude 34°14'57" N., longitude 80°36'26" W. C.P. to change polarization from V to H on frequencies 5974.8H and 6093.5H and add 6152.8H MHz toward Blaney, S.C., and add 5945.2V, 6063.8V, and 6093.5H MHz toward Spring Hill, S.C.

7021–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJB48), 2 miles southeast of intersection of South Carolina County Road No. 7 and No. 37. Latitude 34°07'26" N., longitude 80°24'41" W. C.P. to add 6197.2H and 6315.9H MHz toward Camden, S.C.; delete 6130.5H MHz and change to 6345.5V MHz toward Bishopville, S.C.; delete frequencies 5974.8V, 6034.2H, and 6093.5V MHz and change to 6197.2V, 6315.9V, and 6345.5H MHz toward Sumter, S.C.; and delete frequencies 5997.1H and 6115.7H MHz toward Blaney, S.C.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

7022–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJB49), 15 South Harvin Street, Sumter, SC. Latitude 33°55'08" N., longitude 80°20'24" W. C.P. to delete 6197.2V and 6315.2V MHz and change to 5945.2H and 6063.8H MHz toward Spring Hill, S.C., and delete frequencies 6219.5V, 6338.1V, and 6249.1H MHz and change to 5945.2V, 6004.5V, and 6123.1V MHz toward Manning, S.C.

7023–C1–P–72—Southern Bell Telephone & Telegraph Co. (KIY63), 218 College Street, Greenville, SC. Latitude 34°51'19" N., longitude 82°24'00" W. C.P. to add 10,715V MHz toward Paris Mountain, S.C.

7024–C1–P–72—Southern Bell Telephone & Telegraph Co. (KIY62), Paris Mountain 6 miles north of Greenville, S.C. Latitude 34°56'29" N., longitude 82°24'40" W. C.P. to change frequencies 6263.9V and 6382.6V MHz to 6197.2H and 6315.9H MHz and add 6404.8V MHz toward Clinton, S.C. Also change polarization from H to V on frequencies 6256.5V and 6375.2V MHz and change polarization from V to H on frequencies 6226.9H and 6345.5H MHz and add 11,245H MHz toward Greenville, S.C.

7025–C1–P–72—Southern Bell Telephone & Telegraph Co. (KIY61), 208 Broad Street, Clinton, SC. Latitude 34°28'13" N., longitude 81°52'55" W. C.P. to change 5982.2H, 6100.9H and 5937.8V MHz to 6093.5V, 6034.2V, and 6152.8V MHz toward Greenwood, S.C., and change frequencies 6004.5H and 6123.1H MHz to 5945.2V and 6063.8V MHz and add 6152.8H MHz toward Paris Mountain, S.C.

7026–C1–P–72—Pacific Northwest Bell Telephone Co. (KOC65), 819 Southwest Oak Street, Portland, OR. Latitude 45°31'22" N., longitude 122°40'42" W. C.P. to change polarization from H to V on frequencies 3770V MHz toward Sentinel Hill and change polarization from H to V on frequency 3850V MHz and add 3930V MHz toward Portland, Oreg.

7027–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS69), Sentinel Hill, near Southwest Fairmount Boulevard, Portland, Oreg. Latitude 45°29'24" N., longitude 122°41'47" W. C.P. to change polarization from H to V on frequencies 3730V and 3810V MHz toward Portland, Oreg., and add 3890V MHz toward Portland and 3890V MHz toward Saddle Mountain, Oreg.

7028–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS63), Saddle Mountain, 9.5 miles northwest of Cherry Grove, Oreg. Latitude 45°32'43" N., longitude 123°22'49" W. C.P. to add 3930V MHz toward Sentinel Hill, Oreg., and 4090V MHz toward Amity, Oreg.

7029–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS70), 4.5 miles northeast of Amity, Oreg. Latitude 45°08'37" N., longitude 123°07'44" W. C.P. to add 4050V MHz toward Saddle Mountain, Oreg., and add 4050V MHz toward Mount Horeb, Oreg.

7030–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS72), Mount Horeb, 7 miles east-northeast of Mill City, Oreg. Latitude 44°47'35" N., longitude 122°20'21" W. C.P. to add 4090V MHz toward Amity and Hoodoo Butte, Oreg.

7031–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS73), Hoodoo Butte, 18.2 miles west-northwest of Sisters, Oreg. Latitude 44°24'03" N., longitude 121°52'57" W. C.P. to add 4050V MHz toward Mount Horeb and Long Butte, Oreg.

7032–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS74), Long Butte, 3.2 miles northeast of Tumalo, Oreg. Latitude 44°10'26" N., longitude 121°16'32" W. C.P. to add 4090V MHz toward Hoodoo Butte and Spring River, Oreg.

7033–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS75), Spring River, 16 miles south-southwest of Bend, Oreg. (Latitude 43°52'25" N., longitude 121°30'11" W. C.P. to add 4050V MHz toward Long Butte, Oreg., and 4050H MHz toward Crescent Butte, Oreg.

7034–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS76), Crescent Butte, 1 mile southeast of Gilchrist, Oreg. Latitude 43°27'48" N., longitude 121°40'04" W. C.P. to add 4090H MHz toward Spring River and Welch Butte, Oreg.

7035–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS77), Welch Butte, 8.9 miles south-southwest of Chemult, Oreg. Latitude 43°06'35" N., longitude 121°53'09" W. C.P. to add 4050V MHz toward Cave Mountain, Oreg., and 4050H MHz toward Crescent Butte, Oreg.

7036–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS78), Cave Mountain, 3 miles northeast of Chiloquin, Oreg. Latitude 42°36'23" N., longitude 121°49'01" W. C.P. to add 4090V MHz toward Welch Butte, and Medicine Mountain, Oreg.

7037–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS79), Medicine Mountain, 3 miles southeast of Beatty, Oreg. Latitude 42°25'05" N., longitude 121°13'14" W. C.P. to add 4050V MHz toward Cave Mountain and Brady Butte, Oreg.

7038–C1–P–72—Pacific Northwest Bell Telephone Co. (KYS80), Brady Butte, 22.7 miles southeast of Bonanza, Oreg. Latitude 42°00'58" N., longitude 121°02'05" W. C.P. to add 4090V MHz toward Medicine Mountain, Oreg., and Timber Mountain, Calif.

(INFORMATIVE: Applicant, MCI New England, Inc., is modifying its original proposal for specialized common carrier radio service between Boston, Mass., and New York, N.Y., by filing three new applications as listed below.)

7039–C1–P–72—MCI New England, Inc. (New), a new station is located 1 mile east of New Canaan, Conn., at latitude 41°08'40" N., longitude 73°28'11" W. Frequencies 10,735.0V and 11,135.0V on azimuth 210°21' and 6197.2V on azimuth 80°29'.

7040–C1–P–72—MCI New England, Inc. (New), a new station is located 1 mile north of Westville, Conn., at latitude 41°21'00" N., longitude 72°58'23" W. Frequencies 6197.2H on azimuth 224°00' and 11,585.0H and 11,265.0H on azimuth 142°37'.

7041–C1–P–72—MCI New England, Inc. (New), a new station is located 2.5 miles west-northwest of Hampden, Mass., at latitude 42°04'14" N., longitude 72°21'42" W. Frequency 3730.0V on azimuth 112°59' and frequency 3730.0V on azimuth 281°29'.

(INFORMATIVE: Applicant, MCI Michigan, Inc., is modifying its original proposal for Specialized Common Carrier Radio Service between South Bend, Ind., and Detroit, Mich., and points in between, by filing the four new applications listed below.

7071–C1–P–72—MCI Michigan, Inc. (New), Site 6, Prairieville, Mich. C.P. for a new station, 3.4 miles southeast of Prairieville, Mich., at latitude 42°27'54" N., longitude 85°29'20" W. Frequencies 5974.8V MHz on azimuth 201°52' toward Kalamazoo, Mich., 5945.2H MHz on azimuth 340°19' toward Dias Hill, Mich., 5945.2V on azimuth 122°42' toward Battle Creek, Mich.

7072–C1–P–72—MCI Michigan, Inc. (New), Site 7, Dias Hill, Mich. C.P. for a new station, 3.7 miles east of Byron Center, Mich., at latitude 42°47'48" N., longitude 84°39'00" W. Frequencies 6197.2H MHz on azimuth 160°13' toward Prairieville, Mich., 10,775.0V and 11,175.0V MHz on azimuth 355°15' toward Grand Rapids, Mich.

7073–C1–P–72—MCI Michigan, Inc. (New), Site 11, Concord, Mich. C.P. for a new station, 1.9 miles southeast of Concord, Mich. Latitude 42°09'09" N., longitude 84°37'18" W. Frequencies 6197.2H MHz on azimuth 292°03' toward Marshall, Mich., 6226.9H MHz on azimuth 59°34' toward Jackson, Mich.

7074–C1–P–72—MCI Michigan, Inc. (New), Site 29, Warren, Mich. C.P. for a new station, corner of Van Dyke Road and Thirteen Mile Road, Warren, Mich., at latitude 42°31'18" N., longitude 83°01'47" W. Frequencies 10,775.0H and 11,175.0H MHz on azimuth 183°38' toward Detroit, Mich.

7076–C1–P–72—The Pacific Telephone & Telegraph Co. (KMA30), Mount Oso, 10 miles west-southwest of Westley, Calif. Latitude 37°30'07" N., longitude 121°22'23" W. C.P. to change 935.0V MHz to 2112V MHz toward Stockton, Calif.

7077–C1–P–72—The Pacific Telephone & Telegraph Co. (KMN30), 345 North San Joaquin Street, Stockton, CA. Latitude 37°57'24" N., longitude 121°17'15" W. C.P. to change 920.0V MHz to 2162V MHz toward Mount Oso, Calif.

7078–C1–P–72—The Pacific Telephone & Telegraph Co. (KNL74), 2.5 miles south-southwest of Elk Grove, Calif. Latitude 38°22'24" N., longitude 121°22'56" W. C.P. to change frequencies 6197.2H, 6256.5H, and 6315.9H MHz to 11,365H, 11,525H, and 11,685H MHz toward Lodi, Calif.

7079–C1–P–72—The Pacific Telephone & Telegraph Co. (KNL75), 1.2 miles west-northwest of Lodi, Calif. Latitude 38°08'31" N., longitude 121°18'58" W. C.P. to change frequencies 5945.2V, 6004.5V, and 6063.8V MHz to 10,755H, 10,915H, and 11,075H MHz toward Elk Grove, Calif.

6147–C1–ML–72—American Telephone & Telegraph Co. (KAM70), change geographic coordinates from latitude 39°41'45" N., longitude 104°18'42" W. to latitude 39°41'41" N., longitude 104°18'07" W.

7081–C1–P–72—Racom, Inc. (KYZ85), C.P. to power split frequency 5960.0V MHz on azimuth 286°07' toward Mount Fairbanks, Vt. Summit of Mount Washington, N.H., at latitude 44°16'13" N., longitude 71°18'13" W. Applicant proposes to provide the television signal of station WSBK–TV of Boston, Mass., to St. Johnsbury Community TV Corp. in St. Johnsbury, Vt.

7083–C1–P–72—American Telephone & Telegraph Co. (KAH89), 420 Third Avenue South, Minneapolis, MN. Latitude 44°58'41" N., longitude 93°15'52" W. C.P. to add 4030H MHz toward Lonsdale, Minn.

7084–C1–P–72—American Telephone & Telegraph Co. (KAS69), 2.5 miles north-northeast of Lonsdale, Minn. Latitude 44°31'43" N., longitude 93°24'25" W. C.P. to add 3930V MHz toward Minneapolis, Minn., and 4070V MHz toward Medford, Minn.

7085–C1–P–72—American Telephone & Telegraph Co. (KAS68), 1.5 miles west-southwest of Medford, Minn. Latitude 44°10'00" N., longitude 93°16'38" W. C.P. to add 3890H MHz toward Lonsdale, Minn., and 4030V MHz toward Hartland, Minn.

7086–C1–P–72—American Telephone & Telegraph Co. (KAS69), 3.2 miles east-northeast of Hartland, Minn. Latitude 43°49'34" N., longitude 93°25'48" W. C.P. to add 3930H MHz toward Medford, Minn., and 4070V MHz toward Glenville, Minn.

7087–C1–P–72—American Telephone & Telegraph Co. (KAS46), 3 miles southeast of Glenville, Minn. Latitude 43°32'38" N., longitude 93°14'20" W. C.P. to add 3890H MHz toward Hartland, Minn., and 4030V MHz toward Nora Springs, Iowa.

7088–C1–P–72—American Telephone & Telegraph Co. (KAS45), 3.5 miles east-northeast of Mason City, Iowa. Latitude 43°10'00" N., longitude 93°07'20" W. C.P. to add 3930H MHz toward Glenville, Minn., and 4070V MHz toward Hampton, Iowa.

7089–C1–P–72—American Telephone & Telegraph Co. (KAS44), 5 miles west-southwest of Hampton, Iowa. Latitude 42°42'55" N., longitude 93°17'27" W. C.P. to add 3890H MHz toward Nora Springs, Iowa, and 4030H MHz toward Radcliffe, Iowa.

7090–C1–P–72—American Telephone & Telegraph Co. (KAS43), 1 mile south-southeast of Radcliffe, Iowa. Latitude 42°18'06" N., longitude 93°25'22" W. C.P. to add 3930V MHz toward Hampton, Iowa, and 4070H MHz toward Boone, Iowa.

7091–C1–P–72—American Telephone & Telegraph Co. (KYN90), 9.5 miles north-northeast of Boone, Iowa. Latitude 42°09'55" N., longitude 93°47'37" W. C.P. to add 3890V MHz toward Radcliffe, Iowa.

7103–C1–P–72—Western Tele-Communications, Inc. (KZA87), East Butte, 32 miles west of Idaho Falls, Idaho. Latitude 43°30'00" N., longitude 112°39'48" W. Application for C.P. to add frequency 6241.7H MHz, via power split, toward Curlew Valley, Idaho, on azimuth 177°01'.

(INFORMATIVE: Applicant proposes to retain frequency 6241.7H MHz which, by separate amendment, is concurrently deleted from application 6029–C1–P–70. See Public Notice dated Apr. 30, 1970.)

The following applicants proposes to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

6964–C1–P–72—Nashville Signal Co. (New), 161 Fourth Avenue North, Nashville, TN. Latitude 36°09'49" N., longitude 86°46'45" W. C.P. for a new station on frequencies 2152.325 (Visual) 2150.20 (Aural) toward various receiving points of system and 2158.50 (Visual) 2154.00 (Aural) toward various receiving points of system.

6966–C1–P–72—WHP, Inc. (New), on Blue Mountain, 5.5 miles north of Harrisburg, Pa. Latitude 40°20'44" N., longitude 76°32'09" W. C.P. for a new station of frequencies 2150.20 (Aural) 5152.325 (Visual) toward various receiving points of system and 2154.00 (Aural) 2158.50 (Visual) toward various receiving points of system.

6981–C1–P–72—Mr. Howard S. Klotz and Mr. William Corbus (New), Intersection of Atlantic Boulevard and Ocean Boulevard (Monarch Towers), Pompano Beach, Fla. Latitude 26°13'55" N., longitude 80°05'28" W. C.P. for a new station on frequencies 2152.325 (Visual) 2150.20 (Aural) toward various receiving points of system and 2158.50 (Visual) 2154.00 (Aural) toward various receiving points of system.

6982–C1–P–72—Multi-Communication Services, Inc. (New), Intersection of Atlantic Boulevard and Ocean Boulevard (Monarch Towers), Pompano Beach, Fla. Latitude 26°13'55" N., longitude 80°05'28" W. C.P. for a new station on frequencies 2152.325 (Visual) 2150.20 (Aural) toward various receiving points of system and 2158.50 (Visual) 2154.00 (Aural) toward various receiving points of system.

6983–C1–P–72—Multi-Communication Services, Inc. (New), 5599 New Berry Highway, Erie, PA. Latitude 42°05'00" N., longitude 80°03'23" W. C.P. for a new station on frequencies 2152.325 (Visual) 2150.20 (Aural) toward various receiving points of system and 2158.50 (Visual) 2154.00 (Aural) toward various receiving points of system.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

6984–C1–P–72—Western Tele-Communications, Inc. (New), 136 East South Temple, Salt Lake City, UT. Latitude 40°46'09" N., longitude 111°53'12" W. C.P. for a new station on frequencies 2152.325 (Visual) 2150.20 (Aural) toward various receiving points of system and surrounding area. C.P. for a new station on frequencies 2150.200 (Aural) 2152.325

6985–C1–P–72—Central Telephone Co. (New), temporary-fixed locations in Las Vegas, Nev., and surrounding areas. C.P. for a new station on frequencies 2150.200 (Aural) 2152.325 (Visual) toward directional receivers associated with this station and 2154.00 (Aural) 2158.50 (Visual) toward directional receivers associated with this station.

INFORMATIVE: It appears that the following applications may be mutually exclusive subject to the Commission's rules regarding ex parte presentations, reasons of potential electrical interference.

Pennsylvania—Harrisburg

New York Penn Microwave Corp. (New), File No. 4607–C1–P–72, WHP, Inc. (New), File No. 6966–C1–P–72.

Florida—Pompano Beach

Syntonic Technology, Inc. (New), File No. 4557–C1–P–72.
Howard S. Klotz/William Corbus (New), File No. 6981–C1–P–72.
Multi-Communication Service, Inc. (New), File No. 6982–C1–P–72.

Pennsylvania—Erie

New York Penn Microwave Corp. (New), File No. 4605–C1–P–72.
Multi-Communication Services, Inc. (New), File No. 6983–C1–P–72.

Utah—Salt Lake City

Electro-Media Multipoint Service, Inc. (New), File No. 4752–C1–P–72.
Tekkom, Inc. (New), File No. 4976–C1–P–72.
Western Tele-Communications, Inc. (New), 6984–C1–P–72.

Nevada—Las Vegas

Tekkom, Inc. (New), File No. 4975–C1–P–72.
Golden Peso (New), File No. 6578–C1–P–72.
Central Telephone Co. (New), 6985–C1–P–72.

INFORMATIVE: It appears that the following applications may be mutually exclusive subject to the Commission's rules regarding ex parte presentations, reasons of economic competition.

Mississippi and Louisiana

Frank K. Spain doing business as Microwave Service Co. (New), File Nos. 6988–C1–P–72 thru 6992–C1–P–72.

American Television & Communications Corp. (New), File Nos. 4646 thru 4649–C1–P–72.
KHC Microwave Corp. (New), File Nos. 7014 thru 7017–C1–P–72.

Major Amendments

INFORMATIVE: Applicant, MCI Pacific Mountain States, Inc., is amending one of its previously filed applications for authority to construct a new specialized common carrier system in a three State area from Denver, Colo., through Wyoming into Salt Lake City, Utah. The application now being amended was originally filed on October 16, 1970 (Public Notice October 26, 1970) and amended on March 6, 1972 (Public Notice March 20, 1972). Each application now amended is referenced to the date originally filed.

2162–C1–P–71—MCI Pacific Mountain States, Inc. (New), Site 18, Sage, Wyo. Correct frequency to 6226.9H MHz on azimuth 257°03' toward Providence, Utah. Delete frequency 5974.8H MHz on azimuth 257°03'. All other particulars are as reported in Public Notice No. 588 dated March 20, 1972.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

Major Amendments

INFORMATIVE: Applicant, MCI Michigan, Inc., is amending 14 of its previously filed applications for authority to construct a new specialized common carrier service in a two State area from South Bend, Ind., to Detroit, Mich., and serving a number of other major cities in Michigan. The applications now being amended were originally filed in February, 1970. They appeared in Public Notice, February 16, 1970, FCC Report No. 479A. Three of the applications were amended December 16, 1971, and appeared in Public Notice on January 10, 1972, FCC Report No. 578. Each application that is now amended is referenced to the date filed. In addition 4 new applications are now submitted. The amendments and new applications are necessitated to insure compliance with the new engineering standards set forth in the Commission's first report and order in Docket No. 18920, effective July 15, 1971, and Informative Guidelines published regarding Frequency Coordination in Report No. 562, FCC Common Carrier Services Information released September 20, 1971.

4320–C1–P–70—MCI Michigan, Inc. (New), Site 1, station located at 202 South Michigan Street, South Bend, IN. Delete frequency 6345.5V and 6404.8V MHz. Add frequency 11,665.0H and 11,265.0H MHz on azimuth 339°54' toward Buchanan, Mich.

4321–C1–P–70—MCI Michigan, Inc. (New), Site 2, station located 2.1 miles east-southeast of Buchanan, Mich. Delete frequencies 5945.2V, 6123.1V, 5974.8V, and 6093.5V MHz. Add frequencies 10,775.0H, 11,175.0H MHz on azimuth 159°51' toward South Bend, Ind., 6197.2V on azimuth 35°02' toward Decatur, Mich. Change proposed station location to latitude 41°49'10", longitude 86°19'10".

4322–C1–P–70—MCI Michigan, Inc. (New), Site 3, station located 4.2 miles west-southwest of Decatur, Mich. Delete frequencies 6256.5V, 6375.2V, 6226.9V, and 6345.5V MHz. Add frequencies 5945.2V MHz on azimuth 215°12' toward Buchanan, Mich., 6226.9V MHz on azimuth 68°42' toward Texas Corners, Mich.

4323–C1–P–70—MCI Michigan, Inc. (New), Site 4, station located 2.7 miles west-southwest of Texas Corners, Mich. Delete frequencies 5945.2V, 6063.8V, 6034.2V, and 6152.8V MHz. Add frequencies 5974.8V MHz on azimuth 248°55' toward Decatur, Mich., 5974.8H MHz on azimuth 47°24' toward Kalamazoo, Mich.

4324–C1–P–70—MCI Michigan, Inc. (New), Site 5, station located at 136 East Michigan Avenue, Kalamazoo, MI. Delete frequencies 6197.2V, 6315.9V, 6286.2V, and 6404.8V MHz. Add frequencies 6226.9H on azimuth 227°31' toward Texas Corners, Mich., 6226.9H MHz on azimuth 21°48' toward Prairieville, Mich. Delete Galesburg, Mich., as a point of communication.

4329–C1–P–70—MCI Michigan, Inc. (New), Site 8, station located at 187 Monroe Street NW., Grand Rapids, MI. Delete frequencies 10,875V and 11,115V MHz. Add frequencies 11,665.0V and 11,265.0V MHz on azimuth 175°15' toward Dias Hill, Mich. Delete Walker, Mich., as a point of communication.

4326–C1–P–70—MCI Michigan, Inc. (New), Site 9, station located at 1 West Michigan Avenue, Battle Creek, MI. Delete frequencies 11,365V, 11,605V, 5974.2V, 6093.5V, 5945.2V, and 6063.8V MHz. Add frequencies 6197.2V MHz on azimuth 302°54' toward Prairieville, Mich., 6226.9V MHz on azimuth 111°27' toward Marshall, Mich. Delete Galesburg, Hastings, and Homer, Mich., as points of communication.

4330–C1–P–70—MCI Michigan, Inc. (New), Site 10, station located at 5.8 miles east-southeast of Marshall, Mich. Delete frequencies 6256.5V, 6375.2V, 6226.9H, and 6345.5H MHz. Add frequencies 5974.8V MHz on azimuth 291°40' toward Battle Creek, Mich., 5945.2H MHz on azimuth 111°53' toward Concord, Mich. Change proposed station location to latitude 42°13'32", longitude 84°51'55", Marshall, Mich. Delete Jackson, Mich., as point of communication.

4331–C1–P–70—MCI Michigan, Inc. (New), Site 12, station located at 180 West Michigan Avenue, Jackson, MI. Delete frequencies 5945.2H, 6123.1H, 11,605V, 11,365V, 6034.2H, and 6152.8H MHz. Add frequencies 5974.8H MHz on azimuth 239°42' toward Concord, Mich., 5974.8V MHz on azimuth 75°04' toward Chelsea, Mich. Change proposed station location to latitude 42°14'44", longitude 84°24'29", Jackson, Mich. Delete Leslie, Mich., and Homer, Mich., as points of communication.

4334–C1–P–70—MCI Michigan, Inc. (New), Site 16, station located 2.5 miles southwest of Lennon, Mich. Add frequency 5945.2V MHz on azimuth 356°13' toward Laytons Corner, Mich.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

4338-C1-P-70—MCI Michigan, Inc. (New) Site 20, station located at 2.3 miles West of Chelsea, Mich. Add frequency 6226.9V MHz on azimuth 255°17' toward Jackson, Mich.

4344-C1-P-70—MCI Michigan, Inc. (New), Site 28, station located at 500 Griswold Street, Detroit, MI. Add frequencies 11,665.0H 11,265.0H MHz on azimuth 3°37' toward Warren, Mich.

4335-C1-P-70—MCI Michigan, Inc. (New), Site 30, station located 3.3 miles north of Laytons Corner, Mich. Delete frequencies 6004.5V, 6123.1V, 11,405V, 11,645V, 5945.2H, and 6063,8H MHz. Add frequencies 6197.2V MHz on azimuth 176°11' toward Lennon, Mich., 6226.9H MHz on azimuth 11°16' toward Saginaw, Mich. Change proposed station location to latitude 43°13'23", longitude 83°59'45" Laytons Corner, Mich. Delete Flint, Mich., and Owosso, Mich., as points of communication.

4337-C1-P-70—MCI Michigan, Inc. (New), Site 31, station located at Eddy Building, 100 North Washington Street, Saginaw, MI. Delete frequencies 10,875V, and 11,035V MHz. Add frequency 5974.8H MHz on azimuth 191°19' toward Laytons Corner, Mich. Change proposed station location to latitude 43°26'00", longitude 83°56'18" Saginaw, Mich.

POINT-TO-POINT MICROWAVE RADIO SERVICE

Major Amendments

5139-C1-P-70—Eastern Microwave Inc. (KEA64), Change coordinates from latitude 42°58'39" N., longitude 74°08'48" W., to latitude 42°46'31" N., longitude 74°40'56" W. for Cherry Valley transmit site and change coordinates from latitude 42°58'39" N., longitude 72°08'48" W., to latitude 42°58'39" N., longitude 74°08'48" W. for Amsterdam receive site. Station location: Approximately 4 miles southeast of Cherry Valley, N.Y.

2366-C1-P-71—The Western Union Telegraph Co. (KGN31). Add frequency 6315.9H MHz and change polarization from vertical to horizontal on frequencies 6256.5 and 6375.2 MHz on path toward Pittsgrove, N.J. Delete frequency 6256.5V on path toward Mount Laurel, N.J.

INFORMATIVE: Western Tele-Communications, Inc., is amending 3 of its 18 applications proposing specialized common carrier services between Toro Peak, Calif., and Hobbs, N. Mex., with service to Phoenix and Tucson, Ariz., and El Paso, Tex. The application first appeared on Public Notice April 27, 1970. A subsequent amendment appeared on Public Notice, July 26, 1971.

6777-C1-P-70—Western Tele-Communications, Inc. (New), 449 Broadway, El Centro, CA. Latitude 32°47'36" N., longitude 115°33'13" W. Change point of communication from Black Mountain, Calif., to Ogilby, Calif., and add frequencies 3810H and 3890H toward Ogilby, Calif., on azimuth 88°14'.

6778-C1-P-70—Western Tele-Communications, Inc. (New), relocate station to Ogilby, Calif., 12 miles northwest of Yuma, Ariz. Latitude 32°48'38" N., longitude 114°48'26" W. Add frequencies 3880V and 4070V toward El Centro, Calif., on azimuth 268°38', and 4070V and 4150V toward Telegraph Pass, Ariz., on azimuth 109°00'.

6779-C1-P-70—Western Tele-Communications, Inc. (New), Telegraph Pass, 16.5 miles east-southeast of Yuma, Ariz. Latitude 32°40'22" N., longitude 114°20'14" W. Change point of communication from Black Mountain, Calif., to Ogilby, Calif., and add frequencies 3890H and 3970H toward Ogilby, azimuth 289°15'.

INFORMATIVE: Applicant, MCI New England, Inc., is amending eight of its previously filed applications for authority to construct a new specialized common carrier service in a four-State area from Boston, Mass., to New York, N.Y. The applications now being amended were originally filed in December 1969 and appeared on Public Notice Dec. 22, 1969, FCC Report No. 471. The application was amended in December 1971 and appeared on Public Notice Dec. 13, 1971, FCC Report No. 574.

3406-C1-P-70—MCI New England, Inc. (New), 101 Broad Street, Stamford, CT, at latitude 41°03'18" N., longitude 73°32'20" W. Add point of communication, frequencies 11,625.0H and 11,225.0H on azimuth 30°18'.

3405-C1-P-70—MCI New England, Inc. (New), 140 Fairfield Avenue, Bridgeport, CT, at latitude 41°10'46" N., longitude 73°11'27" W. Delete frequencies 10,735.0H and 10,895.0H on azimuth 57°08', and 5989.7V and 6108.3V on azimuth 244°44'. Add frequency 5945.2V on azimuth on 260°40', and 5945.2V on azimuth 43°52'.

3404-C1-P-70—MCI New England, Inc. (New), 265 College Street, New Haven, CT, at latitude 41°18'24" N., longitude 72°55'45" W. Delete frequencies 11,625.0H and 11,305.0H on azimuth 43°11', and 11,425.0H and 11,585.0H on azimuth 237°18'. Add frequencies 10,735.0H and 11,135.0H on azimuth 322°39'.

3400-C1-P-70—MCI New England, Inc. (New), 3.3 miles northwest of Staffordville, Conn., at latitude 42°01'19" N., longitude 72°12'30" W. Delete frequency 5974.8V on azimuth 243°52' and replace with frequency 5960.0V on azimuth 243°52'. Add point of communication, frequency 3770.0V on azimuth 293°06'.

3402-C1-P-70—MCI New England, Inc. (New), Kimball Towers, Springfield, Mass., at latitude 42°06'17" N., longitude 72°35'21" W. Delete frequencies 6019.3H and 6137.9H on azimuth 190°34'. Add frequencies 3770.0V on azimuth 101°19'.

3398-C1-P-70—MCI New England, Inc. (New), 25 Eddy Street, West Auburn, MA, at latitude 42°10'07" N., longitude 71°52'04" W. Add point of communication, frequency 11,175.0V on azimuth 26°44'.

3399-C1-P-70—MCI New England, Inc. (New), 340 Main Street, Worcester, MA, at latitude 42°15'55" N., longitude 71°48'08" W. Delete frequencies 6019.3H and 6137.9H on azimuth 206°47'. Add frequency 11,385.0V on azimuth 206°47'.

3328-C1-P-72—MCI New England, Inc. (New), 1.3 miles east of Bethlehem, Conn. Site relocated to latitude 41°38'10" N., longitude 73°10'33" W. Frequency 6152.8V on azimuth 59°13', and frequency 6063.8H on azimuth 202°55'.

1287-C1-P-72—Western Tele-Communications, Inc. (KSV37), coordinate change from latitude 48°00'41" N., longitude 114°21'46" W. to latitude 48°00'49" N., longitude 114°21'59" W. All other particulars the same as reported in Public Notice Report No. 561, dated Sept. 13, 1971.

[FR Doc.72-5690 Filed 4-14-72;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 122]

H. & VAL J. ROTHSCHILD, INC., AND VILLA PARK FINANCIAL CORP.

Notice of Receipt of Application for Permission To Acquire Control of Illinois Savings and Loan Association of Villa Park, Ill.

APRIL 12, 1972.

Notice is hereby given that the Federal Savings and Loan Insurance Corp. has received an application from H. & Val J. Rothschild, Inc., and its subsidiary, Villa Park Financial Corp., both of St. Paul, Minn., for approval of acquisition of control of Illinois Savings and Loan Association of Villa Park, Ill., Villa Park, Ill., an insured institution under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730 a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be affected by the purchase by cash of shares of Illinois Savings and Loan Association of Villa Park, Ill. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.72-5750 Filed 4-14-72;8:48 am]

FEDERAL MARITIME COMMISSION

[Docket No. 72-14]

MARINE AND MARKETING INTERNATIONAL CORP.

Order of Investigation and Suspension Regarding Reduced Rates on Automobiles From Miami and Jacksonville to San Juan, Puerto Rico

Marine and Marketing International Corp. has filed with the Federal Maritime Commission third revised page No. 43 to their Tariff FMC-F No. 1 to become effective April 12, 1972. This revised page proposes to provide reduced rates on automobiles from Miami and Jacksonville to San Juan, Puerto Rico.

Upon consideration of the revised page and the protests filed thereto, the Commission is of the opinion that the above designated tariff matter may be unfair and unreasonable, preferential to the Ports of Jacksonville and Miami, and prejudicial to other Atlantic ports or otherwise unlawful, and that a public investigation and hearing should be instituted to determine its lawfulness under sections 16, First, and 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933; and good cause appearing therefor;

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the

lawfulness of said tariff matter with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is further changed, amended or reissued, such matter will be included in this investigation. Moreover, the investigation shall consider whether such tariff matter, if effective, will constitute a preference to the Ports of Jacksonville and Miami and a prejudice to the other Atlantic ports in violation of section 16, First;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, Marine and Marketing International Corp.'s third revised page No. 43 to its Tariff FMC–F No. 1 is suspended and the use thereof deferred to and including August 11, 1972, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Marine and Marketing International Corp. a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state the aforesaid matter is suspended and may not be used until August 12, 1972, unless otherwise authorized by the Commission; and the tariff matter heretofore in effect, and which was to be changed by the suspended matter, shall remain in effect during the period of suspension, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension, may be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission;

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provisions of Rule 12(h) which require leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, are similarly waived;

It is further ordered, That Marine and Marketing International Corp., be named as respondent in this proceeding;

It is further ordered, That under the provisions of Rule 3(a) of the Commission's rules of practice and procedure, petitioners Sea-Land Service, Inc., Caride Hydro-Trailer, Inc., TMT Trailer Ferry, Inc., and Transamerican Trailer Transport, Inc., are hereby designated as complainants;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

It is further ordered, That a copy of this order shall forthwith be served on the respondent and complainants herein named; published in the FEDERAL REGISTER; and that the said respondent and complainants be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–5727 Filed 4–14–72;8:46 am]

FEDERAL POWER COMMISSION

[Project 82–Alabama]

ALABAMA POWER CO.

Notice of Availability of Environmental Statement for Inspection

APRIL 7, 1972.

Notice is hereby given that on April 4, 1972, as required by § 2.81(b) of Commission regulations under Order 415–B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application by Alabama Power Co. pursuant to the Federal Power Act for relicense for Mitchell Project No. 82–Alabama.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project consists of (1) a dam, approximately 106 feet high and 1,264 feet long, (2) a reservoir with surface area of about 5,850 acres, and (3) a powerhouse. The project presently has an installed capacity of 72,500 kw. The applicant proposes in its application to install an additional 80,000 kw.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415–B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 60 days from April 4, 1972. The Commission will consider all response to the statement.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–5709 Filed 4–14–72;8:45 am]

[Docket No. RI72–172, etc.]

ATLANTIC RICHFIELD CO., ET AL.

Order Amending Suspension Orders

APRIL 7, 1972.

Atlantic Richfield Co., et al., Docket No. RI72–172, etc.; Humble Oil & Refining Co., et al., Docket No. RI72–177, etc.; Getty Oil Co., et al., Docket No. RI72–179, etc.

The Commission by orders issued February 4, 1972, in Docket No. RI72–172, et al., February 16, 1972, in Docket No. RI72–177, et al., and February 17, 1972, in Docket No. RI72–179, et al., suspended increased rates proposed by producers with respect to certain jurisdictional sales of natural gas for less than the full 5-month suspension period permitted, but not required, under section 4(e) of the Natural Gas Act. Those orders, however, do not provide for certification of the abbreviated suspension period pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972). We shall therefore amend those orders so as to provide the necessary certification.

The Commission orders:

Each of the suspension orders herein is amended by the addition of the following paragraph:

CERTIFICATE OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61–1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling but

does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72-5711 Filed 4-14-72;8:45 am]

[Docket No. RP72-89]

COLUMBIA GAS TRANSMISSION CORP.

Order Permitting Late Petitions To Intervene To Be Filed, Permitting Interventions, and Establishing Hearing and Conference Procedures

APRIL 7, 1972.

By order issued January 14, 1972, in this proceeding, the Commission suspended until April 1, 1972, certain proposed revised tariff sheets[1] to Columbia Gas Transmission Corp.'s (Columbia) FPC Gas Tariff, Original Volume No. 1. These revisions to Columbia's tariff pertain, among other things, to maximum monthly volume limitations, curtailment procedures, overrun penalties, commodity rate adjustments, elimination of demand charge credit, and exclusion of the "free" day provisions in the CDS and G Rate Schedules for excess takes by customers.

Pursuant to our notice in this proceeding published in the FEDERAL REGISTER, petitions for and notices of intervention herein were due on or before January 5, 1972. Subsequent to that date petitions to intervene in this proceeding were filed by the Public Service Commission for the State of New York, jointly by the Commonwealth of Pennsylvania and Pennsylvania Public Utility Commission, and jointly by the Peoples Natural Gas Co. and West Ohio Gas Co.

All of the petitioners listed above have shown a legitimate interest in this proceeding. No protests to their petitions for leave to intervene have been received. Inasmuch as we are scheduling the prehearing conference herein at a future date, the participation of those requesting intervention out of time will not delay this proceeding and, consequently, we will accept those untimely tendered documents for filing.

In our order of January 14, 1972, we found that the proposed filing by Columbia should be suspended and the use thereof deferred. Columbia's proposal should now be tested by a public hearing to determine its reasonableness under the provisions of the Natural Gas Act. Accordingly, we will set forth the procedures for that hearing.

We conclude that Columbia should be required to submit evidence in support of its revised tariff provisions pertaining inter alia, to maximum monthly volume limitations, curtailment procedures, overrun penalties, commodity rate adjustments, elimination of demand charge credit, and exclusion of the "free" day provisions in the CDS and G Rate Schedules for excess takes by customers. We also believe that a conference should be held thereafter to endeavor to settle the issues raised herein. The evidence to be submitted by Columbia should include, among other things, backup supply, demand and other data upon which curtailment programs are based, the basis for the maximum monthly volumes, and the impact on each customer under the proposed curtailment program. The conference referred to above will be scheduled after the aforesaid evidence is distributed by Columbia. If the conference does not produce a settlement, we are directing the Examiner to proceed immediately to schedule the distribution of answering and rebuttal evidence and a hearing date for cross-examination.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes in Columbia's FPC Gas Tariff and that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth herein.

(2) Good cause exists to permit the intervention of the above-named petitioners who filed late.

The Commission orders:

(A) Columbia shall distribute on or before May 8, 1972, the evidentiary support for the proposed tariff provisions pertaining to inter alia, maximum monthly volume limitations, curtailment procedures, overrun penalties, commodity rate adjustments, elimination of demand charge credit, and exclusion of the "free" day provisions in the CDS and G Rate Schedules for excess takes by customers, all as set forth in the recital above.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 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 in this proceeding on May 31, 1972, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, for the purpose of incorporating into the record the testimony and exhibits previously distributed. Immediately thereafter the Presiding Examiner will convene a conference and in the event that a settlement of the issues does not result from said conference, the Presiding Examiner will schedule dates for the distribution of answering and rebuttal evidence, and the date for the commencement of hearings for the purpose of cross-examination and will rule on all data requests or any other relevant matters presented at such hearing.

(C) All of the above-named petitioners are hereby permitted to intervene 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 rights and interests specifically set forth in the respective petitions 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 issued by the Commission in this proceeding.

(D) A Presiding Examiner to be designated by the Chief Examiner (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at, and control these proceedings in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72-5712 Filed 4-14-72;8:45 am]

[Docket No. E-7682]

GULF STATES UTILITIES CO.

Order Authorizing Issuance of Promissory Notes, Granting Intervention, Granting Motion for Late Filing and Consolidation of Proceedings

APRIL 6, 1972.

Gulf States Utilities Co. (Applicant), a corporation organized under the laws of the State of Texas and doing business in the States of Texas and Louisiana, filed an application on November 22, 1971, seeking an order pursuant to section 204 of the Federal Power Act authorizing it to issue promissory notes to commercial banks and the commercial paper dealers in an aggregate principal amount not to exceed $125 million at any one time. The application requests that all notes be issued on or before December 31, 1972, with final maturity dates not later than December 31, 1973.

The interest rate on all notes to commercial banks will be at the prime rate of the lender in effect at the time of each borrowing. The interest cost of issuing commercial paper will be determined at the time it is issued and will be dependent upon money market conditions, length of time to its maturity, and acceptance by buyers of commercial paper. All commercial paper will have a

[1] Designated as First Revised Sheets Nos. 1, 18, 19, 20, 28, 29, 30, 33, 47, and 62 and Original Sheets Nos. 19A, 28A, 28B, 47A, 62A, 62B, 90, 91, 92, 93, and 94.

maturity of not more than 9 months from the date of its issuance, and the aggregate amount of commercial paper to be outstanding at any one time will not exceed 50 percent of the Applicant's most recent 6 month's revenues from the sale of electricity, gas, and steam products.

Applicant states that the proceeds from the issuance of the notes will be added to the general funds for construction expenditures. The company plans to sell additional securities in the future and the application states:

> The estimated construction program of the Applicant calls for expenditure of approximately $774,300,000 for the 5-year period 1971–1975. Of the funds required for this program it is estimated that approximately $292 million will be provided out of earnings not distributed in cash, depreciation accruals, and other sources as available over the 5-year period. About $482 million will be provided through the sale of additional securities of the Applicant, including short term financing.

Written notice of the application has been given to the Louisiana Public Service Commission, the Texas Railroad Commission and to the Governor of each of those States. Notice has also been given by publication in the FEDERAL REGISTER on December 14, 1971 (36 F.R. 23838), stating that any person desiring to be heard or to make any protest with reference to the application, should file petitions or protests on or before December 23, 1971, with the Federal Power Commission, Washington, D.C. 20426. On December 23, 1971, the cities of Lafayette and Plaquemine, La. (Cities) filed a protest and petition to intervene in the proceeding alleging violation of antitrust laws. The Cities incorporate by reference the protests and petitions to intervene filed by the Cities on November 2, 1970, in Docket No. E–7567, and September 30, 1971, in Docket No. E–7663.

The Cities petitions to intervene in Dockets Nos. E–7567 and E–7663 allege generally that the applicant along with Louisiana Power and Light Co. and Central Louisiana Electric Co. have engaged in a conspiracy to suppress and defeat an interconnection and pooling agreement between the Cities, Dow Chemical Co. and Louisiana Electric Corporative, Inc. (LEC). LEC is a generating and transmission cooperative financed by the Rural Electrification Administration (REA), and is made up of 12 electric distribution cooperatives all of which operate in Louisiana.

The petitions further allege that in September of 1964, the REA undertook to make a $56.5 million loan to LEC for construction of a 200 MW generating station with 1,611 miles of transmission lines through which the LEC could serve 8 of its 12 member cooperatives. Prior to this time, the three companies had been selling power to those cooperatives. According to the Cities the companies succeeded in delaying the actual use of the funds provided for more than 5 years, through a series of law suits filed by the companies themselves and by the companies attorneys on behalf of other putative plaintiffs.

Cities allege that in August 1968, the Cities, Dow, and LEC executed an interconnection and pooling agreement providing for the interconnection of their coordination arrangement, with a minimum term of 10 years. The agreement, approved by the REA administration on November 19, 1968, provided for a combined planning of load requirements for the Cities, the LEC members and Dow. It meant, according to the Cities, assurance of a market for all surplus capacity and secondary energy, as well as coordination, and substantial savings, in the construction of new generators, in sum, economies of scale, plus benefits in the form of back-up for each system and energy interchanges.

Cities further allege that by engaging in frivolous and repetitive litigation, and by mounting a public relations drive and lobbying effort against LEC, the three companies were able to hold up disbursement of the loan money until January 1969, when a new REA Administrator was sworn into office. This prevented the members of the new pool from going ahead with their agreement. Furthermore, a rise in cost during the 5 year delay raised a serious question whether the original loan would suffice to finance all of the LEC's generation and transmission needs. Therefore, the new Administrator advanced funds only for the LEC generating station, but not for transmission lines, and LEC was left to negotiate with the three companies for use of their transmission lines.

Cities contend that the conspiracy continued during these negotiations. They allege that the companies, while willing to supply transmission of power to some of the LEC members, refused to supply transmission services between pool members. They further allege that the companies demanded that LEC limit its power capacity to the 200 MW station already planned, and that the company supply all further power needs of the 12 cooperatives, thus concluding LEC expansion to serve its members-expanding load.

The Cities petition to intervene filed December 23, 1971, in this docket, further alleges as follows:

> It further appears that Gulf has conspired or combined with other public utilities to withhold or prevent transmission to LEC and the Cities of preference power available to them through the marketing activities of the Southwestern Power Administration. Further, Gulf is a participant in the Southwest Power Pool (15 investor-owned electric utility companies as members, five other companies as supporting members, and three public power systems which are contributing members) and the South Central Electric Companies (11 investor-owned utility companies). It appears that the Cities have been excluded from or not afforded an opportunity to participate in, these groups. The former is a planning and coordination group, and the latter exclusively controls the interchange of power and energy with the Tennessee Valley Authority and provides a number of power pooling activities. The result of these exclusive regional organizations, together with intercompany contractual arrangements and other activities, result in limiting the possible interconnections of cities like Lafayette and Plaquemine to single investor-owned utilities without competition between the utilities, and prevent such cities from establishing any alternative pools such as that contemplated in the interconnection and pooling agreement among the Cities, LEC and DOW.

Based on the reasons set forth in their petition to intervene in Dockets Nos. E–7567, E–7663 and this docket the Cities request that they be admitted as full parties to this proceeding and that the Commission either (1) set this docket for hearing and combine it with the hearing in Docket No. E–7676 or (2) authorize the financing here sought subject to revocation if warranted by the facts which will be shown in the Docket No. E–7676.

On January 17, 1972, Dow Chemical Co. filed a motion for leave to file a late protest and petition to intervene and a protest and petition to intervene. Both the motion and the tendered protest and petition cite that Dow Chemical Co. was granted leave to intervene in Docket No. E–7676 by order issued January 7, 1972. The motion further cites that since no proceeding has yet commenced in the instant proceeding, no delay would be occasioned by granting Dow late intervention.

Dow's petition to intervene generally supports the Cities petition to intervene filed December 23, 1971, and requests that the Commission grant the relief requested by the Cities.

On January 3, 1972, Applicant filed an answer to the Cities' protest and petition to intervene generally denying all of the allegations as set forth in the Cities petition, and requested that the Commission deny the petition to intervene, without hearing, and issue an order approving the application for issuance of securities.

On January 21, 1972, Applicant filed an answer to Dow's motion for leave to file late protest and petition to intervene stating that Dow had not shown, or even alleged any extraordinary circumstances or good cause which is required to support authority for late filing under Federal Power Commission's Rules.

The application for authorization of securities filed by Applicant in this docket must be considered in the light of other previous proceedings. On October 12, 1971, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision, city of Lafayette, Louisiana, v. S.E.C., CADC, No. 24,764 et al. wherein it remanded to the Commission for further proceedings not inconsistent therewith an order of the Commission in a prior financing proceeding involving Gulf States, because of a lack of findings on certain alleged violations to the antitrust laws. In doing so, the Court was aware that proceedings for authorization to issue securities "must be decided in a time frame much more limited than that often contemplated for antitrust litigation." (Slip op. at 23.) The court further noted the Commission may approve the entire application "if it stands ready to proceed with hearing and consideration of the anticompetitive issues."

Gulf States on September 7, 1971, filed an application seeking authority of the Federal Power Commission to issue additional securities. Based upon the Court's

decision on November 4, 1971, in Docket No. E–7663 the Commission authorized the issuance of the requested securities, granted intervention, but determined that the intervention of the cities should be considered as a complaint under section 306 of the Federal Power Act and simultaneously issued an order in Docket No. E–7676 accepting that petition as a complaint under 306 of the Federal Power Act and set the matter for hearing not only with regard to the activities of Gulf States Utilities Co., but also as to Louisiana Power & Light Co., and Central Louisiana Electric Co.

The Commission in its order issued November 4, 1971, in Docket No. E–7663 stated:

> The Commission in reviewing Cities' contentions as set forth in their petition has done so in the light of its overall responsibilities under the Federal Power Act. The Commission is aware of its responsibilities with regards to interconnection and coordination of the facilities, for purposes of assuring an abundance of supply of electric energy throughout the United States with the greatest possible economy and with regard to proper utilization and conservation of natural resources. Further the Commission is aware of its responsibilities to enhance optimum interconnection and interchange of electric energy as well as other activities in furtherance of electric energy capabilities. All of the Commission's responsibilities being directed toward safeguarding cost, rates, and reliability.
>
> At the same time the Commission realizes that security issues to provide funds for utility construction and financing programs must be decided in a time frame much more limited than that contemplated for consideration of the alleged anticompetitive activities.
>
> With an awareness of its responsibilities the Commission, however, is unable to determine the merits of Cities' contention and the Commission's authority to grant relief sought without further proceedings and the benefit of a hearing in which evidence is presented and legal authority is cited to grant the relief sought.

The issues presented by the Cities and Dow in this proceeding involve the same subject matter as those presently being considered in Docket No. E–7676. The Commission therefore feels that it is appropriate to consider the petitions to intervene filed in this Docket as complaints under section 306 of the Federal Power Act and to consolidate those complaints with the complaints previously filed in Docket No. E–7676.

The Commission finds:

(1) The Applicant, a corporation, is a public utility within the meaning of section 204 of the Federal Power Act subject to the jurisdiction of this Commission as heretofore determined and set forth in the Commission order issued November 27, 1957, in the matter of Gulf States Utilities Co., Docket No. E–6785 (18 FPC 701).

(2) The proposed issuance of promissory notes to commercial banks and commercial paper dealers in the aggregate principal amount of $125 million, all as described above, will constitute an issuance of securities within the purview of section 204 of the Act.

(3) The proposed issuance of promissory notes will be in excess of 5 percent of the par value of the other securities of Applicant, and therefore, will not be exempt by virtue of section 204(e) from the requirements of section 204(a) of the Act.

(4) Applicant is not organized and operating in a State, under the laws of which the issue herein involved is regulated by a State Commission within the meaning of section 204(f) of the Act, and the proposed issuance is, therefore, not exempt by virtue of that Section from the requirements of section 204 of the Act.

(5) The proposed issuance of promissory notes will be exempted from the competitive bidding requirements of § 34.1a of the Commission's regulations under the Federal Power Act by reason of § 34.1a(a)(2) thereof.

(6) The proposed issuance of securities as hereinafter authorized, will be for a lawful object within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with proper performance of service by Applicant as a public utility, and which will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purposes.

(7) The period of public notice given in this matter is reasonable.

(8) Sufficient good cause exists for granting Dow Chemical Co.'s motion for leave to file a late protest and petition to intervene.

(9) Intervention by the cities of Lafayette and Plaquemine, La., and Dow Chemical Co., may be in the public interest for purposes of Commission consideration of the petitions.

(10) The matters asserted and activities alleged in the filed protest and petitions to intervene by the cities of Lafayette and Plaquemine, La., and Dow Chemical Co., raise issues which should be heard in a proceeding separate from this docket.

(11) The protest and petitions to intervene filed in this docket by the cities of Lafayette and Plaquemine, La., and Dow Chemical Co. should be considered as a complaint filed under section 306 of the Federal Power Act.

(12) The protest and petitions to intervene filed in this docket by Lafayette and Plaquemine, La., and Dow Chemical Co. raise issues which are identical to those being considered in Docket No. E–7676, a complaint proceeding now before the Commission, and is therefore appropriate that the complaints filed in this docket should be consolidated with Docket No. E–7676 for purposes of hearing and decision.

The Commission orders:

(A) Dow Chemical Co.'s motion for leave to file late protest and petition, filed January 17, 1972, is hereby granted.

(B) The above-mentioned petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* The admission of the aforementioned petitioners shall not be construed as recognition by the Commission that the petitioners might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The proposed issuance and sale of promissory notes upon the terms and conditions and for the purposes specified in the application as described above, is hereby authorized subject to the provisions of this order.

(D) This authorization is expressly conditioned upon all notes being issued on or before December 31, 1972, and having final maturity dates of not later than December 31, 1973.

(E) This authorization is expressly conditioned upon all promissory notes being issued in the form of commercial paper not exceeding 50 percent of the Applicant's most recent 6 months revenues from the sale of electricity, gas, and steam products.

(F) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determination of cause or any other matter whatsoever now pending or which may come before this Commission.

(G) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect to any security to which this order relates.

(H) Pursuant to the authority of the Federal Power Act, particularly sections 202, 306, and 307 thereof in the Commission's rules of practice and procedure, an investigation is hereby instituted to determine the justification of the protest and petitions to intervene by the cities of Lafayette and Plaquemine, La., and Dow Chemical Co. and, if necessary, to prescribe such relief as is appropriate within the boundaries of the Federal Power Act.

(I) All further proceedings in this docket shall be consolidated with the complaint proceeding previously instituted in Docket No. E–7676.

(J) Inasmuch as Louisiana Power and Light Co. and Central Louisiana Electric Co. as well as Gulf State Utilities Co. were named as parties in Docket No. E–7676, with which this proceeding will be consolidated, a copy of the cities and Dow's complaints shall be served on Louisiana Power and Light Co. and Central Louisiana Electric Co. and their response thereto shall be filed with the Commission within 15 days from the date of issuance of this order.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72–5710 Filed 4–14–72;8:45 am]

[Dockets Nos. CP72–47, CP72–88]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Order Granting Intervention and Amending Previous Order

APRIL 3, 1972.

On February 4, 1972, the Commission issued an order consolidating proceedings, granting interventions, and setting procedures and dates in the above-docketed proceeding. Hearings began on

March 6, 1972, and were subsequently recessed to recommence on April 19, 1972.

On February 14, 1972, Shell Oil Co. filed a petition for leave to intervene in these proceedings. Although this petition was not timely filed, we find that good cause exists to grant this petition and that in light of the procedural status of this case the intervention of the above-named petitioner will not delay this proceeding.

In the above-mentioned order of February 4, 1972, we mistakenly referred to the Iowa Electric Light & Power Co. as the Iowa Electric Gas Light & Coke Co., and we also mistakenly referred to the Mississippi River Transmission Corp. as Mississippi Power Transmission Corp. We hereby correct these errors in the order of February 4, 1972. We also acknowledge the notice of intervention filed November 10, 1971, by the Public Utilities Commission of Ohio. Acknowledgment of this notice was omitted from the February 4, 1972, order.

The Commission finds:

(1) It is desirable to allow the above-named petitioner to intervene in these proceedings.

(2) It is desirable to amend the order issued on February 4, 1972, in this docket to reflect the changes described above.

The Commission orders:

(A) The above-named petitioner is permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene. *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders entered in these proceedings.

(B) The above-designated errors and omissions in the February 4, 1972, order are corrected.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72-5713 Filed 4-14-72;8:46 am]

NATIONAL GAS SURVEY DISTRIBUTION—TECHNICAL ADVISORY TASK FORCE—GENERAL

Order Designating Additional Member

APRIL 7, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. Membership. Additional members to the Distribution—Technical Advisory Task Force—General, as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

Michael A. James, Senior Staff Attorney, Office of General Counsel, Environmental Protection Agency.

Barry R. Korb, Operations Research Analyst, Office of Planning and Evaluation, Environmental Protection Agency.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72-5714 Filed 4-14-72;8:46 am]

[Docket No. RP72-113]

COLORADO INTERSTATE GAS CO.

Notice of Proposed Changes in Rates and Charges

APRIL 13, 1972.

Take notice that Colorado Interstate Gas Co. (CIG) on March 31, 1972, tendered for filing proposed changes in its First Revised Volume No. 1 of CIG's FPC Gas Tariff.[1] The proposed changes would increase revenue from jurisdictional customers by $7,447,435 above the present rates being collected subject to refund in Docket No. RP72-4 or $10,772,275 above the settlement rates in that docket. The proposed rate change is described in the company's transmittal letter as follows:

This filing reflects a general increase in CIG's rates charged to its jurisdictional customers, except for its PS-1 Rate Schedule. The total annual amount of the proposed increase is $7,447,435 above the present rates being collected subject to refund in Docket No. RP72-4 or $10,772,275 above the proposed settlement rates in that docket. It is proposed that the rates become effective May 1, 1972. However, since CIG's settlement agreement in Docket No. RP72-4, awaiting approval by the Commission, provides that CIG shall not file for a general increase in its jurisdictional rates which will become effective under section 4(e) of the Natural Gas Act prior to October 1, 1972, CIG is making this filing with the expectation that the proposed increased rates will be suspended for the full 5-month statutory period, or until Oct. 1, 1972.

This filing includes tariff sheets applicable to a proposed new paragraph 20, to be included in the General Terms and Conditions of CIG's presently effective FPC Gas Tariff, which incorporates purchased gas adjustment provisions designed to recover, on an annual basis, CIG's actual purchased gas costs. A companion provision providing for flow-through of refunds received from suppliers is also included. To enable incorporation of these provisions in its Tariff, CIG respectfully requests that the Commission waive the provisions of section 154.38(d)(3) of its regulations under the Natural Gas Act.

This filing gives effect to the construction and operation of facilities certificated by the Commission in Docket No. CP71-319 (Big Horn Basin supply project) and those facilities for which application for a certificate of public convenience and necessity is pending before the Commission in Docket No. CP72-170. Test period annual volumes reflect an allocation of annual sales among jurisdictional and nonjurisdictional customers which results from the necessity of limiting the total volume of annual sales to a level which can prudently be supported from existing supplies.

Docket No. CP72-170 facilities will enable CIG to expand its transmission system capacity by approximately 46,200 Mcf per day. Assuming timely authorization by the Commission, construction of the proposed facilities is scheduled for completion by October 1, 1972. No customer of CIG has objected to the proposed expansion. Mountain Fuel Supply Co., however, with which CIG presently exchanges gas under an agreement which terminates in 1973, has petitioned to intervene in Docket No. CP72-170 and, although its petition states no objection to the authority there sought, has requested a hearing.

CIG requests the Commission waive the provisions of section 154.63(e)(2)(ii) of its regulations under the Natural Gas Act to the extent required to permit the facilities for which authorization is pending in Docket No. CP72-170 to be reflected in this filing. The rates contained in this filing are required to compensate CIG for its cost of service whether or not the Commission authorizes the facilities proposed in Docket No. CP72-170. The effect of eliminating those facilities from this filing is demonstrated in tabulations attached to the company's transmittal letter.

Copies of this filing have been mailed to the customers of CIG and interested public bodies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-5863 Filed 4-14-72;8:52 am]

[1] First Revised Sheet No. 3A, First Revised Sheet No. 3B, First Revised Sheet No. 34B, Original Sheet No. 34C, Original Sheet No. 34D, Original Sheet No. 34E and Original Sheet No. 34F.

FEDERAL RESERVE SYSTEM

MIDLANTIC BANKS INC.

Order Approving Acquisition of Bank

Midlantic Banks Inc., Newark, N.J., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less director's qualifying shares) of the voting shares of Citizens National Bank, Englewood, N.J.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in light of the

factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

On the basis of the record, the application is approved for the reasons set forth in the Board's Statement[1] of this date. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[2] April 7, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-5729 Filed 4-14-72;8:46 am]

UNITED CAROLINA BANCSHARES CORP.

Proposed Acquisition of United Carolina Life Insurance Co.

United Carolina Bancshares Corp., Whiteville, N.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of United Carolina Life Insurance Company, Phoenix, Ariz. Notice of the application was published on March 6, 1972, in the News Reporter, a newspaper circulated in Whiteville, N.C., and on March 7, 1972, in the Arizona Weekly Gazette, a newspaper circulated in Phoenix, Ariz.

Applicant states that the proposed subsidiary would engage in the underwriting, as reinsurer, of credit life insurance and credit accident and health insurance issued in connection with loans made by Applicant's credit-granting subsidiaries.

Interested persons may express their views as to whether such activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto. In considering this application the Board will take into account the record of its March 24, 1972 hearing on six similar applications by other applicants involving the underwriting of credit life and health and accident insurance.

Interested persons may also express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on these matters should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why these matters should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 9, 1972.

Board of Governors of the Federal Reserve System, April 10, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-5730 Filed 4-14-72;8:46 am]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York. Dissenting Statement of Governors Robertson, Maisel, and Brimmer also filed as part of the original document and available upon request.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, and Sheehan. Voting against this action: Governors Robertson, Maisel, and Brimmer.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-145]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government before the Nebraska State Railway Commission in a proceeding involving telephone rates of the Northwestern Bell Telephone Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: April 10, 1972.

HAROLD S. TRIMMER, Jr.,
Acting Administrator of General Services.

[FR Doc.72-5745 Filed 4-14-72;8:48 am]

[Federal Property Management Regs.; Temporary Reg. F-146]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a proceeding for a certificate for a liquefied natural gas storage facility.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Power Commission in a proceeding (Docket No. CP72-133) involving an application for a certificate of public convenience and necessity to enable Arkansas-Missouri Power Co. to construct and operate an above-ground storage tank and appurtenant facilities for liquefied natural gas to meet peak-day requirements of its customers.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: April 10, 1972.

HAROLD S. TRIMMER, Jr.,
Acting Administrator of General Services.

[FR Doc.72-5746 Filed 4-14-72;8:48 am]

PRICE COMMISSION

[Order 3]

CHAIRMAN, PRICE COMMISSION

Delegation of Authority Concerning Stabilization of Prices and Rents

Pursuant to the Economic Stabilization Act, as amended (Public Law 92-210), Executive Order No. 11640 (37 F.R. 1213) and Cost of Living Council Orders Nos. 4 (36 F.R. 20202) and 7 (37 F.R. 2727) and the authority vested thereunder in the Price Commission and its Chairman, and in order to facilitate the prompt and efficient performance of the functions of the Commission and of the Chairman exercising the legal authority of the Commission and to provide further guidance to the public, the Commission hereby confirms the following delegations of authority:

(a) Full authority is delegated to the Chairman to act on behalf of the Commission when the Commission is not in session, subject to the general policy guidance of the Commission.

(b) There is also delegated to the Chairman authority to—

(1) Make decisions and issue orders with respect to individual requests for price or rent increases or adjustments;

(2) Review and determine correctness of reported price or rent increases or adjustments and issue appropriate orders with respect thereto;

(3) Enter into term limit pricing agreements or other arrangements provided for under Price Commission procedures or regulations;

(4) Make decisions and issue orders with respect to individual requests for exceptions;

(5) Conduct public or private investigations, examinations, hearings, conferences or other proceedings and make findings and determinations in connection with Price Commission functions;

(6) Order enforcement actions related to noncompliance with Price Commission regulations or orders;

(7) Interpret the rules and guidelines of the Commission and the laws to which the Commission is subject;

(8) Advise and recommend with respect to litigation concerning the Commission in all State or Federal courts, and represent the Commission in that litigation;

(9) Administer the allocations of funds from the Cost of Living Council to the Price Commission;

(10) Place orders for supplies, materials, and services from the General Services Administration, enter into Price Commission contracts and interagency agreements, effect personnel actions, authorize travel and publications, and perform other ministerial and administrative functions in accordance with applicable laws and regulations;

(11) Certify any Price Commission documents and statements;

(12) Sign regulations, orders, notices and other documents to be published in the FEDERAL REGISTER.

(c) The Chairman is further authorized to organize the Price Commission staff and to redelegate to Price Commission personnel any authority delegated to him in this order.

(d) The delegated authority to perform any function of the Commission heretofore performed by any person to whom authority is or may be delegated hereunder is hereby ratified and confirmed.

Issued in Washington, D.C., on April 11, 1972.

By order of the Commission.

C. JACKSON GRAYSON, Jr.,
Chairman.

[FR Doc.72-5823 Filed 4-14-72;8:50 am]

[Order 4]

EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND DIRECTORS OF PROGRAM OPERATIONS AND EXCEPTIONS REVIEW

Delegation of Authority

Pursuant to the provisions of the Economic Stabilization Act, as amended (Public Law 92-210), Executive Order No. 11640 (37 F.R. 1213), Cost of Living Council Orders No. 4 (36 F.R. 20202) and No. 7 (37 F.R. 2727), delegations of authority thereunder, and Price Commission Order No. 3:

(a) I hereby delegate authority to the Executive Director of the Price Commission to supervise and administer the staff of the Commission and to execute its decisions and orders, including, without limitation, the authority to—

(1) Administer funds received from the Cost of Living Council or other sources for the purpose of the Commission;

(2) Place orders for supplies, materials, and services from the General Services Administration, enter into Price Commission contracts and interagency agreements, authorize travel and publications, certify Price Commission statements and documents, and effect all other ministerial and administrative functions in accordance with applicable laws and regulations;

(3) Make decisions and issue orders with respect to individual requests for price or rent increases or adjustments involving a dollar impact of less than $10 million;

(4) Make decisions and issue orders with respect to individual requests for exceptions;

(5) Review and determine correctness of reported price or rent increases or adjustments and issue appropriate orders with respect thereto, in cases involving a dollar impact of less than $10 million;

(6) Order and supervise investigations to determine whether persons are in compliance with the regulations, decisions and orders of the Commission;

(7) Effect all personnel actions; and

(8) When the Chairman is absent from Washington, D.C., make decisions and issue orders with respect to matters covered by subparagraphs (3) and (5) of this paragraph, without regard to impact or amount.

(b) I hereby delegate authority to the General Counsel to—

(1) Represent the Price Commission in all litigation, and recommend procedures to the Department of Justice with respect thereto;

(2) Make recommendations to the Department of Justice as to the prosecution of violations of the rules and decisions of the Price Commission and as to the handling of all other court proceedings relating to the Commission and its rules and decisions;

(3) Issue legal opinions and interpretations of the regulations, decisions, and orders of the Price Commission and on all other laws relating thereto;

(4) Sign, for FEDERAL REGISTER publication, regulations, orders, rulings, notices, and other Price Commission documents; and

(5) Consider and decide all appeals from adverse determinations by the Internal Revenue Service.

(c) I hereby delegate authority to the Director of Program Operations, subject to the authority of the Executive Director, to—

(1) Make decisions and issue orders with respect to individual requests for price or rent increases or adjustments involving a dollar impact of less than $10 million and a percentage of price increase on sales of less than 5 percent, and those involving less than $5 million, regardless of the percentage of price increase on sales;

(2) Review and determine correctness of reported price or rent increases or adjustments and issue appropriate orders with respect thereto; and

(3) Conduct investigations, conferences, or hearings with respect to the foregoing, and take such further action as may appear necessary in connection therewith.

(d) I hereby delegate authority to the Director of Exceptions Review, subject to the authority of the Executive Director, to—

(1) Make decisions and issue orders with respect to individual requests for exceptions in cases in which the requesting party has annual gross revenues of $50 million or less and in rent cases involving less than 100 units; and

(2) Conduct investigations, conferences, or hearings with respect to the foregoing and take such further action as may appear necessary in connection therewith.

(e) The Executive Director may redelegate any authority delegated to him by this order to other Price Commission personnel.

(f) The General Counsel may redelegate any authority delegated to him by this order to the Deputy General Counsel.

(g) The Director of Program Operations or the Director of Exceptions Review may redelegate any authority delegated to him by this order to the Deputy Director or any Assistant Director of his office.

(h) The delegated authority to perform any function heretofore performed by any person to whom authority is or may be delegated hereunder is hereby ratified and confirmed.

Issued in Washington, D.C., on April 11, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman.

[FR Doc.72-5824 Filed 4-14-72;8:50 am]

DEPUTY EXECUTIVE DIRECTOR

Delegation of Authority

Pursuant to the authority delegated to me by the Chairman of the Price Commission in Price Commission Order No. 4, I hereby delegate authority to the Deputy Executive Director to—

(a) Make decisions and issue orders with respect to individual requests for price or rent increases or adjustments involving a dollar impact of less than $10 million;

(b) Make decisions and issue orders with respect to individual requests for exceptions;

(c) Review and determine correctness of reported price or rent increases or adjustments and issue appropriate orders with respect thereto, in cases involving a dollar impact of less than $10 million;

(d) Order and supervise investigations to determine whether persons are in compliance with the regulations, decisions, and orders of the Commission; and

(e) When the Chairman and the Executive Director are both absent from Washington, D.C., make decisions and issue orders with respect to matters covered by paragraphs (a) and (c) of this order, without regard to impact or amount.

Issued in Washington, D.C., on April 11, 1972.

BERT LEWIS,
Executive Director.

[FR Doc.72-5825 Filed 4-14-72;8:50 am]

DEPUTY GENERAL COUNSEL

Delegation of Authority

Pursuant to the authority delegated to me by the Chairman of the Price Commission in Price Commission Order No. 4, I hereby delegate to the Deputy General Counsel authority to—

(a) Represent the Price Commission in all litigation, and recommend procedures to the Department of Justice with respect thereto;

(b) Make recommendations to the Department of Justice as to the prosecution of violations of the rules and decisions of the Price Commission and as to the handling of all other court proceedings relating to the Commission and its rules and decisions;

(c) Issue legal opinions and interpretations of the regulations, decisions and orders of the Price Commission and on all other laws relating thereto;

(d) Sign, for FEDERAL REGISTER publication, regulations, orders, rulings, notices, and other Price Commission documents; and

(e) Consider and decide all appeals from adverse determinations by the Internal Revenue Service.

Issued in Washington, D.C., on April 11, 1972.

W. DAVID SLAWSON,
General Counsel.

[FR Doc.72-5826 Filed 4-14-72;8:50 am]

DEPUTY DIRECTOR OF PROGRAM OPERATIONS

Delegation of Authority

Pursuant to the authority delegated to me by the Chairman of the Price Commission in Price Commission Order No. 3:

(a) I hereby delegate authority to the Deputy Director of Program Operations to—

(1) Make decisions and issue orders with respect to individual requests for price or rent increases or adjustments involving a dollar impact of less than $1 million.

(2) Review and determine the correctness of reported price or rent increases or adjustments and issue appropriate orders with respect thereto; and

(3) Conduct investigations, conferences, or hearings with respect to the foregoing, and take such further action as may appear necessary in connection therewith.

(b) The delegated authority to perform any function heretofore performed by the Deputy Director to whom authority is delegated hereunder is hereby ratified and confirmed.

Issued in Washington, D.C., on April 12, 1972.

DON I. WORTMAN,
Director, Program Operations.

[FR Doc.72-5827 Filed 4-14-72;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24NY-7219]

CJA INDUSTRIES, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

APRIL 11, 1972.

I. CJA Industries, Inc. (CJA) is a New York corporation located at 17 Ralph Avenue, Copiague, NY. On October 13, 1970 it filed a notification pursuant to Regulation A in connection with a proposed offering of 150,000 shares of its $0.05 par value common stock at $2 per share.

The offering was conducted by E. P. Seggos & Co., Inc. (Seggos), a registered broker-dealer having its principal place of business in New York City, as underwriter on a best efforts "100,000 shares or none" basis. The offering commenced on March 24, 1971, and was completed on June 13, 1971.

According to its offering circular, CJA was to engage in the businesses of silk screen printing of advertising messages, display material and signs, research and development of specialized electronic devices designed to aid physicians and hospitals, and an advertising service company to seek to develop a market for the sale of advertising space on commercial vehicles.

II. The Commission, on the basis of information reported to it by the staff, has reasonable cause to believe that:

A. The offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, particularly with respect to:

(1) The amount of the proceeds of the offering to be allocated to ADCO Advertising, Inc., a subsidiary of CJA;

(2) The amount of the proceeds of the offering to be allocated to Aristocrat Screen Process, Inc., a subsidiary of CJA;

(3) The amount of the proceeds of the offering to be allocated for laboratory construction and the purchase of instrumentation;

(4) The repayment of corporate indebtedness, including loans made by officers of CJA, with the proceeds of the offering; and

(5) The use of a portion of the proceeds of the offering to make a loan to the underwriter and the risks inherent in such a loan.

B. Based on the foregoing, the use of the offering circular by the issuer and underwriter operated as a fraud and deceit upon purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended,

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion, may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-5758 Filed 4-14-72;8:48 am]

[70-5177]

CONSOLIDATED NATURAL GAS CO. ET AL.

Notice of Proposed Acquisition by Registered Holding Company of Common Stock of Two New Nonutility Subsidiary Companies Organized to Facilitate Development of System Gas Supplies in Canada

APRIL 11, 1972.

Notice is hereby given that Consolidated Natural Gas Co. (Consolidated), 30 Rockefeller Plaza, New York, NY 10020, a registered holding company, and two newly organized nonutility companies which are to become wholly owned subsidiaries of Consolidated, have filed with this Commission an application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and 12 of the Act and Rules 43, 44, and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

As part of Consolidated's program to increase the System's future gas supplies, Consolidated Gas Supply Corp. (Supply Corporation), a wholly owned, nonutility subsidiary of Consolidated, has entered into three agreements, hereinafter described, to participate in the development of gas reserves in Canada. To facilitate the Canadian program, Consolidated has organized two new companies to which will be variously assigned the rights and obligations under the agreements. These new companies are CNG Producing Co. (CNG Company), a Delaware corporation, and CNG Development Co., Ltd. (CNG Limited), 4 Gateway Center, Pittsburgh, Pa. 15222, organized under the laws of the Province of Alberta, Canada. It is represented that the agreements involve leases in Canadian Federal lands and in land in the western provinces of Canada, particularly Alberta; that the formation of CNG Limited was necessary to comply with Canadian Federal law which would not allow a U.S. corporation to hold leases, or interests therein, on Federal lands; that were CNG Limited also to engage in development of and acquire interests in non-Federal lands it would be disqualified under the U.S. Internal Revenue Code from joining in consolidated tax returns with the Consolidated System companies; and that for this reason (and because Supply Corporation cannot qualify to do business in Alberta) CNG Company was formed to operate in the non-Federal lands.

To enable the two new companies to meet their financial obligations through May 1973, as assignees under the agreements, Consolidated proposes to acquire for cash out of its general funds capital stock of the companies as follows:

(a) From CNG Limited: 56,000 shares with a par value of $100 (Canadian) per share. The proceeds will be used by CNG Limited to meet obligations totaling Can. $5,400,000 under two agreements assigned to it, and for other corporate purposes.

(b) From CNG Company: 50,000 shares with a par value of $100 per share. CNG Company will use the proceeds to meet obligations, which could reach $4,900,000, under the agreement assigned to it and for other corporate purposes.

A summary of the three Agreements entered into by Supply Corporation follows:

(1) CanDel Agreement, dated October 22, 1971, among Supply Corporation, CanDel Oil, Ltd. (CanDel), El Paso Canada Petroleum, Ltd. (part of El Paso Natural Gas System), and Texas Gas Exploration, Ltd. (part of Texas Gas Transmission System). This involves a joint exploration and drilling venture in various prospective areas located principally in the Mackenzie River region of the Northwest Territories, and in the Yukon Territory, of Canada. CanDel proposes to obtain the bulk of the drilling acreage in the prospective areas by negotiating "farmouts" with other companies, and has already entered into a farmout arrangement covering 4.1 million acres with Mobil Oil Canada, Ltd., a subsidiary of Mobil Oil Co. In addition, CanDel is to contribute exploratory acreage it now holds and subsequently acquires. It is stated that although drilling operations as a whole have thus far been sparse, potential gas reserves in the western sedimentary basin of Canada (of which the Northwest Territories and Yukon Territory form a large part) are estimated by the Canadian Petroleum Association at 270 trillion cubic feet. CanDel will be the project manager, with the other participants having an equal voice in the operation. The four participants including CanDel are obligated to provide the project with an aggregate of $5 million per year for 5 years, or a total of $25 million. CNG Limited, as successor to Supply Corporation, will be obligated to provide 30 percent, or $7.5 million of the total, at the rate of $1.5 million per year, for exploratory work. Additional funds for development work will be required later if reserves in commercial quantity are found. CNG Limited will be entitled to earn a 30-percent working interest in the project, subject to reduction to 24 percent in the event that CanDel exercises an option set out in the agreement.

(2) Dome Agreement, dated November 11, 1971, between Supply Corporation, Texas Gas Exploration, Ltd., and Panhandle Canadian Gas, Ltd. (part of the Panhandle Eastern Pipeline Co. System)—hereinafter, the "Companies"—and Dome for the exploration of 7,500,000 acres, in which Dome owns varying working interests, in the Canadian Arctic Islands. Dome, as operator, will drill all exploratory and development wells; each of the Companies, which will have an equal voice in the operation, is obligated to provide Dome with $10 million ($30 million total) over a 5-year period subject to a 5-year extension if the Companies commit an additional $2 million each annually. The $30 million commitment is for exploratory work, in return for which the Companies will have a competitive call on gas developed plus an aggregate 1 percent working interest in Dome's interest in the subject acreage. The subsequent cost of development work is to be borne one-quarter by Dome and three-quarters by the Companies. All funds provided by the Companies for exploration and development drilling will be repaid, together with the 7 percent simple interest thereon, by Dome from 20 percent of Dome's net revenues derived from the sale of production accruing from the project. The Dome Agreement of November 11, 1971, is to be replaced by a Partnership Agreement and a Marketing Agreement. It is contemplated that, as successors to Supply Corporation, CNG Limited will execute the Partnership Agreement and CNG Company will execute the Marketing Agreement. The filing states further that three major gas discoveries have been made in the Canadian Arctic Islands within the last 2 years—at Melville, King Christian, and Ellef Ringnes Islands—and that although proved gas reserves have not yet been established, the potential reserves are estimated to be substantial.

(3) Sulpetro Agreement, dated November 30, 1971, has been executed between Supply Corporation and Sulpetro of Canada, Ltd. (Sulpetro); it is to be superseded by a formal partnership agreement and will be assigned to CNG Company. Exploratory drilling will be done on 609,000 acres in Alberta, Canada, in which Sulpetro presently controls a working interest, and on additional acreage to be obtained by Sulpetro in western Canada. CNG Company will be obligated to provide Sulpetro with a total of $5 million in 1972 and 1973, and in return will receive a 50 percent undivided interest in the subject acreage. CNG Company will have the option to extend the agreement for an additional 3 years by contributing $2.5 million in each of those years for exploration. After production is found, all further development costs will be shared equally by Sulpetro and CNG Company. In addition to its working interest, CNG Company will have a competitive call on all other gas from areas developed under the agreement, subject to reservations of any third parties that may be applicable; and CNG Company will also have the initial rights to market all, or its share, of gas and oil developed by the program.

It is further stated that the exportation of gas from Canada is subject to the grant of export licenses from Canada's National Energy Board; that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions; and that the fees and expenses to be incurred in connection with the proposed transactions are estimated at $10,500, including $1,000 for services of counsel in Canada.

Notice is further given that any interested person may, not later than April 26, 1972, request in writing that a

hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5759 Filed 4-14-72;8:48 am]

[File 500-1]

GRIMES CONSOLIDATED, INC.

Order Suspending Trading

APRIL 11, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $2 par value, of Grimes Consolidated, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 4 p.m., e.s.t. April 11, 1972, through April 20, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5760 Filed 4-14-72;8:48 am]

[70-5184]

GULF POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding

APRIL 11, 1972.

Notice is hereby given that Gulf Power Co. (Gulf), 75 North Pace Boulevard, Pensacola, FL 32502, an electric utility subsidiary company of the Southern Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Gulf proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $22 million principal amount of its First Mortgage Bonds, _____ percent Series, to mature not less than 5 years and not more than 30 years from the second day of the calendar month within which the bonds were issued. Gulf will decide on the maturity of the bonds and notify prospective bidders not less than 72 hours prior to the time of the bidding. The interest rate (which shall be a multiple of ⅛ percent) and the price, exclusive of accrued interest, to be paid to Gulf (which shall be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an Indenture, dated as of September 1, 1941, between Gulf and the Chase Manhattan Bank (National Association) and the Citizens & Peoples National Bank of Pensacola, as trustees, as heretofore supplemented and as to be further supplemented by a supplemental indenture to be dated May 1, 1972, which includes a prohibition until May 1, 1977, against refunding the bonds with the proceeds of funds borrowed at a lower effective interest cost.

Gulf also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 50,000 shares of its _____ percent Cumulative Preferred Stock, par value $100 per share. The dividend rate of the preferred stock (which shall be a multiple of 0.04 percent) and the price to be paid to Gulf (which shall be not less than $100 nor more than $102.75 per share) will be determined by the competitive bidding. The terms of the preferred stock include a prohibition until May 1, 1977, against refunding the stock, directly or indirectly, with funds obtained from the issuance of debt securities at a lower effective interest cost or of preferred stock ranking equally with or prior to the new preferred stock at a lower effective dividend cost. The proceeds from the sales of the bonds and preferred stock and $15 million of additional equity funds to be received from the Southern Company during 1972 (See Holding Company Act Release No. 17399, December 14, 1971), together with its cash on hand in excess of operating requirements, interest and dividends, will be used by Gulf to finance its 1972 construction program, to pay short-term promissory notes payable in the form of bank notes and commercial paper notes incurred for such purpose (of which it is estimated $12,700,000 will be outstanding at the time of the sale of the new securities) and for other lawful purposes.

It is stated that the issuance and sale of the new bonds and new preferred stock will be expressly authorized by the Florida Public Service Commission and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. A statement of the fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment.

Notice is further given that any interested person may, not later than May 4, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5761 Filed 4-14-72;8:48 am]

SMALL BUSINESS ADMINISTRATION

MASSAPOAG INVESTMENT CORP.

Notice of Surrender of License To Operate as a Small Business Investment Company

Notice is hereby given that Massapoag Investment Corp., Brookline, Mass., incorporated under the laws of the Commonwealth of Massachusetts on March 2, 1962, has surrendered its license (No. 01/01-0039) issued by the Small Business Administration on June 8, 1962.

Under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Massapoag Investment Corp. is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: April 10, 1972.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.72-5756 Filed 4-14-72;8:48 am]

MICHIGAN CAPITAL AND SERVICE, INC.

Notice of Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Michigan Capital and Service, Inc. (Michigan), 410 Wolverine Building, Ann Arbor, Mich. 48108, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to section 312 of the Act and governed by § 107.1004 of the Small Business Investment Company Regulations (13 CFR 107.1004 (1971)), for approval of a conflict of interest transaction falling within the scope of the above sections of the Act and regulations.

Subject to such approval, Michigan proposes to loan $22,700 for a period of 5 years at 10 percent interest per annum to Great Lakes Commuter, Inc. (GLC), of Flint, Mich. In connection with this financing, Michigan will receive warrants for the purchase of 64,857 shares of GLC stock at 0.35 per share for a total exercise price of $22,699.95. GLC is a Delaware corporation engaged in providing scheduled third-level airline service in parts of Michigan and in the conduct of fixed base operations at Bishop Airport, Flint, Mich., through a wholly owned subsidiary of GLC, known as Flint Air, Inc. The loan made by Michigan will be secured by the assets of both GLC and Flint Air, Inc.

Mr. L. Joseph Crafton is secretary, a director, and a 4.64 percent stockholder of Michigan, and until his resignation a short time ago, was legal counsel for the licensee. Mr. Crafton is also president, chief operating officer, and a 4 percent (approximate) stockholder of GLC.

Notice is hereby given that any interested person may not later than 15 days from the publication of this notice, submit to SBA, in writing, relevant comments on this transaction. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

Dated: April 10, 1972.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.72-5757 Filed 4-14-72;8:48 am]

MAXIMUM INTEREST RATES

Notice of Establishment

Notice is hereby given that the Small Business Administration has established as the maxium interest rate per annum that participating lending institutions may charge on guaranteed loans (except revolving line of credit) approved on or after April 3, 1972, pursuant to section 7(a) of the Small Business Act, as amended, section 402 of the Economic Opportunity Act of 1964, as amended, and section 502 of the Small Business Investment Act, as amended, the following interest rate: eight (8%) per centum per annum. On immediate participation loans approved on or after April 3, 1972, the maximum interest rate shall be seven (7%) per centum per annum. Said maximum interest rates shall remain in effect until further amendment or revision. (Exceptions may be permitted as to applications received prior to April 3, 1972, with agreed upon rates and which are approved not later than April 18, 1972.)

This notice implements the notification of maximum interest rates as provided in § 120.3(b)(2)(vi) of Part 120 (36 F.R. 21332).

Effective date: April 3, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-5755 Filed 4-14-72;8:48 am]

ASSOCIATE ADMINISTRATOR FOR OPERATIONS AND INVESTMENT AND ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

Notice of Transfer of Functions and Title Changes

Notice is hereby given that the title of "Assoicate Administrator for Investment" is changed to "Associate Administrator for Operations and Investment" and the title of "Assistant Administrator for Administration and Operations" is changed to "Assistant Administrator for Administration." This is to provide for a transfer of responsibilities with respect to all field operations of the Small Business Administration.

Effective date: April 23, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-5885 Filed 4-14-72;9:39 am]

TARIFF COMMISSION

[TEA-F-38]

G & H DECOY MANUFACTURING CO.

Notice of Hearing on Petition for Determination

The U.S. Tariff Commission has ordered a hearing in connection with the investigation instituted on March 27, 1972, under section 301(c)(1) of the Trade Expansion Act of 1962 on petition filed by G & H Decoy Manufacturing Co., Henryetta, Okla. (37 F.R. 6607). The hearing will be held at 10 a.m., e.s.t., on April 25, 1972, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure (19 CFR 201.13).

Issued: April 14, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-5880 Filed 4-14-72;9:26 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

APRIL 12, 1972.

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.

FD 26893, Chicago, Milwaukee, St. Paul, and Pacific Roalroad Co. Abandonment between Beulah and Elkader, in Clayton County, Iowa, now assigned May 3, 1972, at Elkader, Iowa, will be held at the Municipal Building, basement meeting room.

MC 110616 Sub 4, Charter Coaches, Inc., now assigned May 8, 1972, at Cedar Rapids, Iowa, will be held in Room 106, Cedar Rapids Federal Building.

MC C 7632, Hanson Transfer, Inc.—Investigation and Revocation of Certificate, now assigned May 1, 1972, at Bismarck, N. Dak., will be held in the Blue Room, State Capitol Building, Bismarck, N. Dak.

MC 16831 Sub 16, Laverne W. Simpson, doing business as Mid Seven Transportation Co., now assigned May 1, 1972, MC 53965 Sub 75, Graves Truck Line, Inc., now assigned May 2, 1972, MC 61231 Sub 63, Ace lines, Inc., now assigned May 1, 1972, MC 134063 Sub 3, Frank R. Chullino, doing business as Midwest Transportation Co., now assigned May 4, 1972, at Omaha, Nebr., will be held in Room 812, Federal Office Building, 15th and Dodge Streets, Omaha, NE.

MC 113678 Sub 285, Curtis, Inc., now assigned May 15, 1972, at Denver, Colo., will be held in Room 2330, Federal Building, 1961 Stout Street, Denver, Colo.

FD 26804, Chicago and North Western Railway Co. Abandonment between Wakefield and Crofton in Dixon, Cedar, and Knox Counties, Nebr., now assigned May 8, 1972, at Harlington, Nebr., will be held in the Main Courtroom, Cedar County Courthouse, Harlington, Nebr.

FD 26803, Chicago and North Western Railway Co. Abandonment between Emerson and Thurston, Dakota and Thurston Counties, Nebr., now assigned May 11, 1972, at Pender, Nebr., will be held in the City Office Building, 416 Main Street, Pender, NE.

MC 82492 Sub 63, Michigan & Nebraska Transit Co., now assigned June 15, 1972, at Minneapolis, Minn., advanced to April 18, 1972, in Courtroom No. 4, Federal Court Building, 316 Roberts Street, St. Paul, MN.

MC 1977 Sub 14, Northwest Transport Service, Inc., now assigned May 8, 1972, at Denver, Colo., will be held in Room 2330, Federal Building, 1961 Stout Street, Denver, CO.

MC 135454 Sub 3, Denny Truck Lines, Inc., now assigned April 19, 1972, at Washington, D.C., canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5788 Filed 4-14-72;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 12, 1972.

Protests to the granting of an application must be prepared in accordance with § 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. 42397—*Iron or steel bars from points in Illinois, Kansas, and Missouri.* Filed by Western Trunk Line Committee (No. A-2662), for interested rail carriers. Rates on bars, iron or steel, in carloads, as described in the application, from specified points in Illinois, Kansas, and Missouri, to specified points in Illinois, Iowa, Kansas, Missouri, Minnesota, and Nebraska.

Grounds for relief—Rate relationship.

Tariff—Supplement 136 to Western Trunk Line Committee, agent, tariff ICC A-4663. Rates are published to become effective on May 12, 1972.

FSA No. 42398—*Iron and steel articles between points in Illinois Freight Association territory.* Filed by Illinois Freight Association, agent (No. 377), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from and to points in Illinois Freight Association territory located on the Burlington Northern, Inc.

Grounds for relief—Carrier competition.

Tariff—Supplement 165 to Illinois Freight Association, agent, tariff ICC 1087. Rates are published to become effective on May 20, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5789 Filed 4-14-72;8:50 am]

[Notice 47]

MOTOR CARRIER TRANSFER PROCEEDINGS

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-73586. By order of April 10, 1972, the Motor Carrier Board approved the transfer to P & S Service, Inc., Jersey City, N.J., of the operating rights in certificate No. MC-124198 issued October 2, 1962, to Edward P. Dunn, Jr., doing business as Dunn's Carlstadt, N.J., authorizing the transportation of wrecked or disabled trucks, tractors, buses, and passenger cars, in towaway service, requiring the use of wrecker equipment, between points in New Jersey and New York, on the one hand, and, on the other, points in Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, and replacement vehicles, from points in New Jersey and New York to points in Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102, attorney for applicants.

No. MC-FC-73630. By order of April 10, 1972, the Motor Carrier Board approved the transfer to Schleswig Transfer, Inc., Schleswig, Iowa, of certificate No. MC-96375 issued to Paul Mahoney, Viola Mahoney, executor, doing business as Schleswig Transfer, Schleswig, Iowa, authorizing the transportation of: Agricultural commodities, feeds, seeds, petroleum products, building materials, and livestock, between specified points in Iowa and Nebraska.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5790 Filed 4-14-72;8:50 am]

PAY BOARD

ECONOMIC STABILIZATION PROGRAM

Notice of Proposed Recodification of Regulations and Holding of Public Hearings

Notice is hereby given that upon publication of its regulations pertaining to computation, fringe benefits, and productivity the Pay Board will begin a recodification of its regulations. Such recodification will be published in the FEDERAL REGISTER in the form of proposed regulations and the Pay Board will conduct public hearings on the provisions of such regulations within 30 days of publication.

The purpose of these hearings is to receive input from each of the various sectors of the economy in order that the Board and its staff might consider definitional or interpretative problems present in the proposed recodified regulations. In addition the hearings will afford the public an opportunity to offer, with regard to the Board's goals and policies, suggestions and constructive criticism which will assist the Board in considering those modifications deemed advisable to maintain an equitable stabilization program.

This notice reflects the Board's intention to continue to comply with the stated desires of Congress by, in this instance, holding public hearings (pursuant to section 207 of the Economic Stabilization Act of 1970, as amended) on matters which have a significantly large impact on the national economy.

The Board requests that written recommendations be submitted concerning proposed topics or subjects which should be included in the public hearings. Also the Board encourages any other written suggestions relevant to the procedures outlined by this notice.

All written submissions should be sent to: Chairman of the Pay Board, Attention: Office of General Counsel, 2000 M Street NW., Washington, D.C. 20508.

Issued in Washington, D.C. on April 15, 1972.

GEORGE H. BOLDT,
Chairman of the Pay Board.

[FR Doc.72-5915 Filed 4-14-72;12:43 pm]

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SATURDAY, APRIL 15, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 74

PART II

DEPARTMENT OF THE INTERIOR

BUREAU OF MINES

■

COAL MINE HEALTH AND SAFETY

Electrical Equipment, Lamps, Methane Detectors; Tests for Permissibility; Fees

No. 74—Pt. II——

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER D—ELECTRICAL EQUIPMENT, LAMPS, METHANE DETECTORS; TESTS FOR PERMISSIBILITY; FEES

PART 28—FUSES FOR USE WITH DIRECT CURRENT IN PROVIDING SHORT-CIRCUIT PROTECTION FOR TRAILING CABLES IN COAL MINES

Pursuant to the authority vested in the Secretary of the Interior under section 508 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 957), and 36 Stat. 369, as amended, 37 Stat. 681, 30 U.S.C. 3, 5, and 7, and in accordance with section 306(b) of the Act (30 U.S.C. 866(b)) which provides that short-circuit protection for trailing cables used in coal mines shall be provided by an automatic circuit breaker or other no less effective device approved by the Secretary, there was published in the FEDERAL REGISTER for August 5, 1971 (36 F.R. 14448), a notice of proposed rule making which prescribed the requirements for testing and approval of fuses for use with direct current in providing short-circuit protection, no less effective than automatic circuit breakers, for trailing cables in coal mines.

Interested persons were afforded a period of 45 days from the date of publication of the notice in which to submit written comments, suggestions, and objections to the proposed requirements. All comments, suggestions, and objections were given careful and thorough consideration.

Some of the requirements were revised as suggested and in other instances revisions were made in view of the comments received. Certain procedural revisions have also been made. Examples of causes which may result in revocation of the certificate of approval have been specified. The quality control provisions have been refined so as to specify more exactly the sampling procedures and characteristics required to be sampled. Furthermore, since the Bureau does not conduct the actual testing of fuses under the requirements of this part, and in order to ensure the short-circuit protection capability of approved fuses, such fuses must be retested within a 2-year period from the date of the certificate of approval, and every 2 years thereafter (§ 28.23(h)).

Part 28—Fuses for Use with Direct Current in Providing Short-Circuit Protection for Trailing Cables in Coal Mines—of Subchapter D, Chapter I, Title 30, Code of Federal Regulations, as set forth below, is herewith promulgated and shall become effective 60 days following publication in the FEDERAL REGISTER.

W. T. PECORA,
Acting Secretary of the Interior.

APRIL 10, 1972.

Subpart A—General Provisions

AUTHORITY: The provisions of this Part 28 issued under secs. 306(b) and 508 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801, 83 Stat. 742), and 36 Stat. 369, as amended, 37 Stat. 681, 30 U.S.C. 3, 5, and 7.

Subpart A—General Provisions

§ 28.1 Purpose.

The purpose of the regulations contained in this Part 28 is: (a) To establish procedures and prescribe requirements which must be met in filing applications for the approval of fuses for use with direct current in providing short-circuit protection for trailing cables in coal mines, or the approval of changes or modifications of approved fuses; (b) to specify minimum performance requirements and to prescribe methods to be employed in conducting inspections, examinations, and tests to determine the effectiveness of fuses for use with direct current in providing short-circuit protection for trailing cables in coal mines; and (c) to provide for the issuance of certificates of approval or modifications of certificates of approval for fuses which have met the minimum requirements for performance and short-circuit protection set forth in this part.

§ 28.2 Approved fuses.

(a) On and after the effective date of this part, fuses shall be considered to be approved for use with direct current in providing short-circuit protection for trailing cables in coal mines only where such fuses are: (1) The same in all respects as those fuses which have been approved after meeting the minimum requirements for performance and short-circuit protection prescribed in this Part 28; and (2) maintained in an approved condition.

§ 28.3 Installation, use, and maintenance of approved fuses.

Approved fuses shall be installed and maintained in accordance with the specifications prescribed by the manufacturer of the fuses, and shall be selected and used in accordance with the standards prescribed for short-circuit protective devices for trailing cables in Parts 75 and 77, Subchapter O of this chapter.

§ 28.4 Definitions.

As used in this part—

(a) "Applicant" means an individual, partnership, company, corporation, association, or other organization that designs, manufactures, assembles, or fabricates, or controls the design, manufacture, assembly, or fabrication of a fuse, and who seeks to obtain a certificate of approval for such fuse.

(b) "Approval" means a certificate or formal document issued by the Bureau stating that an individual fuse or combination of fuses has met the minimum requirements of this Part 28, and that the applicant is authorized to use and attach an approval label or other equivalent marking to any fuse manufactured, assembled, or fabricated in conformance with the plans and specifications upon which the approval was based, as evidence of such approval.

(c) "Approved" means conforming to the minimum requirements of this Part 28.

(d) "Bureau" means the U.S. Bureau of Mines, Department of the Interior.

(e) "Fuse" means a device, no less effective than an automatic circuit breaker, for use with direct current which provides short-circuit protection for trailing cables in coal mines by interrupting an excessive current in the circuit.

Subpart B—Application for Approval

§ 28.10 Application procedures.

(a) Each applicant seeking approval of a fuse for use with direct current in providing short-circuit protection for trailing cables shall arrange for submission, at his own expense, of the number of fuses necessary for testing to Westinghouse Electric Corp., High Voltage Test Laboratory, East Pittsburgh, Pa. 15112, or General Electric Co., High Voltage Laboratory, 7500 Lindberg Boulevard, Philadelphia, PA 19155, or any other nationally recognized independent testing laboratory capable of performing the examination, inspection, and testing requirements of this part.

(b) The applicant shall insure, at his own expense, that the examination, inspection, and testing requirements of this part are properly and thoroughly performed by the independent testing laboratory of his choice.

(c) Upon satisfactory completion by the independent testing laboratory of the examination, inspection, and testing requirements of this part, the data and results of such examination, inspection,

and tests shall be certified by both the applicant and the laboratory and shall be sent for evaluation of such data and results to the Bureau of Mines, Health and Safety Technical Support Center, 4800 Forbes Avenue, Pittsburgh, PA 15213. Attention: Approval and Testing.

(d) The certified data and results of the examinations, inspections, and tests required by this part and submitted to the Bureau shall be accompanied by a check, bank draft, or money order in the amount of $55 for each fuse size and type payable to the order of the U.S. Bureau of Mines.

(e) The certified data and results of the examinations, inspections, and tests required by this part and submitted to the Bureau for evaluation shall be accompanied by a proposed plan for quality control which meets the minimum requirements set forth in Subpart D of this part.

(f) Each applicant shall deliver to the Bureau, at his own expense, three fuses of each size and type which may be necessary for evaluation of the examination, inspection, and test results by the Bureau.

(g) Applicants or their representatives may visit or communicate with Approval and Testing in order to discuss the requirements for approval of any fuse, or to obtain criticism of proposed designs; no charge shall be made for such consultation and no written report shall be issued by the Bureau as a result of such consultation.

Subpart C—Approval and Disapproval

§ 28.20 Certificates of approval; scope of approval.

(a) The Bureau shall issue certificates of approval pursuant to the provisions of this subpart only for individual, completely fabricated fuses which have been examined, inspected, and tested as specified in § 28.10, and have been evaluated by the Bureau to ensure that they meet the minimum requirements prescribed in this part.

(b) The Bureau shall not issue an informal notification of approval.

§ 28.21 Certificates of approval; contents.

(a) Each certificate of approval shall contain a description of the fuse and a classification of its current-interrupting capacity and current rating.

(b) The certificate of approval shall specifically set forth any restrictions or limitations on the use of the fuse in providing short-circuit protection for trailing cables.

(c) Each certificate of approval shall be accompanied by a reproduction of the approval label or marking design, as appropriate, to be employed by the applicant with each approved fuse as provided in § 28.23.

(d) No test data or specific laboratory findings will accompany any certificate of approval, however, the Bureau will release analyses of pertinent test data and specific findings upon receipt of a written request by the applicant, or when required by statute or regulation.

(e) Each certificate of approval shall also contain the approved quality control plan as specified in § 28.31.

§ 28.22 Notice of disapproval.

(a) If, upon completion of the evaluation by the Bureau conducted in accordance with § 28.10, it is determined that the fuse does not meet the minimum requirements set forth in this part, the Bureau shall issue a written notice of disapproval to the applicant.

(b) Each notice of disapproval shall be accompanied by all available findings with respect to the defects of the fuse for which approval was sought with a view to the possible correction of any such defects.

(c) The Bureau shall not disclose, except to the applicant upon written request or when required by statute or regulation, any data, findings, or other information with respect to any fuse for which a notice of disapproval is issued.

§ 28.23 Approval labels or markings; approval of contents; use.

(a) Approval labels shall bear the seal of the U.S. Bureau of Mines, an approval number, the restrictions, if any, placed upon the use of the fuse by the Bureau, and where appropriate, the applicant's name and address.

(b) Upon receipt of a certificate of approval, the applicant shall submit to the Bureau, for approval of contents, full-scale reproductions of approval labels or markings, as appropriate, and a sketch or description of the method of application and position on the fuse, together with instructions for the installation, use, and maintenance of the fuse.

(c) Legible reproductions or abbreviated forms of the label or markings approved by the Bureau shall be attached to or printed on each fuse.

(d) Each fuse shall be marked with the rating of the Underwriters Laboratories, Inc.

(e) The Bureau shall, where necessary, notify the applicant when additional labels, markings, or instructions will be required.

(f) Approval labels or markings shall only be used by the applicant to whom they were issued.

(g) The use of any Bureau approval label or marking obligates the applicant to whom it is issued to maintain or cause to be maintained the approved quality control sampling procedure and the acceptable quality level for each characteristic tested, and to guarantee that the approved fuse is manufactured according to the specifications upon which the certificate of approval is based.

(h) The use of any Bureau approval label or marking obligates the applicant to whom it is issued to retest the approved fuse within a 2-year period from the date of the certificate of approval, and every 2 years thereafter, in accordance with the provisions of § 28.10.

§ 28.24 Revocation of certificates of approval.

The Bureau reserves the right to revoke, for cause, any certificate of approval issued pursuant to the provisions of this part. Such causes include, but are not limited to, misuse of approval labels and markings, misleading advertising, violations of section 109(e) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 819(e)), and failure to maintain or cause to be maintained the quality control requirements of the certificate of approval.

§ 28.25 Changes or modifications of approved fuses; issuance of modification of certificate of approval.

(a) Each applicant may, if he desires to change any feature of an approved fuse, request a modification of the original certificate of approval issued by the Bureau for such fuse by filing an application for modification in accordance with the provisions of this section.

(b) Applications, including fees, shall be submitted as specified in § 28.10 for an original certificate of approval, with a request for a modification of the existing certificate to cover any proposed change.

(c) The application for modification, together with the examination, inspection, and tests results prescribed by § 28.10 shall be examined and evaluated by the Bureau to determine if the proposed modification meets the requirements of this part.

(d) If the proposed modification meets the requirements of this part, a formal modification of approval will be issued, accompanied, where necessary, by reproductions of revised approval labels or markings.

Subpart D—Quality Control

§ 28.30 Quality control plans; filing requirements.

As a part of each application for approval or modification of approval submitted pursuant to this part, each applicant shall file with the Bureau a proposed quality control plan which shall be designed to assure the quality of short-circuit protection provided by the fuse for which approval is sought.

§ 28.31 Quality control plans; contents.

(a) Each quality control plan shall contain provisions for the management of quality, including: (1) Requirements for the production of quality data and the use of quality control records; (2) control of engineering drawings, documentations, and changes; (3) control and calibration of measuring and test equipment; (4) control of purchased material to include incoming inspection; (5) lot identification, control of processes, manufacturing, fabrication, and assembly work conducted in the applicant's plant; (6) audit or final inspection of the completed product; and, (7) the organizational structure necessary to carry out these provisions.

(b) The sampling plan shall include inspection tests and sampling procedures

developed in accordance with Military Specification MIL–F–15160D, "Fuses; Instrument, Power, and Telephone" (which is hereby incorporated by reference and made a part hereof), Group A tests and Group B tests, except that the continuity and/or resistance characteristics of each fuse shall be tested. Military Specification MIL–F–15160D is available for examination at Approval and Testing, Health and Safety Technical Support Center, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA. Copies of the document may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) The sampling procedure shall include a list of the characteristics to be tested by the applicant or his agent and shall include but not be limited to: (1) Continuity and/or resistance determination for each fuse; (2) carry current capability (not less than 110 percent of the rated current); and, (3) overload current interruption capability (not less than 135 percent of the rated current).

(d) The quality control inspection test method to be used by the applicant or his agent for each characteristic required to be tested shall be described in detail.

§ 28.32 Proposed quality control plans; approval by the Bureau.

(a) Each proposed quality control plan submitted in accordance with this subpart shall be reviewed by the Bureau to determine its effectiveness in insuring the quality of short-circuit protection provided by the fuse for which an approval is sought.

(b) If the Bureau determines that the proposed quality control plan submitted by the applicant will not insure adequate quality control, the Bureau shall require the applicant to modify the procedures and testing requirements of the plan prior to approval of the plan and issuance of any certificate of approval.

(c) Approved quality control plans shall constitute a part of and be incorporated into any certificate of approval issued by the Bureau, and compliance with such plans by the applicant shall be a condition of approval.

§ 28.33 Quality control test methods, equipment, and records; review by the Bureau; revocation of approval.

(a) The Bureau reserves the right to have its representatives inspect the applicant's quality control test methods, equipment, and records, and to interview any employee or agent of the applicant in regard to quality control test methods, equipment, and records.

(b) The Bureau reserves the right to revoke, for cause, any certificate of approval where it finds that the applicant's quality control test methods, equipment, or records do not ensure effective quality control over the fuse for which the approval was issued.

Subpart E—Construction, Performance, and Testing Requirements

§ 28.40 Construction and performance requirements; general.

(a) The Bureau shall issue approvals for fuses for use with direct current in providing short-circuit protection for trailing cables, when such fuses have met the minimum construction, performance, and testing requirements set forth in this subpart.

(b) Fuses submitted to the Bureau for approval will not be accepted unless they are designed on sound engineering and scientific principles, constructed of suitable materials, and evidence good workmanship.

(c) Fuses may be single-element or dual-element in type, however, they shall be capable of interrupting any direct current within a range from the ampere rating of the fuse under consideration for approval up to 20,000 amperes.

(d) The Bureau shall accept the fuse size and ampere rating as specified in the Underwriters Laboratories, Inc., standard for alternating current fuses (UL–198), which is hereby incorporated by reference and made a part hereof. This document is available for examination at Approval and Testing, Health and Safety Technical Support Center, Bureau of Mines, 4800 Forbes Avenue, Pittsburg, PA, and copies of the document are available from Underwriter's Laboratories, Inc., 161 Sixth Avenue, New York, NY 10013.

(e) Fuses shall be capable of completely interrupting a current within 30 milliseconds after initial current interruption, and shall not show any evidence of restriking after 30 milliseconds.

(f) The blown fuse shall show only superficial damage.

§ 28.41 Testing requirements; general.

(a) The open circuit voltage of the test circuit shall be 300 volts d.c., or 600 volts d.c., depending on the voltage rating of the fuse being tested.

(b) Time constant of the circuit (defined as T=L/R, where T is the time in seconds, L is the inductance in henries, and R is the resistance in ohms) shall be as follows:

(1) For 10,000 amperes and greater currents, T=0.016 second or more;

(2) For 1,000 amperes to 10,000 amperes, T=0.008 second or more;

(3) For 100 amperes to 1,000 amperes, T=0.006 second or more; and

(4) For less than 100 amperes, T=0.002 seconds or more.

(c) Test currents shall be as follows:

(1) 200 percent of rated current for fuses having 200 or less ampere rating, or 300 percent of rated current for fuses having greater than 200 ampere rating;

(2) 900 percent of rated current;

(3) 10,000 amperes; and

(4) 20,000 amperes.

(d) The voltage shall continue to be applied for at least 30 seconds after completion of circuit interruption.

(e) Five fuses of each case size shall be tested at each test current specified in paragraph (c) of this section, with the value of the fuse being the maximum value for the case size.

(f) Three of each lot of five fuses shall be preconditioned at 95±5 percent R H for not less than 5 days immediately prior to testing; and the other two fuses of each lot of five shall be preconditioned by heating to 90° C. for 24 hours, and tested within 1 hour after removal from the preconditioning chamber.

(g) At least 3 of each lot of five fuses shall be tested in a fuse holder of a trolley-tap type, and the fuse holder shall remain intact and shall readily accept and retain a replacement fuse.

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PART 29—PORTABLE COAL DUST/ROCK DUST ANALYZERS, AND CONTINUOUS DUTY, WARNING LIGHT, PORTABLE METHANE DETECTORS FOR USE IN COAL MINES

Pursuant to the authority vested in the Secretary of the Interior under section 508 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 957), and 36 Stat. 369, as amended, 37 Stat. 681, 30 U.S.C. 3, 5, and 7, there was published in the FEDERAL REGISTER for August 5, 1971 (36 F.R. 14450), a notice of proposed rule making which prescribed requirements for testing and approval by the Bureau of Mines of portable coal dust/rock dust samplers, and continuous duty, warning light, portable methane detectors for use in coal mines.

Interested persons were afforded a period of 45 days from the date of publication of the notice in which to submit written comments, suggestions, and objections to the proposed requirements. All comments, suggestions, and objections were given careful and thorough consideration.

Some of the requirements were revised as suggested and in other instances revisions were made in view of the comments received. Some of the more significant revisions are as follows: (1) The field testing requirements (§§ 29.61 (e) and (f) and 29.76 (b) and (c)) specify the period of time and the manner in which field testing will be conducted; (2) Tables A and B have been revised to be more precise; (3) examples of causes which may result in revocation of the certificate of approval have been specified; (4) the application procedures have been revised so as to make clear that the Bureau will test soundly designed and constructed prototypes, but may require resubmission of a production model for additional testing prior to issuance of a certificate of approval (§§ 29.11(e) and 29.30 (c) and (d)); and (5) references, in Subparts G and H, to Part 22 of this Title 30 (Bureau of Mines Schedule 8C) have been deleted in favor of repeating the reference requirements in this Part 29 for the facility of users. Furthermore since the instrument designated as a portable coal dust/rock dust

sampler in the notice of proposed rulemaking is intended to be utilized to accurately measure the incombustible content of combined coal dust, rock dust, and other mine dust, the term "analyzer" has been substituted for the term "sampler".

Part 29—Portable Coal Dust-Rock Dust Analyzers, and Continuous Duty, Warning Light, Portable Methane Detectors for Use in Coal Mines—of Subchapter D, Chapter I, Title 30, Code of Federal Regulations, as set forth below, is herewith promulgated and shall become effective 60 days following publication in the FEDERAL REGISTER.

W. T. PECORA,
Acting Secretary of the Interior.

APRIL 10, 1972.

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AUTHORITY: The provisions of this Part 29 issued under sec. 508 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801, 83 Stat. 742), and 36 Stat. 369, as amended, 37 Stat. 681, 30 U.S.C. 3, 5, and 7.

Subpart A—General Provisions

§ 29.1 Purpose.

The purpose of the regulations contained in this Part 29 is: (a) To establish procedures and prescribe requirements which must be met in filing applications for the approval of portable coal dust/rock dust analyzers for use in measuring the incombustible content of mine dusts, and the approval of continuous duty, warning light, portable methane detectors for use in providing a visual signal of the presence of a methane-air mixture having a methane concentration of 1.0 percent ±0.2 percent, or the approval of changes and modifications of approved portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors; (b) to specify minimum performance requirements and to prescribe methods to be employed in conducting inspections, examinations, and tests to determine the effectiveness of these instruments; and (c) to provide for the issuance of certificates of approval or modifications of certificates of approval for portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors which have met the minimum requirements for performance set forth in this part.

§ 29.2 Approved portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors.

On and after the effective date of this part, portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors shall be considered to be approved for use in coal mines where such instruments are: (a) The same in all respects as those portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors which have been approved as meeting the minimum requirements for performance prescribed in this Part 29; and (b) maintained in an approved condition.

§ 29.3 Use and maintenance of approved portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors.

Approved portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors shall be operated and maintained in accordance with the specifications prescribed by the manufacturer of such instruments, and in accordance with the applicable provisions of Parts 75 and 77, Subchapter O of this chapter.

§ 29.4 Definitions.

As used in this part—

(a) "Applicant" means an individual, partnership, company, corporation, association, or other organization that designs, manufactures, assembles, or fabricates, or controls the design, manufacture, assembly, or fabrication of a portable coal dust/rock dust analyzer or a continuous duty, warning light, portable methane detector, and who seeks to obtain a certificate of approval for such analyzer or detector.

(b) "Approval" means a certificate or formal document issued by the Bureau stating that an individual portable coal dust/rock dust analyzer or an individual continuous duty, warning light, portable methane detector has met the applicable minimum requirements of this Part 29, and that the applicant is authorized to use and attach an approval label or plate on any portable coal dust/rock dust analyzer or continuous duty, warning light, portable methane detector manufactured, fabricated, or assembled in conformance with the plans and specifications upon which the approval was based, as evidence of such approval.

(c) "Approved" means conforming to the minimum requirements of this Part 29.

(d) "Bureau" means the U.S. Bureau of Mines, Department of the Interior.

(e) "Coal dust" means particles of coal that can pass a No. 20 sieve.

(f) "Coal Mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities.

(g) "Coal mine dust" means solid particles with sizes ranging from submicroscopic to microscopic, including but not limited to coal dust and rock dust.

(h) "Continuous duty, warning light, portable methane detector" means a portable, self-contained instrument, containing a red warning light which flashes in the presence of methane-air mixtures having methane concentrations of 1.0 percent ± 0.2 percent.

(i) "Portable coal dust/rock dust analyzer" means a portable, self-contained instrument, capable of indicating the incombustible content of coal mine dust over a range of from 50 percent to 100 percent incombustible.

(j) "Rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, adobe, or other inert material, preferably light colored, 100 per centum of which will pass through a sieve having 20 meshes per linear inch and 70 per centum or more of which will pass through a sieve having 200 meshes per linear inch; the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and which does not contain more than 5 per centum of combustible matter or more than a total of 4 per centum of free and combined silica (SiO_2), or, where the Secretary finds that such silica concentrations are not available, which does not contain more than 5 per centum of free and combined silica.

(k) "Work of preparing the coal" means the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine.

Subpart B—Application for Approval

§ 29.10 Application procedures.

(a) Inspection, examination, and testing leading to the approval of portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors shall be undertaken by the Bureau only pursuant to written applications which meet the minimum requirements set forth in this Subpart B.

(b) Applications shall be submitted in duplicate to Approval and Testing, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA 15213, and shall be accompanied by a check, bank draft, or money order in the amount specified in Subpart C of this part payable to the order of the U.S. Bureau of Mines.

(c) Except as provided in §§ 29.54, 29.61(e), and 29.76(b), the examination, inspection, and testing of all portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors shall be conducted at Approval and Testing, Bureau of Mines, Pittsburgh, Pa. 15213, or at the Bruceton, Pa. facility of the Health and Safety Technical Support Center.

(d) Applicants, manufacturers, or their representatives may visit or communicate with Approval and Testing in order to discuss the requirements for approval of any portable coal dust/rock dust analyzer, or continuous duty, warning light, portable methane detector or the proposed designs thereof. No charge shall be made for such consultation and no written report shall be issued by the Bureau as a result of such consultation.

§ 29.11 Contents of application.

(a) Each application for approval shall contain a complete written description, including operating instructions, of the analyzer or detector for which approval is requested together with a set of drawings and specifications (and lists thereof) showing full details of construction of the instrument and of the materials used. Drawings and specifications (and lists thereof) shall be submitted in duplicate.

(b) Drawings shall be titled, numbered, and dated; any revision dates shall be shown on the drawings, and the purpose of each revision being sought shall be shown on the drawing or described on an attachment to the drawing to which it applies.

(c) Each application for approval shall contain a proposed plan for quality control which meets the minimum requirements set forth in Subpart E of this part.

(d) Each application shall contain a statement that the analyzer or detector has been pretested by the applicant as prescribed in § 29.54, and shall include the results of such tests.

(e) Each application for approval shall contain a statement that the analyzer or detector and component parts submitted for approval are either (1) prototypes, or (2) made on regular production tooling, with no operation included which will not be incorporated in regular production processing.

(f) Where any form of radioactivity is employed in the analyzer or detector, the applicant shall submit:

(1) Evidence of compliance with all State regulations with respect to radiation and the use of radioactive materials; and

(2) Evidence of compliance with the requirements set forth in Title 10, Code of Federal Regulations.

§ 29.12 Delivery of analyzers and detectors by applicant; requirements.

(a) Each applicant shall, when an application is filed pursuant to § 29.10 deliver at his own expense, four assembled analyzers or detectors, less the radioactive source, to Approval and Testing, Bureau of Mines, Pittsburgh, Pa. 15213. The radioactive source shall be delivered and inserted in the instrument by the applicant following testing of the electrical components of such instrument.

(b) Analyzers, detectors, and component parts submitted for approval must be made from materials specified in the application.

(c) One completely assembled analyzer or detector approved under the provisions of this part may be retained by the Bureau as a laboratory exhibit; the remaining instruments will be returned to the applicant at his own expense, upon written request within 30 days after notice of approval. If no such request is made, the instruments will be disposed of by the Bureau in such manner as it deems appropriate.

(d) Where an analyzer or detector fails to meet the requirements for approval set forth in this part, all instruments and components delivered intact in accordance with this section will be returned to the applicant at his own expense, upon written request within 30 days after notice of disapproval. If no such request is made, the instruments will be disposed of by the Bureau in such manner as it deems appropriate.

Subpart C—Fees

§ 29.20 Examination, inspection, and testing of portable coal dust/rock dust analyzers, and continuous duty, warning light, portable methane detectors; fees.

Except as provided in § 29.21, the following fees shall be charged by the Bureau for the examination, inspection, and testing of portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors:

(a) Examining and recording drawings and specifications prior to inspection, examination and testing	$110
(b) Intrinsic-safety investigation and test under Part 18 of this chapter (Bureau of Mines Schedule 2G)	105
(c) Inspection and explosion testing	175

§ 29.21 Additional fees; payment by applicant prior to approval.

(a) The Bureau reserves the right to conduct any examination, inspection, or test it deems necessary to determine the quality and effectiveness of any analyzer, detector, or component, and to assess the cost of such examinations, inspections, or tests against the applicant prior to the issuance of any approval for the instrument examined, inspected or tested.

(b) The fees charged for the additional examination, inspection, and testing of analyzers, detectors, and components shall be at the rate of $100 per day for each man-day required to be expended by the Bureau.

(c) Upon completion of all examinations, inspections, and tests of analyzers, detectors, and components, the Bureau shall advise the applicant in writing of the total cost assessed and the additional amount, if any, which must be paid to the Bureau as a condition of approval.

(d) The Bureau shall refund any overpayment to the applicant upon the issuance of any approval or notice of disapproval.

Subpart D—Approval and Disapproval

§ 29.30 Certificates of approval; scope of approval.

(a) The Bureau shall issue certificates of approval pursuant to the provisions of this subpart only for individual, completely assembled portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors which have been examined, inspected, and tested, and which meet the minimum requirements set forth in Subparts G and H, as applicable.

(b) The Bureau shall not issue an informal notice of approval. However, if the application for approval, submitted in accordance with § 29.11, states that the submitted analyzer, detector, and component parts are only prototypes, the Bureau will examine, inspect, and test such prototype analyzer, detector, and component parts in accordance with the provisions of this Part 29. If, upon completion of such examinations, inspections and tests, it is found that the prototype meets the minimum requirements set forth in this part, the Bureau may inform the applicant, in writing, of the results of the examinations, inspections, and tests, and may require him to resubmit analyzers, detectors, and component parts, as applicable, made on regular production tooling, with no operations included which will not be incorporated in regular production processing, for further examination, inspection, and testing, prior to issuance of the certificate of approval.

(c) Applicants required to resubmit analyzers, detectors, and component parts made on regular production tooling, with no operation included which will not be incorporated in regular production processing, shall be charged fees in accordance with Subpart C of this part.

§ 29.31 Certificates of approval; contents.

(a) The certificate of approval shall contain a description of the analyzer or detector for which it is issued as provided in this part.

(b) The certificate of approval shall specifically set forth any restrictions or limitations, if any, on use of the instrument.

(c) Each certificate of approval shall be accompanied by the drawings and specifications (and lists thereof) submitted by the applicant in accordance with § 29.11. These drawings and specifications shall be incorporated by reference in the certificate of approval and shall be maintained by the applicant. The drawings and specifications listed in each certificate of approval shall set forth in detail the design and construction requirements which shall be met by the applicant during commercial production of the instrument.

(d) Each certificate of approval, shall be accompanied by a reproduction of the approval label design to be employed by the applicant with each approved instrument as provided in § 29.33.

(e) No test data or specific laboratory findings will accompany any certificate of approval, however, the Bureau will release pertinent test data and specific findings upon written request by the applicant, or when required by statute or regulation.

(f) Each certificate of approval shall also contain the approved quality control plan as specified in § 29.42.

§ 29.32 Notice of disapproval.

(a) If, upon the completion of the examinations, inspections, and tests required to be conducted in accordance with the provisions of this part, it is found that the analyzer or detector does not meet the minimum requirements set forth in this part, the Bureau shall issue a written notice of disapproval to the applicant.

(b) Each notice of disapproval shall be accompanied by all pertinent data or findings with respect to the defects of the instrument for which approval was sought with a view to the possible correction of any such defects.

(c) The Bureau shall not disclose, except to the applicant upon written request or when required by statute or regulation, any data, findings or other information with respect to any instrument for which a notice of disapproval is issued.

§ 29.33 Approval labels and markings; approval of contents; use.

(a) Upon receipt of a certificate of approval, the applicant shall submit to the Bureau, for approval of contents, samples or full-scale reproductions of approval plates, labels, and markings and a sketch or description of the method of application and position on the instrument, together with instructions for the use and maintenance of the instrument.

(b) Approval labels shall bear the seal of the U.S. Bureau of Mines, the applicant's name and address, the restrictions or limitations placed upon the use of the instrument by the Bureau, an approval number assigned by the Bureau, and other information necessary for identification of the instrument.

(c) The Bureau shall, where necessary, notify the applicant when additional labels, markings or instructions will be required.

(d) Approval labels and markings shall only be used by the applicant to whom they were issued.

(e) Legible reproductions or abbreviated forms of the label approved by the Bureau for use on each analyzer and detector shall be affixed, attached to, or printed on the instrument at a location where it can be easily seen.

(f) The use of any Bureau approval label obligates the applicant to whom it is issued to maintain or cause to be maintained the approved quality control sampling schedule and the acceptable quality level for each characteristic tested, and to guarantee that the instrument is manufactured according to the drawings and specifications upon which the certificate of approval is based.

(g) Each analyzer and detector shall be labeled distinctly to show the name of the applicant, and the name and letters or numbers by which the instrument is designated for trade purposes, and the serial number or approximate date of manufacture.

§ 29.34 Revocation of certificates of approval.

The Bureau reserves the right to revoke, for cause, any certificate of approval issued pursuant to the provisions of this part. Such causes include, but are not limited to, misuse of approval labels and markings, misleading advertising, violations of section 109(e) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 819(e)), and failure to maintain or cause to be maintained the quality control requirements of the certificate of approval.

§ 29.35 Changes or modification of approved analyzers and detectors; issuance of modification of certificate of approval.

(a) Each applicant may, if he desires to change any feature of an approved analyzer or detector, request a modification of the original certificate of approval issued by the Bureau for such instrument by filing an application for such modification in accordance with the provisions of this section.

(b) Applications shall be submitted as for an original certificate of approval, with a request for a modification of the existing certificate to cover any proposed change.

(c) The application shall be accompanied by appropriate drawings and specifications, and by a proposed quality control plan which meets the requirements of Subpart E of this part.

(d) The application for modification, together with the accompanying material, shall be examined by the Bureau to determine whether testing will be required.

(e) The Bureau shall inform the applicant of the fee required for any additional testing and the applicant will be charged for the actual cost of any examination, inspection, or test required, and such fees shall be submitted in accordance with the provisions of Subpart C of this part.

(f) If the proposed change or modification meets the requirements of this part, a formal certificate of modification will be issued, accompanied, where necessary, by a list of new and revised drawings and specifications covering the change(s) and reproductions of revised approval labels.

§ 29.36 Delivery of changed or modified approved analyzer or detector.

An approved analyzer or detector for which a formal certificate of modification has been issued shall be delivered by the applicant to the Bureau of Mines, Approval and Testing, 4800 Forbes Avenue, Pittsburgh, PA 15213, as soon as it is commercially produced.

Subpart E—Quality Control

§ 29.40 Quality control plans; filing requirements.

As a part of each application for approval or modification of approval submitted pursuant to this part, each applicant shall file with the Bureau a proposed quality control plan which shall be designed to assure the quality of the instrument for which approval is sought.

§ 29.41 Quality control plans; contents.

(a) Each quality control plan shall contain provisions for the management of quality, including: (1) Requirements for the production of quality data and the use of quality control records; (2) control of engineering drawings, documentations, and changes; (3) control and calibration of measuring and test

equipment; (4) control of purchased material to include incoming inspection; (5) lot identification, control of processes, manufacturing, fabrication, and assembly work conducted in the applicant's plant; (6) audit or final inspection of the completed product; and (7) the organizational structure necessary to carry out these provisions.

(b) Each provision for final inspection in the quality control plan shall include a procedure for the selection of a sample of the end product and the functional components thereof for testing, in accordance with procedures set forth in Military Standard MIL–STD–105D, "Sampling Procedures and Tables for Inspection by Attributes," or Military Standard MIL–STD–414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective," or an approved equivalent sampling procedure, or an approved combination of sampling procedures. Military Standard MIL–STD–105D, "Sampling Procedures and Tables for Inspection by Attributes," and Military Standard MIL–STD–414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective" are hereby incorporated by reference and made a part hereof. These documents are available for examination at Approval and Testing, Health and Safety Technical Support Center, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA, and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) The sampling procedure shall include a list of the characteristics to be tested by the applicant or his agent.

(d) The characteristics listed in accordance with paragraph (c) of this section shall be classified according to the potential effect of such defect and grouped into the following classes:

(1) *Critical.* A defect that judgment and experience indicate is likely to result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the product; or a defect that judgment and experience indicate is likely to prevent performance of the function of the end product.

(2) *Major.* A defect, other than critical that is likely to result in failure, or to reduce materially the usability of the unit or product for its intended purpose.

(3) *Minor.* A defect that is not likely to materially reduce the utility of the instrument for its intended purpose, or a defect that is a departure from established standards and has little bearing on the effective use or operation of the instrument.

(e) The quality control inspection test method to be used by the applicant or his agent for each characteristic required to be tested shall be described in detail.

(f) Each item manufactured shall be 100 percent inspected for defects in all critical characteristics and all defective items shall be rejected.

(g) The Acceptable Quality Level (AQL) for each major or minor defect so classified by the applicant shall be:

(1) Major—1.0 percent;

(2) Minor—4.0 percent.

(h) Except as provided in paragraph (i) of this section, inspection level II as described in MIL–STD–105D, or inspection level IV as described in MIL–STD–414, shall be used for major and minor characteristics and 100 percent inspection for critical characteristics.

(i) Subject to the approval of the Bureau, where the quality control plan provisions for raw material, processes, manufacturing, and fabrication inspection are adequate to ensure control of finished article quality, destructive testing may be conducted at a lower level of inspection than that specified in paragraph (h) of this section.

§ 29.42 Proposed quality control plans; approval by the Bureau.

(a) Each proposed quality control plan submitted in accordance with this subpart shall be reviewed by the Bureau to determine its effectiveness in ensuring the utility of the instrument for which an approval is sought.

(b) If the Bureau determines that the proposed quality control plan submitted by the applicant will not insure adequate quality control, the Bureau shall require the applicant to modify the procedures and testing requirements of the plan prior to approval of the plan and issuance of any certificate of approval.

(c) Approved quality control plans shall constitute a part of and be incorporated into any certificate of approval issued by the Bureau, and compliance with such plans by the applicant shall be a condition of approval.

§ 29.43 Quality control records; review by the Bureau; revocation of approval.

(a) The applicant shall keep quality control inspection records sufficient to carry out the procedures required in MIL–STD–105D or MIL–STD–414, or an approved equivalent sampling procedure.

(b) The Bureau reserves the right to have its representatives inspect the applicant's quality control test methods, equipment, and records, and to interview any employee or agent of the applicant in regard to quality control test methods, equipment, and records.

(c) The Bureau reserves the right to revoke, for cause, any certificate of approval where it finds that the applicant's quality control test methods, equipment, or records do not ensure effective quality control over the instrument for which the approval was issued.

Subpart F—General Construction and Performance Requirements

§ 29.50 Construction and performance requirements; general.

(a) The Bureau shall issue approvals for portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors which have met the applicable minimum requirements set forth in this Part 29.

(b) In addition to the types of analyzers and detectors described in Subparts G and H of this part, the Bureau will issue approvals for other portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors subject to such additional requirements as may be imposed in accordance with § 29.53.

§ 29.51 General construction requirements.

Portable coal dust/rock dust analyzers and continuous duty, warning light, portable methane detectors will not be accepted by the Bureau for examination, inspection, and testing unless they are designed on sound engineering and scientific principles, constructed of suitable materials, and evidence good workmanship.

§ 29.52 Component parts; minimum requirements.

(a) The components of each instrument approved by the Bureau for use where permissibility is required shall meet the requirements for permissibility and intrinsic safety set forth in Part 18, Subchapter D of this chapter (Bureau of Mines Schedule 2G).

(b) The components of each instrument shall be:

(1) Designed and constructed to prevent creation of any hazard to the user; and

(2) Assembled to permit easy access for inspection, cleaning, and repair of functional parts.

(c) Replacements parts shall be constructed to maintain the effectiveness of the instrument.

§ 29.53 Test requirements; general.

(a) Each instrument and its components shall, when tested by the applicant and the Bureau, meet the applicable performance and test requirements set forth in Subparts G and H of this part.

(b) In addition to the minimum requirements set forth in Subparts G and H of this part the Bureau reserves the right to require, as a further condition of approval, any additional or other minimum requirements it deems necessary to establish the quality, effectiveness, and safety of any instrument.

(c) Where it is determined after receipt of an application that additional or other minimum requirements will be required for approval, the Bureau will notify the applicant in writing of the additional or other minimum requirements, and necessary examinations, inspections, and tests, stating generally its reasons for such requirements, examinations, inspections or tests.

§ 29.54 Pretesting by applicant.

(a) Prior to any application for approval or modification of approval, the applicant shall conduct, or cause to be conducted, examinations, inspections, and tests of analyzer or detector performance which are equal to or exceed the severity of those prescribed in this part.

(b) With the application, the applicant shall provide a statement to the Bureau showing the types and results of the examinations, inspections, and

tests performed as required under paragraph (a) of this section and state that the analyzer or detector meets the minimum requirements of Subpart G or H of this part, as applicable. Complete examination, inspection and test data shall be retained on file by the applicant and be submitted, upon request, to the Bureau.

(c) The Bureau may, upon written request by the applicant, provide drawings and descriptions of its test equipment and otherwise assist the applicant in establishing a test laboratory or securing the services of a testing agency.

§ 29.55 Conduct of examinations, inspections, and tests by the Bureau; assistance by applicants; observers; recorded data; public demonstrations.

(a) All examinations, inspections, and tests conducted by the Bureau pursuant to Subparts G and H of this part will be under the sole direction and control of the Bureau.

(b) The Bureau may as a condition of approval, require the assistance of the applicant or agents of the applicant during the assembly, disassembly, or preparation of any instrument or instrument component prior to testing or in the operation of such instrument during testing.

(c) Only Bureau personnel, persons assisting the Bureau pursuant to paragraph (b) of this section, and such other persons as are requested by the Bureau or the applicant to be observers, shall be present during any examination, inspection or test conducted prior to the issuance of an approval by the Bureau for the instrument under consideration.

(d) The Bureau shall hold as confidential any analyses, drawings, specifications, or materials submitted by the applicant and shall not disclose any principles or patentable features of such equipment, except as required by statute or regulation.

(e) As a condition of each approval issued for any analyzer or detector, the Bureau reserves the right, following the issuance of such approval, to conduct such public tests and demonstrations of the approved instrument as it deems appropriate.

§ 29.56 Withdrawal of applications; refund of fees.

(a) Any applicant may, upon a written request submitted to the Bureau, withdraw any application for approval of any analyzer or detector.

(b) Upon receipt of a written request for the withdrawal of an application, the Bureau shall determine the total amount due for services already performed during the course of any examinations, inspections, or tests conducted pursuant to such application. The total amount due shall be determined in accordance with the provisions of §§ 29.20 and 29.21 and assessed against the fees submitted by the applicant. If the total amount assessed is less than the fees submitted, the Bureau shall refund the balance together with a statement of the charges made for services rendered.

Subpart G—Portable Coal Dust/Rock Dust Analyzers; Performance and Testing Requirements

§ 29.60 Minimum performance requirements.

(a) Portable coal dust/rock dust analyzers shall be self-contained units, practical in operation, portable, and suitable for service in underground coal mines.

(b) The analyzer shall be equipped with a quantitative indicating device that is capable of indicating the incombustible content of coal mine dusts over the range of from 50 percent to 100 percent incombustible.

(c) Analyzers equipped with batteries shall be constructed so that when such batteries are filled, electrolyte will not spill during use.

(d) Battery containers shall be made of corrosion resistant material.

§ 29.61 Testing requirements.

(a) Portable coal dust/rock dust analyzers shall be tested to ensure that they meet the minimum construction and performance requirements set forth in §§ 29.51, 29.52, and 29.60.

(b) The sampling materials listed in Table A shall be used in testing the capability of the indicating device of the portable coal dust/rock dust analyzer to measure incombustible content as specified in § 29.60(b).

(c) The indicating device of the analyzer being tested shall be within ±3 percent of the chemically determined incombustible content for 80 percent of the standard samples and inspector's samples listed in Table B.

(d) In preparing sampling materials for testing, all sampling materials shall be:

(1) Air equilibrated;

(2) Carefully mixed to minimize segregation or degradation;

(3) Stored in moisture- and air-tight containers to prevent oxidation and drying; and,

(4) Analyzed for percent incombustible content within ±1 percent, by chemical analysis.

(e) In order to determine the reliability and utility of the analyzer, personnel of the Bureau shall field test the instrument for 1 month in various underground coal mines, in accordance with the applicant's operating and maintenance instructions.

(f) The Bureau may conduct any additional field testing it deems necessary.

TABLE A

SPECIFICATION FOR SAMPLING MATERIALS USED FOR COAL DUST/ROCK DUST ANALYZER TESTING (PERCENTAGES BY WEIGHT; PARTICLE SIZE ±2 PERCENT)

1. Bruceton mine coal, Pittsburgh Seam, 6 to 8 percent ash, 100 percent through U.S. No. 100 sieve, 70 percent through U.S. No. 200 sieve.

2. Pocahontas low volatile, 5 to 6 percent ash, less than 0.7 percent total sulfur, 70 percent through U.S. No. 200 sieve.

3. Pittsburgh Seam, run-of-mine, 27 to 32 percent ash, 1.5 to 2.5 percent sulfur, 100 percent through U.S. No. 20 sieve and 20 percent through U.S. No. 200 sieve.

4. Pyrite, coal-derived, 90 percent or better FeS_2, 70 percent through U.S. No. 200 sieve.

5. $MgCO_3$, analytical grade, powdered, 70 percent through U.S. No. 200 sieve.

6. Ash, mineral matter content of 50 to 80 percent from preparation plant refuse, less than 5 percent pyrite, 70 percent through U.S. No. 200 sieve.

7. Limestone, 99 percent $CaCO_3$, 70 percent through U.S. No. 200 sieve.

8. Dolomite, approximately 41 percent $MgCO_3$, 70 percent through U.S. No. 200 sieve.

9. Gypsum, approximately 45 percent $CaSO_4 \cdot 2H_2O$, 70 percent through U.S. No. 200 sieve.

10. Traction sand, (Quartz) 100 percent through U.S. No. 20 sieve.

11. Flammable hydraulic oil (petroleum based).

TABLE B

SPECIFICATIONS FOR STANDARD SAMPLES AND INSPECTORS' SAMPLES USED FOR COAL DUST/ROCK DUST ANALYZER TESTING (PERCENTAGES BY WEIGHT WITH ALLOWABLE VARIATIONS OF ±2 PERCENT)

Standard Samples

1. Bruceton coal and limestone to form 55, 65, 75, and 85 percent incombustible (ash and limestone plus 0.3 to 0.6 percent inherent moisture).

2. Bruceton coal and dolomite to 55, 65, 75, and 85 percent incombustibles.

3. Bruceton coal and gypsum to 55, 65, 75, and 85 percent incombustibles.

4. Pocahontas coal and limestone to 55, 65, 75, and 85 percent incombustibles.

5. Pocahontas coal and dolomite to 55, 65, 75, and 85 percent incombustibles.

6. Pittsburgh seam coal and limestone to 55, 65, 75, and 85 percent incombustibles.

7. Pittsburgh seam coal and dolomite to 55, 65, 75, and 85 percent incombustibles.

8. Moisture added to sample 6 of 65 percent incombustibles resulting in 70 percent incombustibles.

9. Moisture added to sample 6 of 55 percent incombustibles resulting in 65 percent total incumbustibles.

10. Pyrite added to sample 1 of 55 percent resulting in 56 percent incombustibles.

11. Pyrite added to sample 4 of 65 percent resulting in 66 percent incombustibles.

12. Pyrite added to sample 6 of 75 percent resulting in 76 percent incombustibles.

13. $MgCo_3$ added to sample 1 of 55 percent resulting in 58 percent incombustibles.

14. $MgCo_3$ added to sample 2 of 65 percent resulting in 68 percent incombustibles.

15. $MgCO_3$ added to sample 3 of 70 percent resulting in 78 percent incombustibles.

16. Ash added to sample 6 of 55 percent resulting in 60 percent incombustibles.

17. Ash added to sample 6 of 55 percent resulting in 70 percent incombustibles.

18. A mixture consisting of 30 percent ash, 45 percent Pittsburgh coal, and 25 percent limestone.

19. Sand added to sample 1 of 55 percent resulting in 60 percent incombustibles.

20. Sand added to sample 1 of 55 percent resulting in 65 percent incombustibles.

21. Sand added to sample 1 of 55 percent resulting in 75 percent incombustibles.

22. Hydraulic oil added to sample 1 of 55 percent resulting in 50 percent incombustibles.

23. Hydraulic oil added to sample 1 of 55 percent resulting in 45 percent incombustibles.

Inspectors' Samples

1. A group of 25 samples shall be chosen from samples taken by Bureau inspectors during their regular mine surveys of rock dust sufficiency.

2. The type of rock dust and coal present in the mine from which such samples were taken shall be made available for purposes of calibration.

3. Where the quantity of individual samples is insufficient to supply the sample volume required for testing, composite samples of adequate volume will be used.

Subpart H—Continuous Duty, Warning Light, Portable Methane Detectors; Performance and Testing Requirements

§ 29.70 Minimum performance requirements.

(a) Continuous duty, warning light, portable methane detectors shall be self-contained units, practical in operation, portable and suitable for service in underground coal mines.

(b) The detector shall be equipped with an indicating device that contains one or more warning lights designed and constructed to flash in the presence of a methane-air mixture having a methane concentration of 1 percent ±0.2 percent.

(c) Detectors equipped with batteries shall be constructed so that when such batteries are filled, electrolyte will not spill during use.

(d) Battery containers shall be made of corrosion-resistant material.

§ 29.71 Warning light; performance requirements.

(a) Warning lights contained in the indicating devices of detectors shall:

(1) Be visible within the normal visual field of miners working in the vicinity of the detector;

(2) If incandescent, employ lamps of no less than 0.2 candlepower; or

(3) If light-emitting diodes (LED's), have sufficient intensity to be discernible in the working place of an underground coal mine; and,

(4) Be red in color.

(b) The flash rate of the warning light shall be approximately one flash per second, and the duty cycle shall be sufficiently long to attract attention.

§ 29.72 Accessory quantitative meter; minimum requirements.

(a) In addition to the warning lights described in § 29.71, an accessory meter may be installed in a continuous duty, warning light, portable methane detector, to serve as a quantitative indicator of the presence of methane.

(b) Where an accessory quantitative meter is installed on a detector, it shall meet the following minimum requirements for performance and accuracy:

(1) Accessory quantitative meters shall indicate the presence of methane concentrations as low as 0.25 percent and shall have upper scale limits of 2 percent to 4 percent methane. The indications for these percentages shall be within the limits of error specified in Table C;

(2) Accessory quantitative meters shall make no less than 30 determinations for the presence of methane without replacement of any component part, and no less than 15 such determinations prior to recharging of the battery or other power source; and,

(3) The scale of accessory quantitative meters shall not be subdivided into smaller divisions than is warranted by the general accuracy of the meter.

§ 29.73 Operative period.

Detectors shall be tested to ensure that they operate effectively over a 10-hour period (a) without requiring battery replacement or recharging, and (b) without loss of initial accuracy.

§ 29.74 Calibration adaptors.

(a) Each detector shall be equipped with an adaptor that checks the overall response of the instrument to a premixed, methane-air mixture, having a concentration of not less than 1 percent or more than 3 percent, by volume.

(b) Adaptors shall be compatible with methane calibrating kits marketed for methane monitor calibration.

§ 29.75 Visual indicator device.

Each detector shall be equipped with a device capable of giving a visual indication of the operative condition of the battery and the electrical circuitry employed in the detector.

§ 29.76 Testing requirements.

(a) Continuous duty, warning light, portable methane detectors shall be tested to ensure that they meet the minimum construction and performance requirements set forth in §§ 29.51, 29.52, 29.70, 29.71, 29.73, 29.74, and 29.75.

(b) Accessory quantitative meters shall be tested at several percentages within the limits of error specified in Table C, and at temperatures ranging from 50° and 70° F., with 5° increments. Ten tests shall be made at each percentage selected, and neither the average of the 10 tests, nor more than two tests for each percentage, shall exceed the limits of error specified in Table C.

(c) In order to determine the reliability and utility of the detector, personnel of the Bureau shall field test the instrument for 1 month in various underground coal mines, in accordance with the applicant's operating and maintenance instructions.

(d) The Bureau may conduct any additional field testing it deems necessary.

TABLE C

MAXIMUM AND MINIMUM LIMITS OF ERROR FOR ACCESSORY QUANTITATIVE METERS INSTALLED ON CONTINUOUS DUTY, WARNING LIGHT, PORTABLE METHANE DETECTORS

Percent methane	Minimum limit of error—percent methane	Maximum limit of error—percent methane
0.25	0.10	0.40
0.50	0.35	0.65
1.00	0.80	1.20
2.00	1.80	2.20
3.00	2.70	3.30
4.00	3.70	4.30

[FR Doc.72-5670 Filed 4-14-72;8:45 am]

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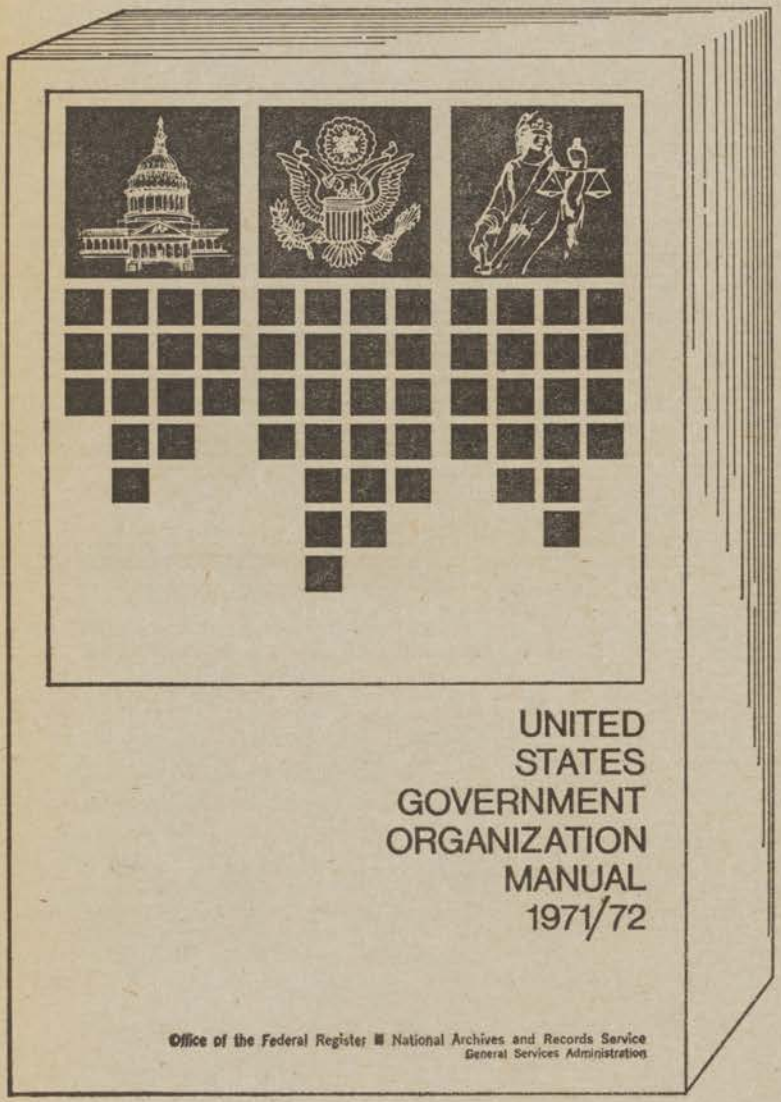

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