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Agencies in this issue—

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FEDERAL REGISTER

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

1970 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes of the Code of Federal Regulations issued to date during 1970. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR unit (Rev. as of Jan. 1, 1970):

		Price
1		$1.00
3	1969 Compilation	1.00
4		.50
5		1.50
6	[Reserved]	
7	Parts:	
	0–45	2.75
	46–51	1.75
	52	3.00
	210–699	2.50
	750–899	1.50
	900–944	1.75
	945–980	1.00
	981–999	1.00
	1000–1029	1.50
	1030–1059	1.25
	1060–1089	1.25
	1090–1119	1.25
	1120–1199	1.50
	1200–1499	2.00
	1500–end	1.50
8		1.00
9		2.00
13		1.25
14	Parts:	
	1–59	2.75
	200–end	3.00
15		1.75
16	Parts:	
	0–149	3.00
	150–end	2.00
17		2.75
18	Parts:	
	1–149	2.00
	150–end	2.00
19		2.50
20		3.75
21	Parts:	
	1–119	1.75
	120–129	1.75
	130–146e	2.75
	147–end	1.50
22		1.75
23		.35
24		2.50
25		1.75
26	Parts:	Price
	1 (§§ 1.0–1—1.300)	$3.00
	1 (§§ 1.301–1.400)	1.00
	1 (§§ 1.401–1.500)	1.50
	1 (§§ 1.501–1.640)	1.25
	1 (§§ 1.641–1.850)	1.50
	1 (§§ 1.851–1.1200)	2.00
	1 (§ 1.1201–end)	3.25
	2–29	1.25
	30–39	1.25
	40–169	2.50
	300–499	1.50
	500–599	1.75
	600–end	.65
27		.45
28		.75
29	Parts:	
	0–499	1.50
	500–899	3.00
	900–end	1.25
31		1.75
32	Parts:	
	1–8	3.25
	9–39	2.00
	400–589	2.00
	590–699	.75
	700–799	3.50
	800–1199	2.00
	1200–1599	1.50
	1600–end	1.00
32A		1.25
33	Parts:	
	1–199	2.50
	200–end	1.75
34	[Reserved]	
35		1.75
36		1.25
37		.70
38		3.50
39		3.50
40	[Reserved]	
41	Chapters:	
	1	2.75
	2–4	1.00
	5–5D	1.25
	6–17	3.25
	18	3.25
	19–100	.75
	101–end	1.75
42		1.75
43	Parts 1–999	1.50
44		.45
45		4.00
46	Parts:	
	1–65	2.75
	66–145	2.75
	146–149	3.75
	150–199	2.50
	200–end	3.00
47	Parts:	
	0–19	1.75
	20–69	2.00
	70–79	1.75
	80–end	2.75
48	[Reserved]	
49	Parts:	
	1–199	3.75
	200–999	1.50
	1000–1199	1.25
	1200–1299	3.00
	1300–end	1.00
50		1.25

Title 7—AGRICULTURE

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

[Valencia Orange Reg. 314, Amdt. 1]

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

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking 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 restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 908.614 (Valencia Orange Reg. 314, 35 F.R. 7779) are hereby amended to read as follows:

§ 908.614 Valencia Orange Regulation 314.

* * * * *

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

(i) District 1: 360,000 cartons;

(ii) District 2: 430,000 cartons;

(iii) District 3: 210,000 cartons.

* * * * *

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

Dated: May 27, 1970.

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

[F.R. Doc. 70-6764; Filed, June 1, 1970; 8:49 a.m.]

[Cherry Reg. 9]

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement and Order No. 923 (7 CFR Part 923) regulating the handling of sweet cherries grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Washington Cherry Marketing Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of cherries, in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the Washington Cherry Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of sweet cherries from the production area are expected to begin on or about June 8, 1970. The grade and size requirements provided herein are necessary to prevent the handling, on and after June 8, 1970, of any cherries grading lower than the grade herein specified, and smaller in size than as herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act. The requirements herein that pertain to containers and the packaging of cherries in faced packs and any packs of 20 pounds, net weight, or larger, are designed to prevent deceptive packaging practices, promote buyer confidence, and maintain the integrity of the Washington sweet cherry industry. Individual shipments, not exceeding 100 pounds, of cherries sold for home use and not for resale, subject to necessary safeguards, are excepted from these requirements in that the quantity of cherries so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impractical to regulate the handling of such shipments due to the nearness to the source of supply.

(3) 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 regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than June 8, 1970. A reasonable determination as to the supply of, and the demand for, cherries must await the development of the crop and adequate information thereon was not available to the Washington Cherry Marketing Committee until May 13, 1970; recommendation as to the need for, and the extent of, regulation of shipments of such cherries was made at the meeting of said committee on May 13, 1970, after consideration of all available information relative to the supply and demand conditions for such cherries, at which time the recommendation and supporting information were submitted to the Department; necessary supplemental data for consideration in connection with the specification of the provisions of this regulation were not available until May 19, 1970; shipments of the current crop of such cherries are expected to begin on or about the effective date hereof; and this regulation should be applicable, insofar as practicable, to all shipments of such cherries in order to effectuate the declared policy of the act; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 923.309 Cherry Regulation 9.

(a) *Order.* (1) During the period June 8, 1970, through May 31, 1971, no handler shall, except as provided in subparagraph (2) of this paragraph, handle any lot of cherries unless such cherries meet each of the following applicable requirements:

(i) *Minimum grade.* U.S. No. 1: *Provided,* That the contents of individual packages in a lot are not limited as to the percentage of defects but the average of the defects of the entire lot shall be within the tolerances specified for such grade.

(ii) *Minimum size.* At least 95 percent, by count, shall measure not less than forty-eight/sixty-fourths inch in diameter.

(iii) *Faced packs and any packs of 20 pounds, net weight, or larger.* At least 90 percent, by count, shall measure not less than fifty-fourths/sixty-fourths inch in diameter.

(iv) *Containers.* The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅛ by 10½ by 4 inches shall be not less than 20 pounds; and no container of cherries shall contain less than 12 pounds, net weight, of cherries.

(2) Exceptions: Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 923.41 (Assessments), and of § 923.55 (Inspection and Certification):

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

(ii) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

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

(b) *Definitions.* (1) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order;

(2) "U.S. No. 1" and "diameter" shall have the same meaning as when used in the U.S. Standards for Sweet Cherries (§§ 51.2646–51.2657 of this title); and

(3) "Faced pack" means that the cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container.

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

Dated: May 27, 1970.

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

[F.R. Doc. 70-6741; Filed, June 1, 1970; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

PART 1481—RICE

Subpart—Rice Export Program (GR–369) Revision IV

Correction

In F.R. Doc. 70–6325 appearing at page 7880 in the issue for Friday, May 22, 1970, the following changes should be made:

1. In § 1481.102(d), the word "kernal" in the fourth line of the introductory paragraph should read "kernel", and the word "screening" in the penultimate line of subparagraph (3) should read "screenings".

2. In § 1481.105(h), the reference to "§ 141.115(d)" in the fourth line from the bottom of column 1 should read "§ 1481.115(d)".

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER A—LABORATORY ANIMAL WELFARE

PART 2—REGULATIONS

Changes in Holding Periods and Methods of Identification

On February 7, 1970, there was published in the FEDERAL REGISTER (35 F.R. 2729) a notice of proposed rule making with respect to proposed amendments of the Laboratory Animal Welfare Regulations as contained in Part 2, Subchapter A, Title 9, Code of Federal Regulations. After due consideration of

all relevant material submitted in connection with such notice and pursuant to the provisions of the Act of August 24, 1966, said Part 2 is hereby amended in the following respects:

1. Paragraph (b) of § 2.50 is amended to read as follows:

§ 2.50 Time and method of identification.

* * * * *

(b) Except as otherwise provided in this section, when a class B dealer purchases or otherwise acquires a dog or cat in commerce, he shall immediately affix to such animal's neck an official tag of the type described in § 2.51 by means of a collar made of material generally considered acceptable to pet owners as a means of identifying their pet dogs or cats, but if the dog or cat is not purchased or acquired in commerce by said dealer, such animal must be so tagged at the time it is delivered for transportation, transported, or sold in commerce by said dealer: *Provided, however,* That if such dog or cat is already identified by an official tag which has been applied by another dealer, it is not necessary that the subsequent dealer replace the tag on such animal, but the (class B) dealer may replace such previously attached tag with his own official tag, and, in which event, the (class B) dealer shall correctly list both official tag numbers in his records of purchase which shall be maintained in accordance with §§ 2.75 and 2.77 and the new official tag number shall be used on all records of subsequent sales of such dog or cat: *And provided, further,* That no official tag need be affixed to any such dog or cat that has been identified by means of a distinctive and permanent tattoo marking approved by the Director.

* * * * *

2. Section 2.101 is amended to read as follows:

§ 2.101 Holding period.

(a) Any dog or cat acquired by a dealer shall be held by him, under his supervision and control, for a period of not less than 5 business days after acquisition of such animal: *Provided, however,* That (1) dogs or cats which have completed a 5-day holding period may be disposed of by subsequent dealers after a minimum holding period of one calendar day by each such subsequent dealer, excluding time in transit; (2) any dog or cat suffering from disease, emaciation or injury may be destroyed by euthanasia prior to the completion of the holding period required by this section;

(b) During the period in which any dog or cat is being held as required by this section, such dog or cat shall be unloaded from any means of conveyance in which it was received, for feed, water, and rest, and handled, cared for, and treated in accordance with the standards set forth in §§ 3.1 through 3.10 of this subchapter. (For purposes of this section, "business day" shall mean any day of the week during which the dealer normally operates his business. For purposes of this section, "calendar day" shall mean from midnight to midnight (example, a dog or cat purchased on the 3d day of a month may be disposed of on the 5th day of that month).)

(c) If the dealer obtains the prior approval of the Veterinarian in Charge, he may arrange to have another person hold such animals for the required period provided for in paragraph (a) of this section: *Provided, however,* That such other person agrees in writing to comply with the regulations of this Part 2 and the standards in Part 3 of this subchapter and to allow inspection by a Division representative of his premises: *And provided, further,* That the dogs and cats still remain under the control of the dealer: *And provided, further,* That a dealer holding a license as set forth in § 2.4 shall not be granted a permit to operate a "holding facility" for another licensed dealer.

(Secs. 3, 5, 11, and 21; 80 Stat. 351 and 353; 7 U.S.C. 2133, 2135, 2141, and 2151)

The foregoing amendments (1) permit a dealer to identify dogs and cats held on his premises or acquired by him by affixing an official tag or applying a distinctive tattoo to each animal; (2) reduce the time period a second dealer and subsequent dealers are required to hold any dog or cat after acquisition of the animal, from 5 business days to 1 calendar day; (3) prohibit a dealer from operating a holding facility for another licensed dealer; and (4) require that animals handled by dealers be unloaded for feed, rest, and water before being sold or otherwise disposed of in accordance with the standards.

Insofar as the amendments impose certain requirements necessary for the humane treatment of animals, they should be made effective promptly in order to effectuate the purposes of the Act. Insofar as the amendments relieve certain requirements under the regulations, they should be made effective promptly in order to be of maximum benefit to the affected persons. Under the administrative procedure provisions of 5 U.S.C. 553, good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of May 1970.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70-6742; Filed, June 1, 1970; 8:48 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 9, Amdt. 5]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business Manufacturer of Refined Petroleum Products for Purpose of Government Procurements, Disposals, and SBA Loans

On January 22, 1970, there was published in the FEDERAL REGISTER (35 F.R. 904) a notice that the Administrator of the Small Business Administration (SBA) proposed to amend the definition of a small manufacturer of refined petroleum products for the purpose of Government procurements, disposals, and SBA loans.

Currently, a refiner cannot qualify as a small business if it has more than a total of 30,000 barrels-per-day crude oil or bona fide feed stock capacity from the aggregate of owned and/or leased facilities. The proposal was to amend the definition so that capacity from facilities made available to a refiner under an arrangement with the same effect as though the facilities had been leased, would also have to be included in determining a refiner's total capacity.

Interested persons were given 15 days in which to file written statements of facts, opinions, or arguments concerning the proposal. After consideration of all relevant matter presented by interested persons in response to the notice of proposal it has been determined to adopt the amendment as provided with the addition of certain wording for the purpose of clarifying the intent thereof. Accordingly, the amendment set forth below is hereby adopted:

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by:

1. Revising § 121.3-8(g)(1)(ii) to read as follows:

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

* * * * *

(g) *Refined petroleum products.* * * * (1) * * * (ii) it does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis), or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased; * * *

2. Revising Footnote 3 to Schedule A to read as follows:

[3] Together with its affiliates does not employ more than 1,000 persons and does not have more than 30,000 barrels-per-day crude

oil or bona fide feed stock capacity from owned and/or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis) or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased.

3. Revising § 121.3–9(a)(1) to read as follows:

§ 121.3–9 Definition of small business for sales of Government property.

* * * * *

(a) *Sales of Government-owned property other than timber.* * * *

(1) *Manufacturers.* Any concern which is primarily engaged in manufacturing is small if its number of employees does not exceed 500 persons: *Provided however,* That a concern primarily engaged in SIC Industry 2911, Petroleum Refining, is small if its number of employees does not exceed 1,000 persons and it does not have more than 30,000 barrels-per-day crude oil or bona fide stock capacity from owned and/or leased facilities, or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis) or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased.

* * * * *

4. Adding new § 121.3–14(i) to read as follows:

§ 121.3–14 Interpretations.

* * * * *

(i) *Section 121.3–8(g) "Refined petroleum products."* The proviso in § 121.3–8(g)(1)(iii) that the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks, contemplates that, in accomplishing such refining, the bidder will utilize its own employees and facilities which it owns or obtains under a bona fide lease as distinguished from any other arrangement having the same effect as a lease. The proviso in § 121.3–8(g) permitting a concern which meets the requirements in subdivisions (i) and (ii) of § 121.3–8(g) to furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement which meets prescribed requirements, contemplates that the product exchanged by the bidder for the product to be furnished, shall have been refined by the bidder utilizing only its own employees and its own facilities or facilities obtained through a bona fide lease.

Effective date. This amendment shall become effective thirty (30) days after publication in the FEDERAL REGISTER but shall apply only to procurements for which invitations for bids or requests for proposals are issued on or after such effective date.

Dated: May 25, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-6773; Filed, June 1, 1970; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69-CE-102]

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

Designation of Transition Area

On page 17448 of the FEDERAL REGISTER dated October 29, 1969, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Kaiser, Mo.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The Lee C. Fine Memorial Airport latitude coordinate recited in the Kaiser, Mo., transition area designation as "latitude 38°05'50" N." is changed to read "latitude 38°05'45" N.".

This amendment shall be effective 0901 G.m.t., July 23, 1970.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on May 18, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (34 F.R. 4637), the following transition area is added:

KAISER, MO.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Lee C. Fine Memorial Airport (latitude 38°05'45" N., longitude 92°32'55" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles northwest and 9½ miles southeast of the 045° bearing from Lee C. Fine Memorial Airport, extending from the airport to 18½ miles northeast of the airport; and within 5 miles each side of the 225° bearing from Lee C. Fine Memorial Airport, extending from the airport to 12 miles southwest of the airport.

[F.R. Doc. 70-6730; Filed, June 1, 1970; 8:47 a.m.]

[Airspace Docket No. 69-CE-130]

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

Designation of Transition Area

On page 2793 of the FEDERAL REGISTER dated February 10, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Broken Bow, Nebr.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following changes: The coordinates recited in the Broken Bow, Nebr., Municipal Airport, transition area designation as "latitude 41°26'00" N., longitude 99°38'35" W." are changed to read "latitude 41°26'05" N., longitude 99°38'25" W.".

This amendment shall be effective 0901 G.m.t., July 23, 1970.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on May 18, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

In § 71.181 (35 F.R. 2134), the following transition area is added:

BROKEN BOW, NEBR.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Broken Bow Municipal Airport (latitude 41°26'05" N., longitude 99°38'25" W.); and within 3 miles each side of the 321° bearing from Broken Bow Municipal Airport, extending from the 5½-mile radius area to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 321° and 141° bearings from Broken Bow Municipal Airport; extending from 6 miles southeast to 18½ miles northwest of the airport.

[F.R. Doc. 70-6731; Filed, June 1, 1970; 8:47 a.m.]

[Airspace Docket No. 70-CE-2]

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

Alteration of Transition Area

On page 4266 of the FEDERAL REGISTER dated March 7, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Park Rapids, Minn.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change: The Park Rapids Municipal Airport longitude coordinate recited in the Park Rapids, Minn., transition area alteration as "longitude 95°04'20" W." is changed to read "longitude 95°04'15" W.".

This amendment shall be effective 0901 G.m.t., July 23, 1970.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on May 14, 1970.

EDWARD C. MARSH,
Director, Central Region.

In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

PARK RAPIDS, MINN.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Park Rapids Municipal Airport (latitude 46°53'55" N., longitude 95°04'15" W.); and within 3 miles each side of the 132° bearing from Park Rapids Municipal Airport, extending from the 6½-mile radius area to 8 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 132° and 312° bearings from Park Rapids Municipal Airport, extending from 6 miles northwest to 18½ miles southeast of the airport, excluding the portion north of latitude 47°00'00" N.; and within 5 miles each side of the 307° bearing from Park Rapids Municipal Airport, extending from the airport to 12 miles northwest of the airport.

[F.R. Doc. 70-6732; Filed, June 1, 1970; 8:47 a.m.]

[Airspace Docket No. 70-EA-12]

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

Alteration of Transition Area

On page 5045 of the FEDERAL REGISTER for March 25, 1970, the Federal Aviation Administration published a proposed rule which would alter the Elyria, Ohio, transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted effective 0901 G.m.t., July 23, 1970.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 14, 1970.

GEORGE M. GARY,
Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Elyria, Ohio, 700-foot transition area and insert the following in lieu thereof: "That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 41°20'40" N., 82°10'40" W., of Lorain County Regional Airport and within 3.5 miles each side of the Cleveland VORTAC 300° radial, extending from the 9-mile radius area to 9.5 miles northwest of the VORTAC, excluding the portion that coincides with the Cleveland Ohio 700-foot transition area."

[F.R. Doc. 70-6733; Filed, June 1, 1970; 8:47 a.m.]

[Airspace Docket No. 70-EA-15]

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

Alteration of Control Zone

On page 5044 of the FEDERAL REGISTER for March 25, 1970, the Federal Aviation Administration published a proposed rule which would alter the Hyannis, Mass., control zone.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted effective 0901 G.m.t., July 23, 1970.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 14, 1970.

GEORGE M. GARY,
Director, Eastern Region.

Amend § 71.171 of Part 71 of the Federal Aviation Regulations by inserting in the description of the Hyannis, Mass., control zone, after the words, "Barnstable Municipal Airport, Hyannis, Mass.," the following: "and within 2 miles each side of the Hyannis VORTAC 227° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC".

[F.R. Doc. 70-6734; Filed, June 1, 1970; 8:47 a.m.]

[Airspace Docket No. 70-SW-31]

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

Designation of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Clinton, Okla., control zone and transition area.

On January 8, 1970, a final rule was published in the FEDERAL REGISTER (35 F.R. 310) revoking the Clinton, Okla., control zone and that portion of the Hobart, Okla., transition area pertaining to the Clinton-Sherman Air Force Base. That action was taken because Clinton-Sherman AFB was closed December 12, 1969, and the Clinton-Sherman TACAN and ILS and the Burns Flat VOR were decommissioned.

The Federal Aviation Administration has an urgent need to utilize the facilities of this airport, renamed the Clinton-Sherman Airport, beginning July 1, 1970, for the training of the agency's air crews and field office inspectors. Use of this airport will expedite the flight training program through unrestricted access to its navigation facilities. This action has been necessitated by increased traffic congestion in the Oklahoma City terminal area and national requirements for additional flight inspection personnel.

It is desirable that IFR operations at the Clinton-Sherman Airport be provided controlled airspace protection. It is agency policy that a control zone shall be designated where an FAA control tower is in operation. The agency will operate a control tower at Clinton-Sherman Airport during those hours that it is conducting flight training operations. Action is taken herein to designate a control zone and transition area to provide controlled airspace for aircraft executing special approach/departure procedures which will serve the Clinton-Sherman Airport.

Normally, a notice of proposed rule making would be issued; however, there is not sufficient time for normal processing to meet charting requirements and to implement the training program July 1, 1970.

For the reasons stated above, it is found that a situation exists requiring immediate action in the interest of the public and that notice and public procedure hereon are impractical and that good cause exists for making this amendment effective July 1, 1970.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 1, 1970, as hereinafter set forth.

(1) In § 71.171 (35 F.R. 2054), the following control zone is added:

CLINTON, OKLA.

Within a 5-mile radius of Clinton-Sherman Airport (lat. 35°20'25" N., long. 99°12'00" W.), and within 2 miles each side of the extended centerline of Clinton-Sherman Runways 17 and 35 extending from 7 miles north to 6 miles south of the ends of the runways. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (35 F.R. 2134), the following transition area is added:

CLINTON, OKLA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Clinton-Sherman Airport (lat. 35°20'25" N., long. 99°12'00" W.), and within 8 miles west and 5 miles east of the extended centerline of Clinton-Sherman Runways 17 and 35 extending from the 8-mile radius area to 20 miles north and 18 miles south of the ends of the runways excluding the portion within the Hobart, Okla., transition area. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on May 20, 1970.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 70-6735; Filed, June 1, 1970; 8:47 a.m.]

[Airspace Docket No. 70-SO-30]

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

Designation of Transition Area

On April 16, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 6189), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Savannah, Tenn., transition area.

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

Subsequent to publication of the notice, the geographic coordinate (lat. 35°10'15" N., long. 88°13'00" W.) for Savannah Municipal Airport was obtained from Coast and Geodetic Survey. It is necessary to alter the transition area description by inserting the geographic coordinate for the airport. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to amend the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 23, 1970, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the following transition area is added:

SAVANNAH, TENN.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Savannah Municipal Airport (lat. 35°10'15" N., long. 88°13'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on May 20, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-6736; Filed, June 1, 1970; 8:47 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Subpart D—Exemptions From Tolerances

EXEMPTION OF CERTAIN INERT INGREDIENTS USED IN PESTICIDE FORMULATIONS

No comments and no requests for referral to an advisory committee were received in response to the notice published in the FEDERAL REGISTER of February 20, 1970 (35 F.R. 3234), in which the Commissioner of Food and Drugs proposed exemption of certain compounds used as adjuvants in pesticide formulations from requirement of a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act. The Commissioner concludes that the proposal should be adopted without change.

Therefore, pursuant to provisions of the act (sec. 408 (c), (e), 68 Stat. 512, 514; 21 U.S.C. 346a (c), (e)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.1001 is amended as set forth below.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 408 (c), (e), 68 Stat. 512, 514; 21 U.S.C. 346a (c), (e))

Dated: May 22, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

Section 120.1001 is amended by alphabetically inserting new items in paragraphs (c) and (d), as follows:

§ 120.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Bentonite		Solid diluent carrier.
* * *	* * *	* * *
Calcium hydroxide		Solid diluent.
Calcium oxide		Do.
* * *	* * *	* * *
Dipropylene glycol		Solvent, cosolvent.
* * *	* * *	* * *
Iron oxide		Solid diluent, carrier.
* * *	* * *	* * *
Lauryl alcohol		Surfactant.
* * *	* * *	* * *
Methylcellulose		Thickener.
* * *	* * *	* * *
Oleic acid		Diluent.
* * *	* * *	* * *
Petroleum hydrocarbons, light odorless, conforming to § 121.1182 of this chapter.		Solvent, diluent.
Petroleum hydrocarbons, synthetic isoparaffinic, conforming to § 121.1154 of this chapter.		Solvent, diluent.
Phosphoric acid		Buffer.
Phosphorus oxychloride.		Catalyst.
* * *	* * *	* * *
Potassium aluminum silicate.		Solid diluent, carrier.
Potassium hydroxide		Neutralizer.
Propylene glycol		Solvent, cosolvent.
* * *	* * *	* * *
Silica, hydrated silica		Solid diluent, carrier.
* * *	* * *	* * *
Soapstone		Solid diluent.
* * *	* * *	* * *
Sodium aluminum silicate.		Solid diluent, carrier.
Sodium benzoate		Anticaking agent.
* * *	* * *	* * *
Sodium hydroxide		Neutralizer.
* * *	* * *	* * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Ethylene glycol monobutyl ether.		Solvent, cosolvent.
* * *	* * *	* * *
Xylene		Do.

* * * * *

[F.R. Doc. 70-6719; Filed, June 1, 1970; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7043]

TAX TREATMENT OF CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY AND FOREIGN SERVICE DISABILITY RETIREMENT ANNUITIES

On January 23, 1970, notice of proposed rule making with respect to amendment of the regulations which relate to treatment of certain reduced uniformed services retirement pay and Foreign Service disability retirement annuities was published in the FEDERAL REGISTER (35 F.R. 981). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments so proposed are adopted without change.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: May 26, 1970.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), and the Gift Tax Regulations (26 CFR Part 25), to the amendments made by (1) section 51 of the Foreign Service Act Amendments of 1960 (74 Stat. 847) and

(2) the Act of March 8, 1966 (Public Law 89-365, 80 Stat. 32), such regulations are amended as follows:

SUBCHAPTER A—INCOME TAX

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

PARAGRAPH 1. Section 1.72 is amended by redesignating subsection (o) of section 72 as subsection (p), by inserting after subsection (n) a new subsection (o), and by revising the historical note. Such amended and added provisions read as follows:

§ 1.72 Statutory provisions; annuities, certain proceeds of endowment and life insurance contracts.

SEC. 72. *Annuities; certain proceeds of endowment and life insurance contracts.* * * *

(o) *Annuities Under Retired Serviceman's Family Protection Plan.* Subsections (b) and (d) shall not apply in the case of amounts received after December 31, 1965, as an annuity under chapter 73 of title 10 of the United States Code, but all such amounts shall be excluded from gross income until there has been so excluded (under section 122(b)(1), or this section, including amount excluded before Jan. 1, 1966) an amount equal to the consideration for the contract (as defined by section 122(b)(2)), plus any amount treated pursuant to section 101(b)(2)(D) as additional consideration paid by the employee. Thereafter all amounts so received shall be included in gross income.

* * * * *

[Sec. 72 as amended by sec. 4 (a), (b), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 821); sec. 11(b), Rev. Act 1962 (76 Stat. 1005); sec. 232(b), Rev. Act 1964 (78 Stat. 110); sec. 809(d)(2), Excise Tax Reduction Act of 1965 (79 Stat. 167); sec. 106(d)(2), Social Security Amendments 1965 (79 Stat. 337); sec. 1(b), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 32)]

PAR. 2. Paragraph (a)(1)(i) of § 1.72-4 is amended to read as follows:

§ 1.72-4 Exclusion ratio.

(a) *General rule.* (1)(i) To determine the proportionate part of the total amount received each year as an annuity which is excludable from the gross income of a recipient in the taxable year of receipt (other than amounts received under (*a*) certain employee annuities described in section 72(d) and § 1.72-13, or (*b*) certain annuities described in section 72(o) and § 1.122-1), an exclusion ratio is to be determined for each contract. In general, this ratio is determined by dividing the investment in the contract as found under § 1.72-6 by the expected return under such contract as found under § 1.72-5. Where a single consideration is given for a particular contract which provides for two or more annuity elements, an exclusion ratio shall be determined for the contract as a whole by dividing the investment in such contract by the aggregate of the expected returns under all the annuity elements provided thereunder. However, where the provisions of paragraph (b)(3) of § 1.72-2 apply to payments received under such a contract, see paragraph (b)(3) of § 1.72-6.

* * * * *

PAR. 3. Paragraph (e) of § 1.72-13 is amended to read as follows:

§ 1.72-13 Special rule for employee contributions recoverable in three years.

* * * * *

(e) *Inapplicability of section 72(d) and this section.* Section 72(d) and this section do not apply to:

(1) Amounts received as proceeds of a life insurance contract to which section 101(a) applies, nor to

(2) Amounts paid to a surviving annuitant under a joint and survivor annuity contract to which paragraph (b)(3) of § 1.72-5 applies, nor to

(3) Amounts paid to an annuitant under chapter 73 of title 10 of the United States Code with respect to which section 72(o) and § 1.122-1 apply.

See also paragraph (d) of § 1.72-14.

PAR. 4. Section 1.101 is amended by revising subparagraph (D) of section 101(b)(2) and by revising the historical note. These amended provisions read as follows:

§ 1.101 Statutory provisions; certain death benefits.

SEC. 101. *Certain death benefits.* * * *

(b) *Employees' death benefits.* * * *

(2) *Special rules for paragraph (1).* * * *

(D) *Other annuities.* In the case of any amount to which section 72 (relating to annuities, etc.) applies, the amount which is excludable under paragraph (1) (as modified by the preceding subparagraphs of this paragraph) shall be determined by reference to the value of such amount as of the day on which the employee died. Any amount so excludable under paragraph (1) shall, for purposes of section 72, be treated as additional consideration paid by the employee. Paragraph (1) shall not apply in the case of an annuity under chapter 73 of title 10 of the United States Code if the individual who made the election under such chapter died after attaining retirement age.

* * * * *

[Sec. 101 as amended by sec. 23(d), Technical Amendments Act 1958 (72 Stat. 1622); sec. 7(c), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 829); sec. 1(c), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 32)]

PAR. 5. Paragraph (a)(2) of § 1.101-2 is amended to read as follows:

§ 1.101-2 Employees' death benefits.

(a) *In general.* * * *

(2) The exclusion does not apply to amounts constituting income payable to the employee during his life as compensation for his services, such as bonuses or payments for unused leave or uncollected salary, nor to certain other amounts with respect to which the deceased employee possessed, immediately before his death, a nonforfeitable right to receive the amounts while living (see section 101(b)(2)(B) and paragraph (d) of this section). Further, the exclusion does not apply to amounts received as an annuity under a joint and survivor annuity obligation where the employee was the primary annuitant and the annuity starting date occurred before the death of the employee (see section 101(b)(2)(C) and paragraph (e)(1)(ii) of this section). In the case of amounts received by a beneficiary as an annuity (but not as a survivor under a joint and survivor annuity with respect to which the employee was the primary annuitant), the exclusion is applied indirectly by means of the provisions of section 72 and the regulations thereunder (see section 101(b)(2)(D) and paragraph (e)(1)(iii) and (iv) of this section). Thus, for example, the exclusion applies to amounts which are received by a survivor of an employee retired on disability under the provisions of the Civil Service retirement law (5 U.S.C. 8301 or any former corresponding provisions of law) or the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431), provided such employee dies before attaining retirement age (as defined in § 1.79-2(b)(3)).

* * * * *

PAR. 6. Section 1.104 is amended by revising section 104(a)(4) and the historical note at the end thereof. These amended and added provisions read as follows:

§ 1.104 Statutory provisions; compensation for injuries or sickness.

SEC. 104. *Compensation for injuries or sickness.*—(a) *In general.* * * *

(4) Amounts received as a pension, annuity or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, (or as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081; 60 Stat. 1021).)

* * * * *

[Sec. 104 as amended by sec. 51, Foreign Service Act Amendments 1960 (74 Stat. 847); sec. 7(d), Self-Employed Individuals Tax Retirement Act of 1962 (76 Stat. 829)]

PAR. 7. Paragraph (e) of § 1.104-1 is amended to read as follows:

§ 1.104-1 Compensation for injuries or sickness.

* * * * *

(e) *Amounts received as pensions, etc., for certain personal injuries or sickness.* (1) Section 104(a)(4) excludes from gross income amounts which are received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country, or in the Coast and Geodetic Survey, or the Public Health Service. For purposes of this section, that part of the retired pay of a member of an armed force, computed under formula No. 1 or 2 of 10 U.S.C. 1401, or under 10 U.S.C. 1402(d), on the basis of years of service, which exceeds the retired pay that he would receive if it were computed on the basis of percentage of disability is not considered as a pension, annuity, or similar allowance for personal injury or sickness, resulting from active service in the armed forces of any country, or in the Coast and Geodetic Survey, or the Public Health Service (see 10 U.S.C. 1403 (formerly 37 U.S.C. 272(h), section 402(h) of the Career Compensation Act of 1949)). See paragraph (a)(3)(i)(*a*) of § 1.105-4 for the treatment of retired pay in excess of the part computed on the

basis of percentage of disability as amounts received through a wage continuation plan. For the rules relating to certain reduced uniformed services retirement pay, see paragraph (c)(2) of § 1.122–1. For rules relating to a waiver by a member or former member of the uniformed services of a portion of disability retired pay in favor of a pension or compensation receivable under the laws administered by the Veterans Administration (38 U.S.C. 3105), see § 1.122–1(c)(3). For rules relating to a reduction of the disability retired pay of a member or former member of the uniformed services under the Dual Compensation Act of 1964 (5 U.S.C. 5531) by reason of Federal employment, see § 1.122–1(c)(4).

(2) Section 104(a)(4) excludes from gross income amounts which are received by a participant in the Foreign Service Retirement and Disability System in a taxable year of such participant ending after September 8, 1960, as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081; 60 Stat. 1021). However, if any amount is received by a survivor of a disabled or incapacitated participant, such amount is not excluded from gross income by reason of the provisions of section 104(a)(4).

(3) Section 104(a)(4) excludes from gross income amounts which are received by a participant in the Retired Serviceman's Family Protection Plan as a disability annuity payable under the provisions of 10 U.S.C. 1431. However, if any amount is received by a survivor of a disabled or incapacitated participant, such amount is not excluded from gross income by reason of the provisions of section 104(a)(4).

PAR. 8. Paragraph (a)(3)(i)(*a*) of § 1.105–4 is amended to read as follows:

§ 1.105–4 Wage continuation plans.

(a) *In general.* * * *

(3)(i)(*a*) Section 105(d) applies only to amounts attributable to periods during which the employee would be at work were it not for a personal injury or sickness. Thus, an employee is not absent from work if he is not expected to work because, for example, he has reached retirement age. If a plan provides that an employee, who is absent from work on account of a personal injury or sickness, will receive a disability pension or annuity as long as he is disabled, section 105(d) is applicable to any payments which such an employee receives under this plan before he reaches retirement age as defined in (*b*) of this subdivision, but section 105(d) does not apply to the payments which such an employee receives after he reaches such retirement age. The disability retired pay received by a member on the retired list pursuant to section 402 of the Career Compensation Act of 1949 (63 Stat. 802) or chapter 61 of title 10, United States Code (10 U.S.C. 1201 et seq.) which is in excess of the amounts excludable under section 104(a)(4) and paragraph (e) of § 1.104–1 shall be excluded from gross income subject to the limitations of section 105(d) and this section, if such pay is received before the member reaches retirement age. See § 1.72–15 for additional rules relating to the tax treatment of disability pensions. For the rules relating to certain reduced uniformed services retirement pay, see paragraph (c)(2) of § 1.122–1. For rules relating to a waiver by a member or former member of the uniformed services of a portion of disability retired pay in favor of a pension or compensation receivable under the laws administered by the Veterans Administration (38 U.S.C. 3105), see § 1.122–1(c)(3).

* * * * *

PAR. 9. Section 1.122 is amended by revising the section number in the title, the section number in the statutory material, and by revising the historical note. These amended provisions read as follows:

§ 1.123 Statutory provisions, cross references to other acts.

SEC. 123. *Cross references to other acts.*
* * *

[Sec. 123 as amended by section 501(t), Servicemen's and Veteran's Survivor Benefits Act (70 Stat. 885); Sec. 2201(25), Veterans' Benefits Act of 1957 (71 Stat. 160); sec. 13(t), Act of Sept. 2, 1958 (Public Law 85–857, 72 Stat. 1266); as renumbered by sec. 206(a), Rev. Act 1964 (78 Stat. 38); as renumbered by sec. 1(a)(2), Act of Mar. 8, 1966 (Public Law 89–365, 80 Stat. 32)]

PAR. 10. There are inserted immediately following § 1.121–5 the following new sections:

§ 1.122 Statutory provisions; certain reduced uniformed services retirement pay.

SEC. 122. *Certain reduced uniformed services retirement pay*—(a) *General rule.* In the case of a member or former member of the uniformed services of the United States who has made an election under chapter 73 of title 10 of the United States Code to receive a reduced amount of retired or retainer pay, gross income does not include the amount of any reduction after December 31, 1965, in his retired or retainer pay by reason of such election.

(b) *Special rule*—(1) *Amount excluded from gross income.* In the case of any individual referred to in subsection (a), all amounts received after December 31, 1965, as retired or retainer pay shall be excluded from gross income until there has been so excluded an amount equal to the consideration for the contract. The preceding sentence shall apply only to the extent that the amounts received would, but for such sentence, be includable in gross income.

(2) *Consideration for the contract.* For purposes of paragraph (1) and section 72(o), the term "consideration for the contract" means, in respect of any individual, the sum of—

(A) The total amount of the reductions before January 1, 1966, in his retired or retainer pay by reason of an election under chapter 73 of title 10 of the United States Code, and

(B) Any amounts deposited at any time by him pursuant to section 1438 of such title 10.

[Sec. 122 as added by sec. 1(a)(1), Act of Mar. 8, 1966 (Public Law 89–365, 80 Stat. 32)]

§ 1.122–1 Applicable rules relating to certain reduced uniformed services retirement pay.

(a) *Rule applicable prior to January 1, 1966.* In the case of a member or former member of the uniformed services of the United States (as defined in 37 U.S.C. 101(3)) who has made an election under chapter 73 of title 10 of the United States Code (also referred to in this section as the Retired Serviceman's Family Protection plan (10 U.S.C. 1431)) to receive a reduced amount of retired or retainer pay, gross income shall include the amount of any reduction made in his retired or retainer pay before January 1, 1966, by reason of such election, unless such reduction, or portion thereof, is otherwise excluded from gross income under part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 or any other provision of law.

(b) *Rule applicable after December 31, 1965.* (1) In a case of a member or former member of the uniformed services of the United States (as defined in 37 U.S.C. 101(3)) who has made an election under chapter 73 of title 10 of the United States Code to receive a reduced amount of retired or retainer pay, gross income shall not include the amount of any reduction made in his retired or retainer pay after December 31, 1965, by reason of such election.

(2) (i) In a case where a member or former member of the uniformed services has, pursuant to the election described in paragraph (a) of this section, received before January 1, 1966, a reduced amount of retired or retainer pay, he shall, after December 31, 1965, exclude from gross income under section 122(b) and this subdivision all amounts received as uniformed services retired or retainer pay until there has been so excluded an amount of retired or retainer pay equal to the "consideration for the contract" (as described in subdivision (iii) of this subparagraph);

(ii) Upon the death of a member or former member of the uniformed services, where the "consideration for the contract" (as described in subdivision (iii) of this subparagraph) has not been excluded in whole or in part from gross income under section 122(b) and subdivision (i) of this subparagraph, the survivor of such member who is receiving an annuity under chapter 73 of title 10 of the United States Code shall, after December 31, 1965, exclude from gross income under section 72(o) and this subdivision such annuity payments received after December 31, 1965, until there has been so excluded annuity payments equalling the portion of the "consideration for the contract" not previously excluded under subdivision (i) of this subparagraph.

(iii) The term "consideration for the contract" as used in this subparagraph means—

(*a*) The total amount of the reductions, if any, before January 1, 1966, in retired or retainer pay by reason of an election under chapter 73 of title 10 of the United States Code, plus

(b) The total amount, if any, deposited by the serviceman at any time pursuant to the provisions of section 1438 of title 10 of the United States Code, plus

(c) The total amount, if any, excludable from income under section 101(b)(2)(D) and paragraph (a)(2) of § 1.101-2 with respect to a survivor annuity provided by such retired or retainer pay, minus

(d) The total amount, if any, excluded from income before January 1, 1966, pursuant to the provisions of section 72 (b) and (d) with respect to a survivor annuity provided by such retired or retainer pay.

(iv) In determining whether there has been a recovery of the "consideration for the contract" under subdivision (i) of this subparagraph, the exclusion of retired pay from income after December 31, 1965, under sections 104(a)(4) and 105(d) shall not be considered as recovery of all or part of the "consideration for the contract."

(c) *Special rules.* In any of the following situations, the computation of the excludable portion of disability retired pay received by the member or former member of the uniformed services shall be governed by the following rules:

(1) An exclusion under section 122(a) and paragraph (b)(1) of this section is applicable only in the taxable year in which a reduction in retired pay is made under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431).

(2) Where the member or former member of the uniformed services is entitled to exclude the whole or a portion of his retired pay under the provisions of section 104(a)(4) or section 105(d) and under section 122(a) and paragraph (b)(1) of this section, the exclusion under section 122(a) and paragraph (b)(1) of this section shall be applied prior to the exclusions under sections 104(a)(4) and 105(d).

(3) Where the member or former member of the uniformed services waives a portion of his disability retired pay, or such retired pay reduced under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431), in favor of a nontaxable pension or compensation receivable under laws administered by the Veterans Administration (38 U.S.C. 3105), the waived amount of such disability retired pay, or reduced amount thereof, shall first be subtracted from any amounts which are excludable under the provisions of sections 104(a)(4) or 105(d) so as to reduce the amounts otherwise excludable under those sections.

(4) Where the member or former member of the uniformed services receives (before any forfeiture) disability retired pay (whether or not reduced under the Retired Serviceman's Family Protection Plan) which is partially excludable under section 104(a)(4), and also forfeits a portion of such disability retired pay under the Dual Compensation Act of 1964 (5 U.S.C. 5531 or any former corresponding provision of law), the amount of the forfeiture under such Act shall be applied against disability retired pay (before any forfeiture) in the same proportion that the excludable portion of such pay under section 104(a)(4) bears to the total amount of such pay after subtraction of any reduction under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431)).

(5) The exclusion provided by section 122(b) and paragraph (b)(2)(i) of this section shall be available with respect to repayments made upon removal from the temporary disability retired list even though such repayments were previously excluded from gross income under section 104(a)(4) or 105(d).

However, the exclusion permitted by the prior sentence will apply only to the extent the repaid amount has not been previously excluded under section 122(b) and paragraph (b)(2)(i) of this section.

(d) *Examples.* The rules discussed in paragraph (a) of this section may be illustrated by the following examples:

Example (1). A, a member of the uniformed services, retires on January 1, 1963, and receives nondisability retired pay computed to be 60 percent of his active duty pay of $10,000 per year, or $6,000 per year, based upon 24 years of service. He elects, under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431), to provide his survivor with an annuity equal to one-fourth of his reduced retired pay. His retired pay of $6,000 is reduced by $600, to $5,400, in order to provide a survivor annuity of $1,350 per year or $112.50 per month. For 1963, 1964, and 1965, A must include in gross income the unreduced amount of retired pay, or $6,000. For 1966 and subsequent years, he may exclude under section 122(a) and paragraph (b)(1) of this section the $600 total annual reductions to provide the survivor annuity, and may, for 1966, further exclude from gross income under section 122(b) and paragraph (b)(2)(i) of this section the $1,800 "consideration for the contract," i.e., the total reductions which were made in 1963, 1964, and 1965, to provide the survivor annuity. Accordingly, A will include $3,600 of retired pay in gross income for 1966 ($6,000 minus the sum of $600 and $1,800).

Example (2). Assume the facts in Example (1) except that A retires on disability resulting from active service and his disability is rated at 40 percent. The entire amount of disability retirement pay, prior to and including 1966, is excludable from gross income under sections 104(a)(4) and 105(d), and in 1966, section 122(a). Assume further that A attains retirement age on December 31, 1966, dies on January 1, 1967, and his widow then begins receiving a survivor annuity under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431). A's widow may exclude from gross income in 1967 and 1968 under section 72(o) and paragraph (b)(2)(ii) of this section, the $1,800 of "consideration for the contract," i.e., the reductions in 1963, 1964, and 1965 to provide the survivor annuity. Thus, A's widow will exclude all of the survivor annuity she receives in 1967 ($1,350) and $450 of the $1,350 annuity received in 1968. In addition, if A had not attained retirement age at the time of his death, his widow would, under section 101 and paragraph (a)(2) of § 1.101-2, exclude up to $5,000 subject to the limitations of paragraph (b)(2)(ii) of this section.

Example (3). Assume, in the previous example, that A dies on January 1, 1965, and his widow then begins receiving a survivor annuity. Assume further that A's widow is entitled to exclude under section 72(b) $1,000 of the $1,350 she received in 1965. Under section 72(o) and paragraph (b)(2)(ii) of this section, A's widow for 1966 will exclude the $200 remaining consideration for the contract ($1,200−$1,000) and will include $1,150 of the survivor annuity in gross income.

Example (4). B, a member of the uniformed services, retires on January 1, 1966, after 32 years of active military service, and receives disability retirement pay under section 1401 of title 10, limited to 75 percent of his active duty pay of $15,000 per year, or $11,250. His disability rating is 30 percent. B has not reached retirement age (as defined in § 1.79-2(b)(3)). He elects under the Retired Serviceman's Family Protection Plan (10 U.S.C. 1431) to provide his survivor with an annuity equal to one-half of his reduced retired pay and, for that purpose, his retired pay of $11,250 is reduced by $1,250 to provide an annuity of $5,000 per year. B also elects to waive retired pay in the amount of $1,000 in order to receive disability compensation in like amount under laws administered by the Veterans Administration. In addition, B is required to forfeit $4,088 of his retired pay under the Dual Compensation Act of 1964, 5 U.S.C. 5532, ($11,250−$1,000=$10,250 less one-half of excess thereof over $2,074) and by reason of his Federal employment is not entitled to an exclusion of his retired pay under section 105(d). B's taxable retired pay for 1965 is $3,002, computed as follows:

Gross retired pay	$11,250
Less: Section 122(a) exclusion	(1,250)
Reduced retired pay	10,000
Less: Retired pay waived to receive V.A. compensation	(1,000)
Adjusted retired pay—	9,000
Less:	
(i) Excludable retired pay computed under section 104(a)(4) as limited by 10 U.S.C. 1403 $4,500	
(ii) Less: Retired pay, not to exceed (i), waived to receive V.A. compensation (1,000)	
(iii) Net disability exclusion	(3,500)
Taxable retired pay before adjustment for Dual Compensation forfeiture	5,500
Less:	
Adjustment for Dual Compensation forfeiture of $4,088 $\frac{5500}{9000}\times\$4,088=\$2,498$ (rounded)	(2,498)
Net taxable retired pay	3,002

Example (5). C, a member of the uniformed services retires on January 1, 1966, and receives disability retirement pay of $11,250 per year, which is reduced by $1,250 to provide a survivor annuity, and $1,000 of which is waived in order to receive disability compensation in like amount under laws administered by the Veterans Administration. C has not reached retirement age (as defined in § 1.79-2(b)(3)) for purposes of section 105(d) and is not employed by the Federal

Government. C's taxable disability retirement pay for 1966 is $300 computed as follows:

Adjusted retired pay		$9,000
Less:		
(i) Excludable retired pay under section 104 (a)(4) as limited by 10 U.S.C. 1403	$4,500	
(ii) Excludable retired pay under section 105 (d)	5,200	
(iii) Total	9,700	
(iv) Less: Retired pay, not to exceed (iii), waived to receive V.A. compensation	(1,000)	
(v) Net disability and "sick pay" exclusion		(8,700)
Net taxable retired pay		300

Example (6). D, a member of the uniformed services, retires for physical disability resulting from active service on January 1, 1966, after 35 years of service and with a disability rated at 20 percent. His active duty pay is $4,000 per year and he attained retirement age prior to retirement. He had an election in effect under the Retired Serviceman's Family Protection Plan to provide his survivor with an annuity and his retired pay is reduced therefor by $500 per year. He waives $1,300 of his retired pay in order to receive compensation from the Veterans Administration in like amount. His taxable retired pay for 1966 is $1,200 computed as follows:

Gross retired pay (75% × $4,000)		$3,000
Less: Section 122(a) exclusion		(500)
Reduced retired pay		2,500
Less: V.A. waiver		(1,300)
Adjusted retired pay		1,200
Less:		
(i) Section 104(a)(4) exclusion	$800	
(ii) Less: Retired pay, not to exceed (i), waived to receive V.A. compensation	(800)	
(iii) Net disability exclusion	0	
Net taxable retired pay		1,200

SUBCHAPTER B—ESTATE AND GIFT TAXES

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PAR. 11. Section 20.2039 is amended by revising section 2039(c), and by revising the historical note. These amended provisions read as follows:

§ 20.2039 Statutory provisions; annuities.

SEC. 2039. *Annuities.* * * *

(c) *Exemption of annuities under certain trust and plans.* Notwithstanding the provisions of this section or of any provision of law, there shall be excluded from the gross estate the value of an annuity or other payment receivable by any beneficiary (other than the executor) under—

(1) An employees' trust (or under a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan which, at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of section 401(a);

(2) A retirement annuity contract purchased by an employer (and not by an employee's trust) pursuant to a plan which, at the time of decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, was a plan described in section 403(a);

(3) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 503(b) (1), (2), or (3), and which is exempt from tax under section 501(a); or

(4) Chapter 73 of title 10 of the United States Code.

If such amounts payable after the death of the decedent under a plan described in paragraph (1) or (2), under a contract described in paragraph (3), or under chapter 73 of title 10 of the United States Code are attributable to any extent to payments or contributions made by the decedent, no exclusion shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bears to the total payments or contributions made. For purposes of this subsection, contributions or payments made by the decedent's employer or former employer under a trust or plan described in paragraph (1) or (2) shall not be considered to be contributed by the decedent, and contributions or payments made by the decedent's employer or former employer toward the purchase of an annuity contract described in paragraph (3) shall, to the extent excludable from gross income under section 403(b), not be considered to be contributed by the decedent. This subsection shall apply to all decedents dying after December 31, 1953. For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) shall be considered to be contributions or payments made by the decedent. For purposes of this subsection, amounts payable under chapter 73 of title 10 of the United States Code are attributable to payments or contributions made by the decedent only to the extent of amounts deposited by him pursuant to section 1438 of such title 10.

[Sec. 2039 as amended by secs. 23(e), 67(a), Technical Amendments Act 1958 (72 Stat. 1622, 1658); sec. 7(1), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 830); sec. 2(a), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 33)]

PAR. 12. Section 20.2039-2 is amended by amending paragraph (b) by revising subparagraphs (2) and (3), and by adding a new subparagraph (4) after subparagraph (3); and by revising paragraph (c)(1). These amended and added provisions read as follows:

§ 20.2039-2 Annuities under "qualified plans" and section 403(b) annuity contracts.

* * * * *

(b) *Plans and annuity contracts to which section 2039(c) applies.* * * *

(2) A retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan which, at the time of decedent's separation from employment (by death or otherwise), or at the time of the earlier termination of the plan, was a plan described in section 403(a);

(3) In the case of a decedent dying after December 31, 1957, a retirement annuity contract purchased for an employee by an employer which, for its taxable year in which the purchase occurred, is an organization referred to in section 503(b) (1), (2), or (3), and is exempt from tax under section 501(a); or

(4) In the case of a decedent dying after December 31, 1965, an annuity under chapter 73 of title 10 of the United States Code (10 U.S.C. 1431, et seq.), also referred to as the Retired Serviceman's Family Protection Plan.

* * * * *

(c) *Amount excludable from the gross estate.* (1) The amount to be excluded from a decedent's gross estate under section 2039(c) is an amount which bears the same ratio to the value at the decedent's death of the annuity or other payment receivable by the beneficiary as the employer's contribution (or a contribution made on his behalf) on the employee's account to the plan or towards the purchase of the annuity contract bears to the total contributions on the employee's account to the plan or towards the purchase of the annuity contract. In applying the ratio set forth in the preceding sentence, payments or contributions made by the employer (or on its behalf) toward the purchase of an annuity contract described in paragraph (b)(3) of this section shall be considered to include only such payments or contributions as are, or were, excludable from the employee's gross income under section 403(b). For purposes of this ratio, contributions or payments made under a plan described in subparagraph (1) or (2) of paragraph (b) of this section on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) with respect to such plan shall be considered to be contributions or payments made by the decedent and not by the employer. For purposes of this paragraph, amounts payable under subparagraph (4) of paragraph (b) of this section are attributable to payments or contributions made by the decedent only to the extent of amounts deposited by him pursuant to section 1438 of title 10 of the United States Code. In applying this ratio, the value at the decedent's death of the annuity or other payment is determined in accordance with the rules set forth in §§ 20.2031-1, 20.2031-7, 20.2031-8, and 20.2031-9.

* * * * *

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

PAR. 13. Section 25.2517 is amended by revising section 2517(a) (2) and (3), by adding a paragraph (4) to section 2517(a), by revising the first sentence of section 2517(b), and by revising the historical note. These amended and added provisions read as follows:

§ 25.2517 Statutory provisions; certain annuities under qualified plans.

SEC. 2517. *Certain annuities under qualified plans*—(a) *General rule.* * * *

(2) A retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan which, at the time of such exercise or nonexercise, or at the time of termination of the plan if

earlier, was a plan described in section 403(a);

(3) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 503(b) (1), (2), or (3), and which is exempt from tax under section 501(a); or

(4) Chapter 73 of title 10 of the United States Code.

(b) *Transfers attributable to employee contributions.* If the annuity or other payment referred to in subsection (a) (other than paragraph (4)) is attributable to any extent to payments or contributions made by the employee, then subsection (a) shall not apply to that part of the value of such annuity or other payment which bears the same proportion to the total value of the annuity or other payment as the total payments or contributions made by the employee bear to the total payments or contributions made. * * *

* * * * *

[Sec. 2517 as added by sec. 68 and as amended by sec. 23(f), Technical Amendments Act 1958 (72 Stat. 1659); sec. 7(j), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 830); sec. 2(b), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. ?3)]

PAR. 14. Section 25.2517-1 is amended by amending paragraph (b)(1) by revising subdivisions (ii) and (iii), and by adding a new subdivision (iv) after subdivision (iii); and by revising that part of paragraph (c)(1) that precedes example (1). These amended and added provisions read as follows:

§ 25.2517-1 Employees' annuities.

* * * * *

(b) *Annuities or other payments to which section 2517 applies.* (1) * * *

(ii) A retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan which, at the time of such exercise or nonexercise, or at the time of termination of the plan if earlier, was a plan described in section 403(a);

(iii) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 503(b) (1), (2), or (3), and which is exempt from tax under section 501(a); or

(iv) With respect to calendar years after 1965, an annuity under chapter 73 of title 10 of the United States Code (10 U.S.C. 1431, et seq.), also referred to as the Retired Serviceman's Family Protection Plan.

* * * * *

(c) *Amount excludable from gift.* (1) If an annuity or other payment described in paragraph (a)(1) of this section (other than an annuity or other payment referred to in paragraph (b)(1)(iv) of this section) is attributable to payments or contributions made by both the employee and the employer, the exclusion is limited to that proportion of the value on the date of the gift (see paragraph (a)(1) of this section) of the annuity or other payment which the employer's contribution (or a contribution made on the employer's behalf) to the plan on the employee's account bears to the total contributions to the plan on the employee's account. In applying the ratio set forth in the preceding sentence, payments or contributions made by the employer toward the purchase of an annuity contract described in paragraph (b)(1)(iii) of this section are considered to be contributions made by the employee (and not by the employer) to the extent that such contributions are, or were, not excludable from the employee's gross income under section 403(b). For purposes of this ratio, payments or contributions made to a plan described in subdivision (i) or (ii) of paragraph (b)(1) of this section on behalf of an individual while he was an employee within the meaning of section 401(c)(1) with respect to such plan shall be considered to be payments or contributions made by the employee. The application of this paragraph may be illustrated by the following examples, none of which involves employees within the meaning of section 401(c)(1):

* * * * *

[F.R. Doc. 70-6743; Filed, June 1, 1970; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Tolomato River, Fla., Intracoastal Waterway

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.167 governing the use and navigation of a seaplane restricted area in Tolomato River, St. Augustine, Fla., is hereby revoked, effective upon publication in the FEDERAL REGISTER, as follows:

§ 207.167 Tolomato River (Intracoastal Waterway), St. Augustine, Fla.; seaplane restricted and operating area. [Revoked]

[Regs., May 15, 1970, ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

HAROLD SHARON,
Legislative and Precedent Officer, Plans Office, TAGO.

[F.R. Doc. 70-6707; Filed, June 1, 1970; 8:45 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 153—MAIL DEPOSIT AND COLLECTION

Mail Chutes and Receiving Boxes

In the daily issue of August 23, 1969 (34 F.R. 13601), the Department published a notice of proposed rule making consisting of an amendment to § 153.6 (d)(4) of Title 39, Code of Federal Regulations. The amendment proposed to require that, effective after July 1, 1970, mail receiving boxes installed in public buildings, hotels, office buildings, etc., be equipped with a pulldown inlet door having an opening 7 by 11½ inches, so that the boxes could accommodate bundled letter mail. It was proposed that the opening be fully protected by inside baffle plates.

Interested persons were given 30 days within which to submit comments on the proposed regulations. After full consideration of comments received the Department has determined to adopt the proposed regulations, with a change in effective date from July 1, 1970, to July 1, 1971; and a further change for clarification to the effect that the inlet door to the receiving box shall be so located as to not cause a mail chute blockage.

Accordingly, the following amendment to the Department's regulations is hereby made, to be effective after July 1, 1971.

In § 153.6 *Mail chutes and receiving boxes,* amend paragraph (d)(4) to read as follows:

§ 153.6 Mail chutes and receiving boxes.

* * * * *

(d) *Specifications for construction of receiving boxes.* * * *

(4) *Mail slots, markings, and display frames.* Boxes must be provided with mail openings 1¼ inches wide by 11 inches long, protected by inside hood. Openings shall be not more than 5 feet 10 inches above the floor level and protected by inside hinge flaps, and legibly inscribed "Letters". Boxes must be distinctly marked "U.S. Mail Letter Box" and must be provided with suitable and convenient frames to display collection schedule cards 3¾ by 5½ inches in size. (Receiving boxes installed after July 1, 1971, shall be equipped with a pulldown inlet door having an opening 7 by 11½ inches inscribed "Letters and Letter Mail Tied in Bundles." The opening shall be fully protected by inside baffle plates so as to prevent pilfering of mail, and the inlet door shall be so located that it will not cause a mail chute blockage.)

* * * * *

NOTE: The corresponding Postal Manual section is 153.644.

(5 U.S.C. 301, 39 U.S.C. 501, 6003)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70-6748; Filed, June 1, 1970; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

LABOR SURPLUS AREAS

This amendment of the Federal Procurement Regulations prescribes revised preferences for labor surplus area

concerns which are to apply to contract awards. The revised preferences reflect the amendment of the Department of Labor regulations in 29 CFR Part 8, February 3, 1970, which is based on the provisions of Defense Manpower Policy 4 (Revised), October 16, 1967 (32A CFR Chapter I). In addition, an appropriate reference to the Trust Territory of the Pacific Islands has been included in order to reflect an amendment of the Small Business Act by Public Law 90-448, August 1, 1968.

PART 1-1—GENERAL

Subpart 1-1.7—Small Business Concerns

1. Section 1-1.700 is amended to include a reference to the Trust Territory of the Pacific Islands in paragraph (b).

§ 1-1.700 General.

* * * * *

(b) This subpart applies only in the United States. As used in this subpart the term United States means the States, its territories and possessions, Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia.

2. Section 1-1.706-6 is amended so that the Notice of Partial Small Business Set-Aside in paragraph (c) reads as follows:

§ 1-1.706-6 Partial set-asides.

* * * * *

(c) * * *

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more small business concerns. Negotiations for award of this set-aside portion will be conducted only with responsible small business concerns who have submitted responsive bids on the non-set-aside portion at a unit price within 130 percent of the highest award made on the non-set-aside portion. (For the purpose of this paragraph (a), such "unit price" in the case of award of the non-set-aside portion to a foreign bidder or the supplier of a foreign product shall be the evaluated unit price established under applicable Buy American Act procedures. See 41 CFR 1-6.104-4.) Negotiations shall be conducted with such small business concerns in the following order of priority:

Group 1. Small business concerns which are also certified-eligible concerns with a first preference.

Group 2. Small business concerns which are also certified-eligible concerns with a second preference.

Group 3. Small business concerns which are also persistent or substantial labor surplus area concerns.

Group 4. Small business concerns which are not labor surplus area concerns.

Within each of the above groups, negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which were considered in evaluating bids on the non-set-aside portion. However, the Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion. The partial set-aside of this procurement for small business concerns is based on a determination by the Contracting Officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, or in the interest of war or national defense programs, or in the interest of ensuring that a fair proportion of Government procurement is placed with small business concerns.

(b) *Definitions.* (1) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (13 CFR 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its territories and possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia, by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(2) The term "labor surplus area" means a geographical area which is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined below:

(i) "Section of concentrated unemployment or underemployment" means appropriate sections of States or "labor areas" so classified by the Secretary of Labor.

(ii) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial and persistent labor surplus by the appropriate State Employment Security Agency or the Department of Labor pursuant to a request by a prospective contractor.

(iii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial labor surplus by the appropriate State Employment Security Agency or the Department of Labor pursuant to a request by a prospective contractor.

(3) The term "labor surplus area concern" includes certified-eligible concerns with a first preference, certified-eligible concerns with a second preference, and persistent or substantial labor surplus area concerns as defined below:

(i) "Certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to the employment of disadvantaged individuals residing within such sections or areas, and which will agree to perform, or cause to be performed by certified concerns with a first preference, a substantial proportion of a contract in or near such sections or in such areas; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns with a first preference in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of a contract in or near such sections or in such areas if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas (by itself, if a certified concern, or by certified concerns with a first preference acting as first-tier subcontractors) amount to more than 25 percent of the contract price.

(ii) "Certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d) with respect to the employment of disadvantaged individuals and which will agree to perform, or cause to be performed by certified concerns with first or second preferences, a substantial proportion of a contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of a contract if the costs that the concern will incur on account of manufacturing or production (by itself, if a certified concern, or by certified concerns with a first or second preference acting as first-tier subcontractors) amount to more than 25 percent of the contract price.

(iii) "Persistent or substantial labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent or substantial labor surplus areas if the costs that will be incurred by the concern on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) or in any area (by itself is a certified concern or its first-tier certified subcontractors) amount to more than 50 percent of the contract price.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a small business labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform: *Provided*, That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder, or bidder's subcontractors, as a "certified-eligible concern," the bidder shall furnish with his bid evidence of certification by the Secretary of Labor.

(e) *Agreement.* The bidder agrees that: (1) If awarded a contract as a certified-eligible small business concern with a first preference under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas; and in the performance of such contract will employ, or require certified first-tier subcontractors with first preferences to employ, a proportionate number of disadvantaged

individuals, as defined by the Department of Labor in 29 CFR 8.2(d), residing within such sections or areas in accordance with plans approved by the Secretary of Labor.

(2) If awarded a contract as a certified-eligible small business concern with a second preference under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in certified facilities, and in the performance of such contract will employ, or require certified first-tier subcontractors with first or second preferences to employ disadvantaged individuals in accordance with plans approved by the Secretary of Labor.

(3) If awarded a contract as a small business persistent or substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract (i) in areas classified at the time of the award, or at the time of performance of the contract, as persistent or substantial labor surplus areas or (ii) in any area (by himself if certified or by first-tier certified subcontractors).

* * * * *

Subpart 1–1.8—Labor Surplus Area Concerns

1. Section 1–1.800 is revised to read as follows:

§ 1–1.800 Scope of subpart.

This subpart sets forth policies and procedures with respect to aiding sections classified as having concentrated unemployment or underemployment and areas of persistent or substantial labor surplus hereinafter referred to as labor surplus areas, in the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands. This subpart implements Defense Manpower Policy 4 (Revised), October 16, 1967 (32A CFR ch. 1), and U.S. Department of Labor regulations, as amended, February 3, 1970 (29 CFR Part 8).

2. Section 1–1.801 is amended to read as follows:

§ 1–1.801 Definitions.

§ 1–1.801–1 Labor surplus area concern.

The term "labor surplus area concern" includes certified-eligible concerns with a first preference, certified-eligible concerns with a second preference, and persistent or substantial labor surplus area concerns as defined in this § 1–1.801–1.

(a) "Certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to the employment of disadvantaged individuals residing within such sections or areas, and which will agree to perform, or cause to be performed by certified concerns with first preferences, a substantial proportion of a contract in or near such sections or in such areas; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns with first preferences in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of a contract in or near such sections or in such areas if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas (by itself, if a certified concern, or by certified concerns with a first preference acting as first-tier subcontractors) amount to more than 25 percent of the contract price.

(b) "Certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d) with respect to employment of disadvantaged individuals and which will agree to perform or cause to be performed by certified concerns with first or second preferences, a substantial proportion of a contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of a contract, if the costs that the concern will incur on account of manufacturing or production (by itself, if a certified concern, or by certified concerns with first or second preferences acting as first-tier subcontractors) amount to more than 25 percent of the contract price.

(c) "Persistent or substantial labor surplus area concern" means a concern which will perform, or cause to be performed, a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent or substantial labor surplus areas if the costs that will be incurred by the concern on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) or in any areas (by itself if a certified concern or its first-tier certified subcontractors) amount to more than 50 percent of the contract price.

§ 1–1.801–2 Labor surplus area.

The term "labor surplus area" means a geographical area which at the time of award is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined in this § 1–1.801–2.

(a) "Section of concentrated unemployment or underemployment" means appropriate sections of States or labor areas so classified by the Secretary of Labor.

(b) "Persistent labor surplus area" means an area which (1) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (2) is certified as an area of substantial and persistent labor surplus by the appropriate State Employment Security Agency or the Department of Labor pursuant to a request by a prospective contractor.

(c) "Substantial labor surplus area" means an area which (1) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (2) is certified as an area of substantial labor surplus by the appropriate State Employment Security Agency or the Department of Labor pursuant to a request by a prospective contractor.

3. Section 1–1.802–2 is amended so that paragraphs (b)(2) and (c) read as follows:

§ 1–1.802–2 Specific policies.

* * * * *

(b) * * *

(2) In order to accommodate both labor surplus area and small business policies, labor surplus area set-aside awards shall be made in accordance with the following order of priority: (i) Certified-eligible concerns with a first preference which are also small business concerns; (ii) other certified-eligible concerns with a first preference; (iii) certified-eligible concerns with a second preference which are also small business concerns; (iv) other certified-eligible concerns with a second preference; (v) persistent or substantial labor surplus area concerns which are also small business concerns; (vi) other persistent or substantial labor surplus area concerns; and (vii) small business concerns which are not labor surplus area concerns.

(c) Procurement agencies shall disseminate promptly to appropriate procurement personnel available publications and other information identifying certified concerns and sections of concentrated unemployment and underemployment and other labor surplus areas and the production capabilities therein.

* * * * *

4. Section 1–1.804–2 is amended so that the Notice of Labor Surplus Area Set-Aside in paragraph (b) reads as follows:

§ 1–1.804–2 Notice to bidders or offerors.

* * * * *

(b) * * *

NOTICE OF LABOR SURPLUS AREA SET-ASIDE

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule, has been set aside for award only to one or more labor surplus area concerns and, to a limited extent, to small business concerns which do not qualify as labor surplus area concerns. Negotiations for award of the set-aside portion will be conducted only with responsible labor surplus area concerns (and small business concerns to the extent indicated below) which have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 130 percent of the highest award made on the non-set-aside portion. (For the purpose of this paragraph (a), such "unit price" in the case of award of the non-set-aside portion to a foreign bidder or the supplier of a foreign product shall be the evaluated unit price established under applicable Buy

American Act procedures. See 41 CFR 1-6.104-4.) Negotiations for the set-aside portion will be conducted with such bidders in the following order of priority:

Group 1. Certified-eligible concerns with a first preference which are also small business concerns.

Group 2. Other certified-eligible concerns with a first preference.

Group 3. Certified-eligible concerns with a second preference which are also small business concerns.

Group 4. Other certified-eligible concerns with a second preference.

Group 5. Persistent or substantial labor surplus area concerns which are also small business concerns.

Group 6. Other persistent or substantial labor surplus area concerns.

Group 7. Small business concerns which are not labor surplus area concerns.

Within each of the above groups, negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside portion shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which were considered in evaluating bids on the non-set-aside portion. However, the Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion.

(b) *Definitions.* (1) The term "labor surplus area" means a geographical area which is either a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined below:

(i) "Section of concentrated unemployment or underemployment" means appropriate sections of States or labor areas so classified by the Secretary of Labor.

(ii) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial and Persistent Labor Surplus" (also called "Area of Substantial and Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (B) is certified as an area of substantial and persistent labor surplus by the appropriate State Employment Security Agency or the Department of Labor pursuant to a request by a prospective contractor.

(iii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment" or (B) is certified as an area of substantial labor surplus by the appropriate State Employment Security Agency or the Department of Labor pursuant to a request by a prospective contractor.

(2) The term "labor surplus area concern" includes certified-eligible concerns with a first preference, certified-eligible concerns with a second preference, and persistent or substantial labor surplus area concerns as defined below:

(i) "Certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to the employment of disadvantaged individuals residing within such sections or areas, and which will agree to perform, or cause to be performed by certified concerns with first preferences, a substantial proportion of a contract in or near such sections or in such areas; it includes a concern which, though not so certified agrees to have a substantial proportion of a contract performed by certified concerns with first preferences in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of a contract in or near such sections or in such areas if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas (by itself, if a certified concern, or by certified concerns with first preferences acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(ii) "Certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d) with respect to employment of disadvantaged individuals, and which will agree to perform, or cause to be performed by certified concerns with first or second preferences, a substantial proportion of a contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of a contract if the costs that the concern will incur on account of manufacturing or production (by itself, if a certified concern, or by certified concerns with first or second preferences acting as first-tier subcontractors) amount to more than 25 percent of the contract price.

(iii) "Persistent or substantial labor surplus area concern" means a concern that agrees to perform, or cause to be performed, a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent or substantial labor surplus areas if the costs that will be incurred by the concern on account of manufacturing or production performed in such areas (by itself or its first-tier subcontractors) or in any areas (by itself if a certified concern or its first-tier certified subcontractors) amount to more than 50 percent of the contract price.

(3) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in the regulations of the Small Business Administration (13 CFR 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its territories and possessions, Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform, provided that he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder or bidder's subcontractors as a "certified-eligible concern," the bidder shall furnish with his bid evidence of certification by the Secretary of Labor.

(e) *Agreement.* The bidder agrees that: (1) If awarded a contract as a certified-eligible concern with a first preference under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas; and in the performance of such contract will employ, or require certified first-tier subcontractors with first preferences to employ, a proportionate number of disadvantaged individuals residing within such sections or areas in accordance with plans approved by the Secretary of Labor.

(2) If awarded a contract as a certified-eligible concern with a second preference under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in certified facilities, and in the performance of such contract will employ or require certified first-tier subcontractors with first or second preferences to employ, disadvantaged individuals in accordance with plans approved by the Secretary of Labor.

(3) If awarded a contract as a persistent or substantial labor surplus area concern under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract (i) in areas classified at the time of the award, or at the time of performance of the contract, as persistent or substantial labor surplus areas or (ii) in any area (by himself if certified or by first-tier certified subcontractors).

5. Section 1-1.805-3 is amended so that the text and the clauses in paragraphs (a) and (b) read as follows:

§ 1-1.805-3 Required clauses.

(a) The "Utilization of Labor Surplus Area Concerns" clause, set forth below, shall be inserted in all contracts in amounts which may exceed $5,000, except:

(1) Contracts with foreign contractors which, including all subcontracts thereunder, are to be performed entirely outside the United States, its territories and possessions, Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia;

(2) Contracts for services which are personal in nature; and

(3) Contracts for construction.

UTILIZATION OF LABOR SURPLUS AREA CONCERNS

(The following clause is applicable if this contract exceeds $5,000.)

(a) It is the policy of the Government to award contracts to labor surplus area concerns that (1) have been certified by the Secretary of Labor (hereafter referred to as certified-eligible concerns with first or second preferences) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States, respectively, or (2) are noncertified concerns which have agreed to perform sub-

stantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns" the Contractor in placing his subcontracts shall observe the following order of preference: (1) Certified-eligible concerns with a first preference which are also small business concerns; (2) other certified-eligible concerns with a first preference; (3) certified-eligible concerns with a second preference which are also small business concerns; (4) other certified-eligible concerns with a second preference; (5) persistent or substantial labor surplus area concerns which are also small business concerns; (6) other persistent or substantial labor surplus area concerns; and (7) small business concerns which are not labor surplus area concerns.

(b) * * *

LABOR SURPLUS AREA SUBCONTRACTING PROGRAM

* * * * *

(b) A "labor surplus area concern" is a concern that (1) has been certified by the Secretary of Labor (hereafter referred to as a certified-eligible concern) regarding the employment of a proportionate number of disadvantaged individuals and has agreed to perform substantially in or near sections of concentrated unemployment or underemployment, in persistent or substantial labor surplus areas, or in other areas of the United States or (2) is a noncertified concern which has agreed to perform a substantial proportion of a contract in persistent or substantial labor surplus areas. A certified-eligible concern shall be deemed to have performed a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment, in persistent or substantial labor surplus areas, or in other areas if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas (by itself, if a certified concern, or by certified concerns acting as first-tier subcontractors) amount to more than 25 percent of the contract price. A concern shall be deemed to have performed a substantial proportion of a contract in persistent or substantial labor surplus areas (by itself or its first-tier subcontractors) if the costs that the concern will incur on account of production or manufacturing in such areas amount to more than 50 percent of the contract price.

* * * * *

PART 1–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 1–2.4—Opening of Bids and Award of Contract

Section 1–2.407–6 is amended to read as follows:

§ 1–2.407–6 Equal low bids.

(a) In furtherance of the small business and labor surplus area policies set forth in Subparts 1–1.7 and 1–1.8, award shall be made in accordance with the following order of priority when two or more low bids are equal in all respects (taking into consideration cost of transportation, cash discounts, and any other factors properly to be considered):

(1) Certified-eligible concerns with a first preference (as defined in § 1–1.801–1(a)) that are also small business concerns (as defined in Subpart 1–1.7).

(2) Other certified-eligible concerns with a first preference.

(3) Certified-eligible concerns with a second preference (as defined in § 1–1.801(b)) that are also small business concerns.

(4) Other certified-eligible concerns with a second preference.

(5) Persistent or substantial labor surplus area concerns (as defined in § 1–1.801–1(c)) that are also small business concerns.

(6) Other persistent or substantial labor surplus area concerns.

(7) Other small business concerns.

(8) Other concerns.

* * * * *

PART 1–16—PROCUREMENT FORMS

Section 1–16.101 is amended to change the provisions of paragraph (c) to read as follows:

§ 1–16.101 Contract forms.

* * * * *

(c) General Provisions (Supply Contract) (Standard Form 32, November 1969 edition). Pending the publication of a new edition of the form, the Utilization of Labor Surplus Area Concerns clause prescribed in § 1–1.805–3(a) shall be substituted for the present provisions of Article 22, Utilization of Concerns in Labor Surplus Areas.

* * * * *

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

Effective date. This amendment is effective June 1, 1970.

Dated: May 27, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70–6816; Filed, June 1, 1970; 8:50 a.m.]

Chapter 8—Veterans Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 8 is amended as follows:

PART 8–16—PROCUREMENT FORMS

1. In § 8–16.401, paragraph (a) is amended to read as follows:

§ 8–16.401 Forms prescribed.

(a) In contracting for repairs to homes acquired by the Veterans Administration through the operation of the Loan Guaranty Program, VA Form 26–6724, Invitation, Bid and/or Acceptance or Authorization, will be used. This form may also be used in negotiating contracts.

* * * * *

PART 8–95—LOAN GUARANTY AND VOCATIONAL REHABILITATION AND EDUCATION PROGRAMS

2. Section 8–95.101 is revised to read as follows:

§ 8–95.101 Policy.

It is the policy of the Veterans Administration that all procurement effected by formal advertising or negotiation pertaining to the expenditure of funds for the repair and maintenance of Veterans Administration property acquired under chapter 37, title 38, United States Code, be made in accordance with those regulations as set forth in FPR 1–2, 1–3, and 1–16 as supplemented or implemented by Parts 8–2, 8–3, and 8–16 of this chapter and otherwise authorized by this Subpart 8–95.1 and specific subparts or sections as stated in this subpart.

3. In § 8–95.102, paragraphs (a) and (b) are amended to read as follows:

§ 8–95.102 Authorization for repairs to properties.

(a) Except as provided in this subpart, Managers are authorized to purchase supplies and services for the repair to any Veterans Administration property acquired under chapter 37, title 38, United States Code, where the cost does not exceed $3,000 on any single transaction.

(b) In those cases where the expenditure is known or estimated to exceed $3,000, the request, together with the loan guaranty folder, will be forwarded to the Chief Benefits Director for approval.

* * * * *

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114; 38 U.S.C. 210(c))

These regulations are effective immediately.

Approved: May 25, 1970.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[F.R. Doc. 70–6777; Filed, June 1, 1970; 8:50 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101–17—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

Intergovernmental Consultation on Federal Projects

Section 401(b) of the Intergovernmental Cooperation Act of 1968, 82 Stat. 1103, requires that all viewpoints, national, regional, State, and local, shall be fully considered to the extent possible and shall be taken into account in planning Federal or federally-assisted development programs and projects. This amendment to Part 101–17 implements Bureau of the Budget Circular A–95, which was issued in partial implementation of the cited Act.

The requirement to consult with Governors, regional and metropolitan planning agencies, and local elected officials expands the previous practice of coordinating site selection and other aspects

of an authorized public buildings project with local government planning agencies. Within each GSA region, the Regional Administrator will be responsible for ensuring the required consultation and coordination.

The table of contents for Part 101–17 is amended by adding one entry as follows:

Sec.
101–17.103 Intergovernmental consultation on Federal projects.

Subpart 101–17.1—General

Section 101–17.103 is added as follows:

§ 101–17.103 Intergovernmental consultation on Federal projects.

(a) As used in this section, the following terms will have the meanings defined herein:

(1) *Planning agencies.* Planning agencies are defined as the Governor of a State or, if there is one, the appropriate planning and development clearinghouse of the State or the region, and the appropriate local, county, regional, and State planning authorities.

(2) *Federal projects.* Federal projects are defined as public buildings construction projects and lease construction projects required to be authorized in accordance with, or in the manner provided by, the provisions of the Public Buildings Act of 1959, as amended; and projects involving a significant change in the use of federally owned property or property to be acquired by exchange in connection with a public buildings project authorized under the provisions of the Public Buildings Act of 1959, as amended, or the Federal Property and Administrative Services Act of 1949, as amended.

(b) GSA will consult with planning agencies and local elected officials for the purpose of coordinating Federal projects with development plans and programs of the State, region, and locality in which the project is to be located to insure that all viewpoints, national, regional, State, and local, are fully considered and taken into account to the extent possible in planning Federal projects.

(c) The consultation and coordination pursuant to paragraph (b) of this section will be initiated by the GSA Regional Administrator of the region in which the Federal project is located, and the manner in which such consultation and coordination will be effected is set forth below:

(1) The GSA Regional Administrator will notify the planning agencies at least 60 calendar days prior to the initiation of any survey of a community conducted for the purpose of ascertaining the space needs of Federal agencies and developing a plan for satisfying those needs. Notifications of less than 60 days are authorized if GSA program requirements so dictate. The notification will specify the approximate date(s) on which the survey will be conducted and request that the GSA Regional Administrator be provided as soon as practicable with all pertinent planning and development information which shall be considered in connection with the space plan for the community. This information will include, but not be limited to, city, county, State, and regional plans for land use and development, model cities and urban renewal, mass transit, highways, and flood and pollution control.

(2) Within 30 calendar days following his approval of a community plan, the GSA Regional Administrator will submit to the Commissioner, PBS, the approved plan and a proposed letter that will inform the previously notified planning agencies of the results of the survey. Particular reference will be made to the need, if any, for a new Federal building within a 10-year period or a major lease consolidation which could result in new commercial construction in the community. The letter of notification, issued only with the approval of the Commissioner, PBS, will request that the GSA Regional Administrator be advised of all changes or refinements in the planning information initially provided, and set forth the following minimum data relative to the proposed Federal project:

(i) Area or city in which the project will be located;

(ii) Type of building (office building, post office, courthouse, etc.);

(iii) Approximate size of building;

(iv) Specific site location requirements;

(v) Estimated building population; and

(vi) Estimated total project cost.

(3) When GSA is to conduct a site investigation, propose a significant change in the use of a federally owned property, or acquire property by exchange in connection with the construction of a public building, or proposes to issue a solicitation for offers in connection with a lease construction project as described in paragraph (a)(2) of this section, the GSA Regional Administrator will notify the planning agencies and the principal elected official(s) of the community where the proposed action will take place, not less than 30 calendar days in advance of the initiation of such action. The organizations and officials so notified will have the 30-day notice period in which to consult with the GSA Regional Administrator and provide him with data and comments pertinent to the proposed action. Notifications of less than 30 calendar days are authorized if GSA program requirements so require.

(4) When GSA takes action pursuant to § 101–47.203–7 of this chapter for the transfer of federally owned real property for a direct project requirement which involves a substantial change in the character of its use, the views of the planning agencies and the principal elected official(s) will be obtained and considered by the GSA Regional Administrator, and these views will be included on GSA Form 1334, Request for Transfer of Excess Real Property and Related Personal Property.

(5) When property is transferred for exchange purposes, the views of the planning agencies and the principal elected official(s) will be considered prior to consummation of the exchange.

(d) The provisions of this § 101–17.103 shall not be applied when the Administrator of General Services shall deem that the application thereof would adversely affect the best interest of the Government.

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: May 25, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70–6711; Filed, June 1, 1970; 8:45 a.m.]

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Coordination of Utilization and Disposal With State, Regional, and Local Development Plans and Programs

Section 101–47.303–2 is amended to implement Bureau of the Budget Circular No. A–95, as revised and supplemented by BOB Transmittal Memorandum No. 1 thereto, dated December 27, 1969, as it relates to the utilization and disposal of real property to ensure compatibility with the development plans and programs of the State, region, or locality within which the property is located. Section 101–47.4904–1 is amended to ensure that the agency requesting a transfer of excess real property has coordinated the proposed use with the appropriate public bodies. Sections 101–47.4906 and 101–47.4906–1 are amended to conform with BOB Circular No. A–95.

Subpart 101–47.3—Surplus Real Property Disposal

1. Section 101–47.303–2 is amended as follows:

§ 101–47.303–2 Disposals to public agencies.

The disposal agency, in compliance with paragraph 8, Part I, of Attachment A to Bureau of the Budget Circular No. A–95, dated July 24, 1969, as revised and supplemented by BOB Transmittal Memorandum No. 1 thereto, dated December 27, 1969, shall solicit the comments of the Governor, regional and metropolitan comprehensive planning agencies, and local elected officials as to the compatibility of the proposed disposal with State, regional, and local development plans and programs. Simultaneously, eligible public agencies are to be afforded the opportunity to procure the property. Citations of the statutes authorizing the disposal of property of public agencies, the type of property the public agencies may procure under each statute, and the public agencies eligible to procure such property are given in § 101–47.4905.

* * * * *

(b) * * *

(1) Where the property is located in a State, the notice shall be given to the Governor of the State, to the county clerk or other appropriate official of the county in which the property is located, to the mayor or other appropriate official of the city or town in which the property is located, and to the head of any other eligible local governmental body

known to be interested in the property. It is contemplated in BOB Circular No. A-95 that State, regional, and metropolitan planning and development clearinghouses will be established and utilized fully to provide liaison between the disposal agency and agencies of the State and local governments. Accordingly, any such clearinghouses also shall be given copies of the notices.

* * * * *

(g) The disposal agency shall promptly review each response of a public agency to the notice given pursuant to paragraph (b) of this section. The disposal agency shall determine what constitutes a reasonable period of time to allow the public agency to develop and submit a formal application for the property or its comments as to the compatibility of the disposal with its development plans and programs. When making such determination, the disposal agency shall give consideration to the potential suitability of the property for the use proposed, the length of time the public agency has stated it will require for its action, the protection and maintenance costs to the Government during such length of time, and any other relevant facts and circumstances. The disposal agency shall coordinate such review and determination with the proper regional office of any interested Federal agencies listed below:

(1) Bureau of Outdoor Recreation, Department of the Interior;

(2) Department of Health, Education, and Welfare;

(3) Federal Aviation Administration, Department of Transportation;

(4) Fish and Wildlife Service, Department of the Interior; and

(5) Federal Highway Administration, Department of Transportation.

* * * * *

(i) Upon receipt of the formal application for the property, the disposal agency shall consider and act upon it in accordance with the provisions of the statute and applicable regulations. If comments are received indicating that the disposal is incompatible with State, regional, or local development plans and programs, the disposal agency shall attempt to resolve the differences consistent with its statutory responsibilities in the disposal of surplus property.

Subpart 101–47.49—Illustrations

1. Section 101–47.4906 is amended by adding a new paragraph at the end of the sample notice as follows:

§ 101–47.4906 Sample notice to public agencies of surplus determination.

* * * * *

If any public agency considers that the proposed disposal of the property is incompatible with its development plans and programs, notice of such incompatibility must be forwarded to_____,
(Name of disposal agency)
_____, within the same
(Address)
time frame prescribed above.

2. Section 101–47.4906–1 is amended by revising the second paragraph of the sample letter as follows:

§ 101–47.4906–1 Sample letter for transmission of notice of surplus determination.

* * * * *

Included in the attached notice are a description of the property and procedural instructions to be followed if any public agency desires to submit an application for the property. Please note particularly the name and address given for filing written notice if any public agency desires to submit such an application, the time limitation within which written notice must be filed, and the required content of such notice. Additional instructions are provided for the submission of comments regarding any incompatibility of the disposal with any public agency's development plans and programs.

* * * * *

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: May 25, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70-6712; Filed, June 1, 1970; 8:45 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Subpart D—Nursing Student Loans

Notice of proposed rule making, public rule making procedures and postponement of effective date have been omitted in the issuance of the following revised Subpart D—Nursing Student Loans, which relates solely to loans to students of nursing. The purposes of this revision are to implement the amendments made to Part B of Title VIII, Public Health Service Act, by Public Law 90–490 (82 Stat. 779), including a new formula for allotment of funds to schools of nursing and the provisions relating to a change in the grace period, penalty charges for failure of timely repayment, a minimum monthly repayment rate, a uniform interest rate for student loans, further cancellations of a portion of a loan to a borrower who serves as a nurse in a public or other nonprofit hospital in an "area which has a substantial shortage of nurses at such hospitals", and the authorization of a school participating in both the Nursing Student Loan and Scholarship programs to transfer to its Scholarship account a portion of the Federal Capital Contributions paid to the school; and to clarify the procedures with regard to the making of loans from a revolving fund to public and other nonprofit schools of nursing to provide all or part of the capital needed for making loans to students of such schools. A number of other technical or clarifying changes are also included.

The following revised Subpart D shall become effective on the date of publication in the FEDERAL REGISTER.

Subpart D is revised to read as follows:

Subpart D—Nursing Student Loans

Sec.
57.301 Definitions.
57.302 Eligibility of schools.
57.303 Application by school.
57.304 Agreements for Federal Capital Contributions and Federal Capital Loans.
57.305 Allotment and payment of Federal Capital Contributions and Federal Capital Loans.
57.306 Federal Capital Loan Promissory Note.
57.307 Nursing Student Loan Funds.
57.308 Nondiscrimination.
57.309 Eligibility and selection of student loan recipients.
57.310 Maximum amount of student loan.
57.311 Evidence of student indebtedness—promissory note; security.
57.312 Payment of student loans.
57.313 Repayment and collection of student loans.
57.314 Provisions for student loan cancellations.
57.315 Records, reports, inspection.
57.316 Noncompliance.

AUTHORITY: The provisions of this Subpart D issued under secs. 215, 823, Public Health Service Act as amended, 58 Stat. 690, 82 Stat. 783; 42 U.S.C. 216, 297b.

§ 57.301 Definitions.

All terms not defined herein shall have the same meaning as given them in the Act. As used in this subpart, the following terms shall have the following meanings:

(a) *Act.* Title VIII of the Public Health Service Act, as amended.

(b) *Secretary.* The Secretary of Health, Education, and Welfare, or any other officer or employee to whom the authority involved has been delegated.

(c) *Nursing Student Loan Fund or Fund.* A fund established at a school pursuant to Part B of the Act, either with Federal Capital Contributions together with Institutional Capital Contributions, or with Federal Capital Loans. Where a school received monies from both sources of payment, reference is made to funds.

(d) *Federal Capital Contribution.* The capital portion allotted by the Secretary to a school for deposit in a Nursing Student Loan Fund pursuant to section 824 of the Act.

(e) *Institutional Capital Contribution.* The money provided by a school, in an amount not less than one-ninth of the Federal Capital Contribution, and deposited in a Nursing Student Loan Fund.

(f) *Federal Capital Loan.* A loan made by the Secretary to a school pursuant to section 827(a) of the Act, the proceeds of which are to be deposited in a Nursing Student Loan Fund.

(g) *Student loan.* The amount of money advanced to a student by a school from a Nursing Student Loan Fund under a single properly executed promissory note.

(h) *Full-time student.* A student who is enrolled in a school and pursuing a

course of study which constitutes a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or an advanced degree in nursing.

(i) *Ceases to be a full-time student.* A student shall be considered to have ceased to be a full-time student upon the first day of the month which is nearest to the date upon which he ceases to be a full-time student as defined herein.

(j) *Academic year.* The traditional, approximately 9-month September to June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be of 9 months' duration.

(k) *Fiscal year.* The Federal fiscal year commencing on the first day of July and ending on the 30th day of June.

(l) *Permanently and totally disabled.* The inability to engage in any substantial gainful activity because of medically determinable impairment, which impairment is expected to continue for a long and indefinite period of time, or to result in death.

(m) *Uniformed service.* The Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and the Public Health Service.

(n) *National of the United States.* (1) A citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (8 U.S.C. 1101(a)(22)).

§ 57.302 Eligibility of schools.

To be eligible for a Federal Capital Contribution or a Federal Capital Loan under this subpart, the applicant school shall:

(a) Meet the applicable requirements of sections 822(a) and 827(a) of the Act; and

(b) Submit an application as required by § 57.303.

§ 57.303 Application by school.

(a) Each school desiring a Federal Capital Contribution or a Federal Capital Loan under the Act shall submit an application in such form and at such time as the Secretary may require. The application shall be executed by an official authorized to act for the applicant school and to assume on behalf of the applicant school the obligations imposed by the terms and conditions of any Federal Capital Contribution or Federal Capital Loan, including the regulations of this subpart.

(b) Each application shall be reviewed to determine institutional eligibility and the reasonableness of the amount requested. When necessary to these ends, the Secretary may require the submission of additional data.

§ 57.304 Agreements for Federal Capital Contributions and Federal Capital Loans.

(a) *Federal Capital Contribution Agreements.* No application for a Federal Capital Contribution shall be approved unless there is in effect an Agreement between the Secretary and the applicant school for Federal Capital Contributions pursuant to section 822 of the Act.

(b) *Federal Capital Loan Agreements.* No application for a Federal Capital Loan shall be approved unless there is in effect an Agreement between the Secretary and the applicant school for Federal Capital Loans containing the terms required by section 827(b) of the Act and such additional terms and conditions, consistent with the applicable provisions of section 822 of the Act, as the Secretary deems appropriate.

§ 57.305 Allotment and payment of Federal Capital Contributions and Federal Capital Loans.

(a) *Annual allotment.* At a time determined by him, the Secretary shall make allotments to each school with which he has entered into an agreement pursuant to § 57.304. The allotment to each such school, whether in the form of Federal Capital Contributions or Federal Capital Loans or a combination of both, shall be an amount which bears the same ratio to the total amount of Federal funds determined by the Secretary at the time of such allotment to be available for such fiscal year for the Nursing Student Loan Program as the number of full-time students enrolled in such school bears to the estimated total number of full-time students in all such schools in all the States during such year.

(b) *Supplementary allotment from revolving fund only.* From funds which become available during any fiscal year for payment to schools from the revolving fund established by section 827(a) of the Act after the allotments pursuant to paragraph (a) of this section for such fiscal year have been made, the Secretary may, in his discretion and at such time as he shall determine, make supplementary allotments to schools with which he has Federal Capital Loan Agreements and who request funds for such fiscal year in excess of the amounts allotted to them pursuant to paragraph (a) of this section. If the total need for supplementary funds exceeds the amount determined by the Secretary to be available for supplementary allotments, the supplementary allotment to each school shall be reduced to whichever of the following is the smaller: (1) The supplementary amount requested or (2) an amount which bears the same ratio to the amount determined by the Secretary to be available for supplementary allotment as the number of full-time students estimated by the Secretary to be enrolled in such school bears to the estimated total number of full-time students enrolled for such year in all schools which request supplementary allotments. Any amounts remaining after such supplementary allotment may be allotted among schools in such manner as the Secretary determines will best carry out the purposes of the Act.

(c) *Payment.* The allotment of Federal Capital Contributions and/or Federal Capital Loans to a school shall be paid in such amounts, at such times, and in such installments as will not result in unnecessary accumulation of money in any Nursing Student Loan Fund.

§ 57.306 Federal Capital Loan Promissory Note.

Each Federal Capital Loan shall be made subject to the terms of a promissory note which shall be executed by an authorized official on behalf of the borrowing school. Each such note shall include such terms with respect to the payment of interest and the repayment of principal as are consistent with the provisions of section 827 of the Act, and shall include such other terms as the Secretary finds reasonably necessary to protect the financial interests of the United States and to promote the purposes of the Act.

§ 57.307 Nursing Student Loan Funds.

(a) *Funds established with Federal Capital Contributions.* Any fund established by a school with Federal Capital Contributions shall be deposited and carried in a special account of such school. There shall be in such fund at all times monies representing the Institutional Capital Contribution, equal to at least one-ninth of the amount of the balance of the Federal Capital Contributions in such fund.

(1) Except for funds transferred as provided for in subparagraph (2) of this paragraph, such fund shall be used by such school only for (i) loans to students; (ii) capital distribution as provided in section 826 of the Act or as agreed to by the school and the Secretary; and (iii) costs of litigation arising in connection with the collection of an obligation to such fund and interest thereon.

(2) Not to exceed 20 per centum of the amount paid to any such school from the appropriation for any fiscal year ending after June 30, 1969, for Federal Capital Contributions may be transferred to the sums available to the school for scholarship awards under section 860 of the Act, to be used for the same purpose as such sums: *Provided, however,* That where the Secretary finds in a particular case that a school has demonstrated an unusual need for scholarship funds, he may approve the transfer of an amount in excess of 20 per centum of the amount so paid. In the case of any transfer pursuant to this subparagraph, the proportionate amount of the Institutional Capital Contribution (i.e., one-ninth of the amount so transferred) may be withdrawn by the school from such fund.

(b) *Funds established with Federal Capital Loans.* Any fund established by a school with Federal Capital Loans shall be deposited and carried in a special account of such school, and shall be used by such school only for (1) loans to students; (2) repayments of principal and interest on Federal Capital Loans, and (3) costs of litigation arising in connection with the collection of any obligation to such fund and interest thereon.

§ 57.308 Nondiscrimination.

(a) No eligible applicant shall be denied a student loan on the ground of sex or creed.

(b) Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 78 Stat. 252), which 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 subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which is applicable to Federal Capital Contributions and Federal Capital Loans under the Act, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80).

§ 57.309 Eligibility and selection of student loan recipients.

(a) *Eligibility.* Student loans from any fund may be made only to students who are:

(1) Nationals of the United States or who are in a State for other than temporary purposes and intend to become permanent residents of the United States, or permanent residents of the Trust Territory of the Pacific Islands;

(2) Enrolled, or accepted for enrollment, in the school as full-time students;

(3) In need of the amount of the loan to pursue a full-time course of study at the school; and

(4) Capable, in the opinion of the school, of maintaining good standing in such course of study.

(b) *Selection of loan recipients and determination of need.* It shall be the responsibility of the school to select qualified applicants and to make reasonable determinations of need.

(1) In selecting loan recipients, the school shall give preference to:

(i) Licensed practical nurses, and

(ii) Persons who enter the school as first-year students after enactment of the Act.

(2) In determining whether a student is in need of a loan to pursue a full-time course of study at the school, the school shall take into consideration:

(i) The financial resources available to the student, and

(ii) The costs reasonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's ability to attend the school on a full-time basis.

(c) *Records of approval or disapproval.* The records of the school shall indicate the basis for approval or disapproval of all or any part of each student application for a loan.

§ 57.310 Maximum amount of student loan.

(a) *Maximum per academic year.* The total of the loans made from a fund or funds to any student for an academic year beginning after June 30, 1969, may not exceed $1,500. The maximum amount loaned during a 12-month period beginning after June 30, 1969, to any student enrolled in a school which provides a course of study longer than the 9-month academic year may be proportionately increased.

(b) *Aggregate maximum.* The aggregate of loans for all years from a fund or funds may not exceed $6,000 in the case of any student.

§ 57.311 Evidence of student indebtedness—promissory note; security.

(a) *Evidence of indebtedness—promissory note.* Each loan to a student from any fund or funds shall be evidenced by a promissory note executed by the student borrower, in such form as shall be approved by the Secretary.

(1) Any substantive deviations from the promissory note form so approved shall be made only pursuant to approval by the Secretary prior to the making of any loan evidenced thereby, except that a school which elects to require security or endorsement in cases permitted under paragraph (b) of this section may include a provision reflecting such election without prior approval.

(2) With respect to all student loans made after June 30, 1969, each promissory note shall include a provision stating that the loan evidenced thereby shall bear interest, on the unpaid balance of such loan, computed only for periods during which repayment of the loan is required, at the rate of 3 percent per year.

(3) A copy of each executed note shall be supplied by the school to the student maker thereof.

(b) *Security.* Neither security nor endorsement shall be required except that if the borrower is a minor and if under the applicable State law the note executed by him would not create a binding obligation, then the school is permitted to require security or endorsement.

§ 57.312 Payment of student loans.

(a) Loans from any fund or funds shall be paid to student borrowers in such installments as are deemed appropriate by the school, except that no borrower may receive more during any given installment period (e.g., semester, term or quarter) than he needs for such period.

(b) No payment shall be made from any fund to any student borrower if at the time of such payment such borrower is not a full-time student as defined in § 57.301(h).

§ 57.313 Repayment and collection of student loans.

(a) *Repayment of student loans.* Subject to the provisions of this paragraph any student loan made after June 30, 1969, including interest accrued thereon, shall be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. Except as otherwise provided in this paragraph, repayment shall begin 9 months after the student ceases to be a full-time student.

(1) When a borrower, within such 9-month period, reenters the same or another school of nursing as a full-time student, the date upon which interest accrual and the repayment period begin shall be related to and determined by the date on which he last ceases to be a full-time student at any such school.

(2) Repayment of the loan shall be suspended, and interest thereon shall not accrue, during

(i) All periods of up to 3 years of active duty performed by the borrower as a member of a uniformed service;

(ii) All periods of up to a total of 3 years of service as a volunteer under the Peace Corps Act; and

(iii) All periods up to a total of 5 years during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing. For purposes of this paragraph, "otherwise pursuing advanced professional training in nursing" shall include only full-time training, beyond the first diploma or degree in nursing received by the particular borrower, of at least one academic year which is provided by an accredited institution or an affiliate thereof, and which will advance the borrower's knowledge of and strengthen his skills in the provision of nursing services.

(3) With respect to student loans made before July 1, 1969, all periods specified in subparagraph (2) of this paragraph after June 30, 1968, may be excluded from such repayment period where so agreed by the school which made the loan and the Secretary: *Provided, however,*

(i) That in no such case may the total of the periods excluded from the repayment period pursuant to subdivision (i) or (ii) of subparagraph (2) of this paragraph and the period between the date on which the borrower ceases to be a full-time student and the date on which, under the terms of the promissory note evidencing such loan, the repayment period is to begin, exceed 3 years and 9 months; and

(ii) That in any such case all periods during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, shall be excluded from the repayment period, without limitation; and

(iii) That in no such case may the total of the periods excluded from the repayment period because the borrower is otherwise pursuing advanced professional training in nursing and the period between the date on which the borrower ceases to be a full-time student and the date on which, under the terms of the promissory note evidencing such loan, the repayment period is to begin, exceed 5 years and 9 months.

(4) Each student borrower may (subject to the provisions of subparagraph (3) of paragraph (b) of this section) choose the repayment schedule which he prefers from those in use by the school and approved by the Secretary, but a student borrower may, at his option and without penalty, prepay all or part of the principal and accrued interest at any time.

(b) *Collection of student loans.* (1) Each school at which a Fund is established shall exercise due diligence in the collection of all loans due the fund. The school shall use such collection practices as are generally accepted among institutions of higher education and which are at least as extensive and forceful as those used in the collection of other student loan accounts due the school.

(2) With respect to any student loan made after June 30, 1969, the school may assess a charge for failure of the borrower to pay all or part of an installment when it is due, and, in the case of a borrower who is entitled to deferment benefits under section 823(b)(2) of the Act or cancellation benefits under section 823(b)(3) of the Act, for any failure to file timely and satisfactory evidence of such entitlement. The amount of such charge may not exceed $1 for the first month or part of a month by which such installment of evidence is late and $2 for each such month or part of a month thereafter. The school may elect to add the amount of such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(3) With respect to any student loan made after June 30, 1969, the school may provide that during the repayment period of a loan, payments of principal and interest by the borrower with respect to all the outstanding loans made to him from any Nursing Student Loan Fund shall be at a rate equal to not less than $15 per month.

§ 57.314 Provisions for student loan cancellations.

(a) *Permanent and total disability.* Determinations as to whether or not a student borrower is entitled to a cancellation of indebtedness in accordance with section 823(b)(4) of the Act on the basis of permanent and total disability shall be made by the Secretary on the recommendation of the school to whose fund the borrower is indebted, supported by such medical certifications as the Secretary may require relating to the borrower's disability.

(b) *Death.* The determination as to whether or not a student borrower is entitled to a cancellation of indebtedness in accordance with section 823(b)(4) of the Act because of the death of the borrower shall be made by the school to which the borrower is indebted on the basis of a certificate of death or such other official proof as is conclusive under State law.

(c) *Full-time employment as a professional nurse.* (1) Any person who obtained one or more loans from a fund or funds established under the Act and who engages in full-time employment as a professional nurse in any public or nonprofit private institution or agency shall be entitled, upon compliance with the statute, regulations, and instructions, to have a portion of such loans canceled as follows: Ten per centum of the total of such loans (plus accrued interest thereon) which is unpaid on the first day of such service, for each year of such service thereafter, up to 50 per centum of the total of such loans, plus accrued interest thereon.

(2) The determination of whether a borrower is entitled to have any portion of his loan canceled for such full-time employment as a professional nurse shall be made by the institution to whose fund such loan is payable, upon receipt and evaluation of an application for cancellation from such borrower.

(d) *Service in an area which has a substantial shortage of nurses.* (1) Subject to the provisions of section 823(b)(3) of the Act and of this paragraph, any person who obtained one or more loans from a fund or funds established under the Act and who engages in full-time employment as a professional nurse in a public or other nonprofit hospital in any area which has been determined by the Secretary pursuant to this paragraph to have a substantial shortage of nurses at such hospitals shall be entitled, upon compliance with the statute, regulations, and instructions, to have a portion of such loans cancelled as follows: Fifteen per centum of the total of such loans (plus accrued interest thereon) which is unpaid on the first day of such service, for each year of such service beginning after August 16, 1968, up to 100 per centum of the total of such loans, plus accrued interest thereon.

(2) An area shall be determined to have a substantial shortage of nurses if the number of registered nurse hours of service per patient day in the public or other nonprofit hospital serving such area is lower than the median number of registered nurse hours of service per patient day for all public or other nonprofit hospitals of its category in all States. For purposes of this paragraph, all public or other nonprofit hospitals in all States shall be grouped by the Secretary according to the following categories:

(i) Short-term general and allied special hospitals,

(ii) Psychiatric hospitals,

(iii) Tuberculosis hospitals,

(iv) Chronic and convalescent hospitals, and

(v) All other hospitals.

(3) For purposes of this paragraph, a year of service in a public or other nonprofit hospital means any 12-month period of continuous service (i) after the date the person begins service in such hospital if the area primarily served by the hospital is at that time designated as an area in which there is a substantial shortage of nurses, or (ii) after the date as of which the area is designated an area with a substantial shortage of nurses if the area was so designated subsequent to the date that such person began service in the hospital: *Provided*, That, when an area's designation is changed, after a borrower would otherwise be eligible for cancellation of a portion of his loan by serving in the hospital in such area, so that such area no longer has a substantial shortage of nurses, such change in designation shall not affect the eligibility of such borrower to have a portion of his loan canceled for any year in which he continues to serve as a nurse in the hospital in such area.

(4) The determination of whether a borrower is entitled to have a portion of his loan canceled in accordance with this paragraph shall be made by the institution to whose fund such loan is payable, upon receipt and evaluation of an application for cancellation from such borrower.

(5) All determinations of the Secretary pursuant to this paragraph shall be made on the basis of the latest reliable statistical data available to him.

§ 57.315 Records, reports, inspection.

(a) *Records and reports.* Each Federal Capital Contribution and Federal Capital Loan shall be subject to the condition that the school shall maintain such records, and file with the Secretary such reports relating to its Nursing Student Loan Fund or Funds, as the Secretary may find necessary to carry out the purposes of the Act and the regulations. Where any school has both a fund established with Federal Capital Contributions and a fund established with Federal Capital Loans, records shall be kept separately for each fund. All records shall be retained until such time as agreed upon with the Secretary that there is no further need for retention.

(b) *Inspection and audit.* Any application for a Federal Capital Contribution or a Federal Capital Loan shall constitute the consent of the applicant school to inspection and fiscal audit, by persons designated by the Secretary, of the fiscal and other records of the applicant school which relate to such contribution or loan.

§ 57.316 Noncompliance.

Whenever the Secretary finds that a participating school has failed in a material respect to comply with the Act or the regulations of this subpart he may, on reasonable notice to the school, withhold further payments of Federal Capital Contributions or Federal Capital Loans, and take such other action, including the termination of any agreement, as he finds appropriate to carry out the purposes of the Act and regulations. In such case no further expenditures shall be made from the Nursing Student Loan Fund or Funds involved until the Secretary determines that there is no longer any such failure of compliance.

Dated: March 12, 1970.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Approved: May 26, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-6767; Filed, June 1, 1970; 8:50 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 17—CONSERVATION OF ENDANGERED SPECIES AND OTHER FISH OR WILDLIFE

By notice of proposed rule making published in the FEDERAL REGISTER on April 10, 1970 (35 F.R. 5961), and of April 14, 1970 (35 F.R. 6069), notice was given that it was proposed to add a new Part 17 to Title 50, CFR.

The proposal published on April 10, 1970 (35 F.R. 5961), listed ports of entry through which all fish and wildlife (with certain exceptions) must enter the United States, and also announced a public hearing which was held in May 11, 1970. Written comments, suggestions, and objections were also invited and received.

The proposal published on April 14, 1970 (35 F.R. 6069) set forth regulations proposed for adoption and invited written comments, suggestions, and objections.

Numerous comments were received regarding both FEDERAL REGISTER proposals.

The Department of the Interior deems it in the public interest that these regulations shall become effective on June 3, 1970, which is the effective date of the Endangered Species Conservation Act of 1969 (83 Stat. 275). However, for the convenience of the public, and to insure the orderly implementation of these regulations, §§ 17.3 *Importation at designated ports* and 17.4 *Importation of fish or wildlife—inspection and documentation* shall not become effective until August 3, 1970.

Consideration having been given to all relevant statements and matters presented, it has been determined to add a new Part 17 to Title 50 CFR, as follows:

Sec.

AUTHORITY: The provisions of this Part 17 issued under Public Law 91-135; 83 Stat. 275.

§ 17.1 Purpose.

The regulations in this part govern the importation and transportation of fish and wildlife, including endangered fish and wildlife. They implement the Endangered Species Conservation Act of 1969 (16 U.S.C. 668cc), the Black Bass Act, as amended (16 U.S.C. 851 et seq.), and the Lacey Act, as amended (18 U.S.C. 43, and 44).

§ 17.2 Definitions.

The following definitions shall apply in this part, unless otherwise specified:

(a) "The Act" shall mean Public Law 91-135, 83 Stat. 275;

(b) "The Secretary" shall mean the Secretary of the Interior;

(c) "The Director" shall mean the Director of the Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior;

(d) "Person" shall mean any individual, firm, corporation, association, or partnership;

(e) "Fish" shall mean any finfish or any part, products, egg, or offspring thereof, or the dead body or parts thereof whether or not included in a manufactured product;

(f) "Wildlife" shall mean any wild mammal, wild bird, amphibian, reptile, mollusk, or crustacean, or any part, products, egg, or offspring thereof, or the dead body or parts thereof whether or not included in a manufactured product;

(g) "Endangered Species List" shall mean the list of species or subspecies of fish and wildlife found in other countries that are threatened with worldwide extinction which is contained in Appendix A to this Part 17;

(h) "Native Endangered Species List" shall mean the list of species or subspecies of fish and wildlife native to the United States that are threatened with extinction, and which is published from time to time in the FEDERAL REGISTER.

(i) "Taken" shall mean captured, killed, collected, or otherwise removed from the wild in the country of origin;

(j) Except insofar as such items include any species or subspecies which appears on the Endangered Species List, "shellfish or fishery products imported for commercial purposes" shall mean the following items as further defined in the "Tariff Schedules of the United States Annotated," United States Tariff Commission TC Publication 304, under the TSUS numbers shown in parentheses below:

(1) Frogs (TSUS No. 106.60).

(2) Frog meat (TSUS No. 107.65).

(3) Fish, fresh, chilled, or frozen (TSUS Nos. 110.10–110.70)—trout and salmon to conform to 50 CFR 13.7 and 13.12.

(4) Fish, dried, salted, pickled, smoked or kippered (TSUS Nos. 111.10–111.92).

(5) Fish in airtight containers (TSUS Nos. 112.01–112.94).

(6) Other fish products (TSUS Nos. 113.01–113.60).

(7) Shellfish (TSUS Nos. 114.01–114.55).

(8) Marine-animal oils (TSUS Nos. 177.02–177.40).

(9) Sod oil (TSUS No. 178.05).

(10) Products of American fisheries (TSUS Nos. 180.00–180.20).

(11) Edible preparations (TSUS Nos. 182.05, 182.11, 182.48, 182.50).

(12) Animal feeds (TSUS Nos. 184.54, 184.55).

(k) "Seized property" shall mean anything seized pursuant to sections 4 or 7 of the Act or 16 U.S.C. 851 et seq.;

(l) "Permit" shall include any letter from the Department of the Interior so designated and signed by a properly authorized officer;

(m) "Wild" shall refer to all creatures living in the wild state; or to all creatures that, whether raised in captivity or not, are normally found in the wild state;

(n) "Country of origin" shall mean the country where the fish or wildlife was taken from the wild, or the country of natal origin of the fish or wildlife;

(o) "State" shall mean the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam;

(p) "The United States" shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam;

§ 17.3 Importation at designated ports.

(a) All fish and wildlife, which is intended for importation into the United States except shellfish or fishery products imported for commercial purposes, must enter the United States at designated receiving stations at the customs ports set forth in Appendix B to this Part 17.

(b) Any fish or wildlife, except shellfish or fishery products imported for commercial purposes, which enters the United States at a place other than a designated port may not be imported at that place, but must be moved as quickly as possible under customs bond, to a designated port, unless the exceptions set forth in Appendix B to this part apply.

(c) Nothing in this part shall be construed to allow the entry or importation of any fish or wildlife: (1) Coming within the meaning of the regulations of the Department of Agriculture regarding the importation of certain animals and poultry and certain animal and poultry products, appearing at 9 CFR 92.1 et seq., except at the ports designated in such regulations; (2) regulated in § 13.1 of this chapter et seq., regarding the importation of injurious wildlife, except in accordance with such regulations.

§ 17.4 Importation of fish or wildlife—inspection and documentation.

(a) All fish and wildlife which is intended to be imported into the United States or into any foreign trade zone, is subject to inspection and clearance for such importation, by authorized personnel of the Bureau of Sport Fisheries and Wildlife, or by any customs officer. Such inspection may include examination of

the fish or wildlife, the package or other container in which such fish or wildlife was transported, and the documents accompanying the shipment.

(b) A properly executed Declaration for the Importation of Fish or Wildlife (Form 3–177) must be filed with the District Director of Customs at the port of entry where actual customs inspection for clearance or release occurs, for all fish or wildlife imported into the United States. The Form 3–177 shall show, for each species or subspecies imported, the common and scientific names, number, country of origin, whether or not on the Endangered Species List, whether or not subject to laws or regulations in any foreign country regarding its taking, transportation, or sale. A copy of the invoice and copies of documents required pursuant to paragraph (c) of this section must be attached to the Form 3–177.

(c) In any case where fish or wildlife is subject to laws or regulations of any foreign country regarding its taking, transportation, or sale, or in any case of importation of any primates, or Crocodylia (alligators and crocodiles); or wildlife of the families Felidae (cats), Rhinocuotidae (rhinoceros), Chelonidae (sea turtles), Falconidae (falcons and caracaras), Accipitridae (hawks and eagles), or Psittacidae (parrots and parakeets), the following documents must accompany the shipment:

(1) An export permit or other document from an appropriate government official, in English, or the original document and a certified translation thereof, from each country where the fish or wildlife is subject to regulations regarding its taking, transportation, or sale, which shows that such fish or wildlife was lawfully taken, transported or sold, or

(2) A consular certificate from an American Consul which shows that an appropriate government official has certified to the Consul the information required in subparagraph (2) of this paragraph.

Copies of any such documents must be attached to the Form 3–177 referred to in paragraph (b) of this section.

(d) The documentation requirements of paragraphs (b) and (c) of this section shall not apply to shellfish and fishery products imported for commercial purposes, except members of the family Chelonidae (sea turtles); to scientific specimens imported by persons approved pursuant to the provisions of Appendix B(2)(f) to this part, and which are clearly marked "Preserved Scientific Specimens—No Commercial Value—No Endangered Species;" to any case in which a Declaration for Free Entry of Animals or Birds Killed by United States Residents (Customs Form 3315) has been filed; or to the importation of fish caught by sport fishermen in Canada under a valid Canadian fishing license.

(e) The documentation required in paragraphs (b) and (c) of this section is in addition to any documentation which may be requird by the Bureau of the Customs, including a consular certificate required by 19 U.S.C. 1527, or any statement required in Appendix B to this part for the entry of fish or wildlife at nondesignated ports.

(f) In any instance where authorized personnel of the Bureau of Sport Fisheries and Wildlife are not available to inspect any shipment of fish or wildlife within a reasonable time at a designated port or a port which is being utilized pursuant to the exceptions set forth in Appendix B to this part, any customs officer may clear and release such fish or wildlife. In such cases, any non-Customs post-clearance enforcement measures shall proceed under laws and regulations administered by the Department of the Interior.

§ 17.5 Importation of fish or wildlife—proof of compliance.

In any case where there is a reasonable doubt as to the identity of any fish or wildlife, or as to whether the importation in question is in compliance with the requirements of this part, the burden shall be on the importer to prove the identity of the fish or wildlife or to prove compliance with the regulations. Until such time as the importer can show acceptable proof of compliance, the Director, or the Supervisory Customs Inspector, may refuse to clear the shipment for importation, or may seize the shipment.

§ 17.6 Importation of fish or wildlife—marking.

(a) Any fish or wildlife or any offspring, or product manufactured from such fish or wildlife, which is on the Endangered Species List and is imported into the United States under permit must have suitable identification from the Department of the Interior. Such identification may be obtained at any designated port of entry or from the Regional Director of the Bureau of Sport Fisheries and Wildlife.

(b) Any fish or wildlife on the Endangered Species List which originates outside the United States is subject to seizure and forfeiture if found in the possession of any person within the United States without the proper marking or other identification, unless such person can show by appropriate documentation that the fish or wildlife came into his possession prior to the effective date of the regulations in this part.

§ 17.7 State markings.

If any fish or wildlife which originates in the United States and which is required to be marked or otherwise identified by the laws or regulations of the State in which it originated, or any fish and wildlife on the Native Endangered Species List, is found without such marking or other identification, it is subject to seizure and forfeiture.

§ 17.8 Export permits.

(a) No fish or wildlife which appears on the Native Endangered Species List, may be exported from the United States unless accompanied by a special export permit issued by the Department of the Interior.

(b) Requests for such permits must be dated and in writing, and sent to the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife (see Appendix C to this part) at least 7 days prior to export. The request shall contain the following information:

(1) Name and address of the applicant;

(2) Designation of the items to be exported, including species or subspecies, number, weight, method of shipment, and a description, such as "tanned hides;"

(3) Evidence, in the form of certificates, tags or tag serial members, or other documents from the State in which the fish or wildlife originated showing that such fish or wildlife was lawfully taken, transported, or sold;

(4) In those cases where no certificate, tag or tag serial number or other document is available from the State in which the fish or wildlife originated, the exporter may include the following certification:

I hereby certify that the State of (_____) from which the fish or wildlife named hereon originated, does not, to the best of my knowledge issue certificates, tags, or other documents showing that such fish or wildlife was lawfully taken, transported, or sold. I also certify that such fish or wildlife was lawfully taken, transported, or sold in the State from which it originated. I am aware that a false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.

(c) The provisions of this section do not apply to the export of migratory birds for which export permits may be obtained pursuant to § 16.9 of this chapter.

§ 17.9 Marking of packages or containers.

(a) Any package or other container holding fish or wildlife which is shipped, transported, carried, brought, or conveyed in interstate or foreign commerce must be marked, labeled, or tagged so as to plainly indicate the name and address of the shipper and the consignee, and, except for interstate shipments of furs, hides, and skins, the number and kind of the contents. This requirement shall not apply to packages or other containers holding shellfish and fishery products imported for commercial purposes, or mink, chinchilla, silver fox, blue fox, rabbit, or nutria for which a certification is inserted on the Form 3–177 required by § 17.4(b) in the case of importation, or for which a separate signed certification accompanies the shipping documents in the case of interstate movement or exportation, to the effect that the animal was bred and born in captivity for commercial purposes.

(b) (1) In any case where the marking or other identification of the package or other container under this section indicating in any way the contents thereof would create a significant possibility of theft of the package or its contents, the Director may, upon request of the owner thereof or his agent provide an identification symbol to be used in lieu of such marking, labeling, or tagging.

(2) Applications for use of an identification symbol must be dated and in writing, and should be submitted to the Director, Bureau of Sport Fisheries and

Wildlife, United States Department of the Interior, Washington, D.C. 20240. The application must contain the following:

(i) Name and address of the applicant;

(ii) Designation of the item or items to be imported, transported, etc., including species or subspecies, method(s) of shipment, and description, such as "tanned hides;"

(iii) Estimated frequency and place(s) of importation;

(iv) A statement of the reasons why marking, labeling, or tagging of a package to be imported, transported, etc., would create a significant possibility of theft of the package or its contents, including appropriate statistics, affidavits, or other documents;

(v) A suggested mark or commercial symbol to be used by the applicant in identifying shipments of fish or wildlife;

(vi) A certification in the following language:

I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the marking and labeling requirements of 18 U.S.C. 44 and regulations promulgated thereunder, and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.

(vii) The signature of the applicant.

(3) Upon approval of an application for the use of an identifying symbol, the Director shall assign such a symbol. This symbol must be shown on every package or container used by the applicant for the shipment, transportation, carriage, bringing, or conveyance of fish or wildlife in interstate or foreign commerce. The symbol must also appear on all shipping documents, and on any documents required by this part to accompany the fish or wildlife.

(4) The applicant shall, from the date of notification of the symbol, maintain complete and accurate records of all fish or wildlife which were shipped, transported, carried, brought, or conveyed in interstate or foreign commerce and which were identified by means of such symbol. The records shall include the number, species or subspecies, description of the package or container, method or shipment, time and place of shipment, and general description of the items. Such records shall be open to inspection, auditing, or copying by any authorized employee of the Bureau of Sport Fisheries and Wildlife at any time during regular business hours.

§ 17.10 Importation of endangered species—general restrictions.

Except as provided elsewhere in this part, no person may import from any foreign country into the United States any species or subspecies of fish or wildlife which appears on the Endangered Species List. For the purposes of this section, importation shall include entry into a foreign trade zone, or any transit of or transshipment through any portion of the United States.

§ 17.11 Endangered species list.

(a) The species or subspecies of fish or wildlife shown on the Endangered Species List are deemed to be threatened with worldwide extinction. The List may be revised from time to time as additional data becomes available which shows, to the Secretary's satisfaction, that a species or subspecies should be added to or removed from the List.

(b) The Bureau of Sport Fisheries and Wildlife shall receive and maintain data regarding endangered species and subspecies of fish and wildlife. At least once every 5 years, said Bureau shall conduct a thorough review of the Endangered Species List. Any proposed revisions to the List shall be published in the FEDERAL REGISTER, with an opportunity for interested persons to submit written comments and suggestions.

(c) (1) Any interested person may at any time submit a request for a review of any particular listed species or subspecies. Such requests must be dated and in writing, and should be submitted to the Director, Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, Washington, D.C. 20240. In order to be considered, requests must show in full the following information:

(i) Name and address of the person making the request;

(ii) Association, organization, or business, if any, represented by the person making the request;

(iii) Reasons why the person making the request, or the persons he represents, should be considered to be an "interested person;"

(iv) Designation of the particular species or subspecies in question;

(v) Narrative explanation of the request for review and justification for a change in the status of the species or subspecies in question;

(vi) Complete supporting data for the request;

(vii) Signature of the person making the request.

(2) If it is determined that the request has presented substantial evidence warranting a review, a finding to that effect shall be published in the FEDERAL REGISTER. Such finding shall give notice and opportunity to all other interested persons to participate in the review of the particular species or subspecies, by submission of written data.

§ 17.12 Importation of endangered species—exceptions.

(a) Commercial permit:

(1) In order to avoid undue economic hardship, any person importing any species or subspecies shown on the Endangered Species List, for commercial purposes, under any contract entered into prior to the effective date of the FEDERAL REGISTER notice placing such species or subspecies on the Endangered Species List, may apply for a permit allowing the importation of such fish or wildlife. The application shall be dated and in writing and submitted to the Director, Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, Washington, D.C. 20240, and must contain the following:

(i) Name and address of the applicant;

(ii) Designation of the item or items to be imported including species or subspecies, number, weight, method of shipment, and description, such as "tanned hides;"

(iii) Purpose of the importation;

(iv) Copy of the contract under which such fish or wildlife is to be imported, showing the name and address of the seller or consignor, date of the contract, contract price, number and weight, and description of the item;

(v) If live fish or wildlife are involved, include a detailed description of the type, size, and construction of the container, arrangements for feeding, watering and otherwise caring for the fish or wildlife in transit, and arrangements for caring for the fish or wildlife on entry into the United States;

(vi) Copies of contracts for the importation of fish or wildlife of the same or similar species or subspecies for the calendar year immediately preceding the date of the contract in question;

(vii) A statement of the reasons why failure to fulfill the contract in question would lead to economic hardship, with all supporting documents;

(viii) A certification in the following language:

I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 275), and regulations promulgated thereunder, and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.

(ix) The signature of the applicant.

(2) Any permits granted pursuant hereto will be strictly limited to allow importation only as necessary to avoid undue economic hardship, and in any case shall not be valid for more than 1 year from the effective date of the FEDERAL REGISTER notice placing such species or subspecies on the Endangered Species List.

(3) If a permit is denied, the applicant shall have 20 days after the date of the letter containing notice of such denial in which to request a full hearing regarding the application for such permit.

(b) Zoological, educational, scientific, or preservation permit:

(1) Any person importing any species or subspecies on the Endangered Species List for zoological, educational, and scientific purposes, or for the propagation of such fish or wildlife in captivity for preservation purposes, may apply for a permit allowing the importation of such fish or wildlife. The application shall be dated and in writing, and submitted to the Director, Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, Washington, D.C. 20240. It shall contain the following information:

(i) The name and address of the applicant;

(ii) The number of specimens and the common and scientific names (genus and species) of each species or subspecies of fish or wildlife proposed to be imported;

(iii) Complete statement of the purpose of such importation;

(iv) If live fish or wildlife are involved, include a detailed description of the type, size, and construction of the container, arrangements for feeding, watering, and otherwise caring for the fish or wildlife in transit, and arrangements for caring for the fish or wildlife on entry into the United States;

(v) The address and a complete description of the facilities where such fish or wildlife will be kept;

(vi) A statement, if applicable, of the applicant's qualifications and previous experience in caring for and handling captive live wildlife;

(vii) A copy of the contract or other arrangements under which such fish or wildlife is to be imported, showing the name and address of the seller or consignor, date of the contract, contract price, number and weight (if available), and description of the items;

(viii) A certification in the following language:

I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 275), and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.

(ix) The signature of the applicant.

(2) Permittees shall comply with all terms, conditions, or restrictions prescribed in the permit.

(c) Permits issued pursuant to this part shall not be construed to authorize the importation or other acquisition, possession, transportation, or disposal of fish or wildlife contrary to any applicable Federal or State laws or regulations and do not relieve or eliminate responsibility for complying with any applicable health, quarantine, agriculture, customs permit, or other requirements imposed by the laws or regulations of the other duly authorized Federal and State agencies.

§ 17.13 Hearings.

(a) Whenever opportunity for a hearing is required by § 17.12 or sections 4 or 7 of the Act, reasonable notice shall be given by personal service or by registered or certified mail, return receipt requested, to the affected person. This notice shall advise such person of the action proposed to be taken, the specific provision under which the proposed action is to be taken, and the matters of fact or law asserted as the basis for this action. The notice will either (1) fix a date not less than 20 days after the date of such notice within which the person receiving the notice may request that the matter be scheduled for a hearing, or (2) advise the person receiving the notice that the matter has been set down for hearing at a stated time and place.

(b) The time and place fixed shall be reasonable and shall be subject to change for cause. The recipient of a notice of hearing may waive a hearing and submit written information and argument for the record. The failure of the recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and consent to the making of a decision on the basis of such information as is available.

(c) All hearings shall be presided over by a hearing examiner appointed under 5 U.S.C. 3105. Immediately upon the initiation of any proceeding, an examiner will be assigned to the case and the parties notified of the assignment. Thereafter, all motions, applications, and other papers shall be filed with the examiner.

(d) In all proceedings under this section, the respondent and the Department of the Interior shall have the right to be represented by counsel.

(e)(1) The hearing shall be conducted in conformity with section 556 of title 5 U.S.C., and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments, and briefs, requests for findings, and other related matters. Both the Department of the Interior and the respondent shall be entitled to introduce evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonable and necessary by the examiner conducting the hearing. The hearing examiner may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues.

(3) Hearings shall be recorded stenographically by an official reporter. The transcript of testimony and exhibits together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. Copies of the transcript may be obtained by any party from the official reporter upon payment of the fees fixed therefor.

(f) Promptly after conclusion of the hearing, the examiner shall render a decision. The decision shall be in writing and shall include a statement of (1) findings and conclusions and the reasons or basis therefor, on the material issues of fact, law, expertise, or discretion presented on the record and (2) the appropriate rulings, order, or denial thereof with the effective date. The examiner's decision shall be the final and binding administrative determination. A copy of the decision shall be given to each party.

(g) Whenever a hearing is waived pursuant to paragraph (a) of this section, a decision shall be made by the hearing examiner on the record and a copy of such decision shall be given in writing to the affected persons.

§ 17.14 Holding, return, and disposal of seized property.

(a) Any authorized employee or officer of the Customs who has seized any property shall deliver such seized property to the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife (see Appendix C to this part) or his designee, who shall either hold such seized property, or arrange for the proper handling and care of such seized property.

(b) Any arrangement for the handling and care of seized property shall be in writing and shall state the compensation to be paid. The Regional Director of the Bureau of Sport Fisheries and Wildlife, or his designee, shall attempt to notify the owner or consignee immediately by telephone, but in any case shall, within 48 hours of the receipt of the seized property, mail notice thereof by registered or certified mail, return receipt requested, to the owner or consignee. Such notice shall describe the seized property, including its declared value, and shall state the time, place, and reason for the seizure. Such notice shall also give the name and telephone number of a person within the Regional Director's Office who may be contacted regarding such seized property.

(c) The Regional Director of the Bureau of Sport Fisheries and Wildlife may, upon written request of the owner or consignee, accept a bond or other satisfactory surety in place of the seized property. Such bond shall be in the full penal amount of $5,000 or equal to the value of the seized property, whichever is less, and shall only be allowed where the Regional Director of the Bureau of Sport Fisheries and Wildlife reasonably believes that the owner or consignee intends to maintain possession or control of the seized property until all proceedings regarding the seized property are completed, or where the seized property is of such a nature that its release will not hamper the aims of the Act.

(d) If, at the conclusion of the appropriate proceedings, the seized property is to be returned to the owner or consignee, the Regional Director of the Bureau of Sport Fisheries and Wildlife shall issue a letter authorizing the return of seized property to the owner or consignee. This letter shall be sent by registered mail, return receipt requested,

and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter and proper identification, the seized property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements. All charges regarding the storage, care, or handling of the seized property accruing within 5 days after the date of the return receipt shall be for the account of the owner or consignee.

(e) Disposal of seized property: If, at the conclusion of the appropriate proceedings, the seized property is to be forfeited to the United States, the Regional Director of the Bureau of Sport Fisheries and Wildlife shall arrange for its disposal, provided that any forfeited property shall be held by the Regional Director of the Bureau of Sport Fisheries and Wildlife until the conclusion of all court proceedings connected therewith. All charges which have accrued regarding the storage, care, or handling of the seized property shall be for the account of the former owner or consignee.

§ 17.15 Forfeiture of seized property.

(a) Any fish or wildlife, product, property or item which has been seized pursuant to the Act may be proceeded against in any court of competent jurisdiction for forfeiture to the Secretary for disposition by him.

(b) If such proceeding is not instituted within 30 days following the disposition of proceedings in accordance with these regulations involving the assessment of a civil penalty, the seized wildlife, product, property, or item shall be returned to the owner or consignee.

(c) Upon conviction for a criminal penalty pursuant to the Act, any seized wildlife, or product thereof, shall be forfeited to the Secretary for disposition by him as he may deem appropriate. If no conviction results from any such alleged violation, the Secretary may commence civil penalty proceedings in accordance with the regulations in this part. If a civil penalty proceeding is not instituted within 30 days following the final disposition of the criminal case involving such violation, the seized property shall be returned to the owner or consignee.

§ 17.16 Other laws applicable.

Nothing in this part, nor any permit, exception, or permission issued hereunder, shall be construed to relieve any person from any provision of any other laws, rules, or regulations of the States or the United States.

Effective date. These regulations shall be effective as of June 3, 1970, except that §§ 17.3 and 17.4 shall not be effective until August 3, 1970.

FRED J. RUSSELL,
Acting Secretary of the Interior.

MAY 25, 1970.

APPENDIX A

UNITED STATES' LIST OF ENDANGERED FOREIGN FISH AND WILDLIFE

The list of endangered foreign fish and wildlife has been compiled from data supplied by international conservation organizations, foreign fish and wildlife agencies, individual scientists and trade sources. If a candidate species is not listed it may be because it is not endangered throughout its range or because there is insufficient evidence to warrant its inclusion on the list at this time. The list is under continual review. Factual data are welcome and should be submitted. The "Where Found" column is a general guide to the native countries or regions where the named animals are found. It is not intended to be definitive.

Mammals

Common name	Scientific name	Where found
Thylacine	*Thylacinus cynocephalus*	Tasmania.
Cuban solenodon	*Atopogale cubana*	Cuba.
Haitian solenodon	*Solenodon paradoxus*	Dominican Republic.
Lemurs, all species	*Lemuridae*, all members of the genera *Lemur, Hapalemur, Lepilemur Cheirogaleus, Microcebus, Phaner.*	Madagascar and Comoro Islands.
Indri, Sifakas, Avahis, all species	*Indriidae*, all members of the genera *Indri, Avahi, Propithecus.*	Madagascar and Comoro Islands.
Aye-Aye	*Daubentonia madagascariensis*	Madagascar.
Spider monkey	*Ateles geoffroyi frontatus*	Guatemala.
Spider monkey	*Ateles geoffroyi geoffroyi*	Guatemala.
Spider monkey	*Ateles geoffroyi ornatus*	Costa Rica.
Spider monkey	*Ateles geoffroyi panamensis*	Costa Rica.
Red-backed squirrel monkey	*Saimiri orstedii (Saimiri sciurus orstedii)*	Costa Rica.
Wooly spider monkey	*Brachyteles arachnoides*	Brazil.
White-nosed saki	*Chiropotes albinasus*	Brazil.
Uakari, all species	*Cacajao spp.*	Peru, Colombia, Venezuela, Brazil and Ecuador.
Goeldi's marmoset	*Callimico goeldi*	Brazil.
Golden-rumped, golden-headed tamarin golden lion marmoset.	*Leontideus spp.*	Brazil.
Lion-tailed macaque	*Macca silenus*	India.
Tana River mangabey	*Cercocebus g. galeritus*	Kenya.
Douc langur	*Pygathrix nemaeus*	Indochina.
Pagi Island langur	*Simias concolor*	Indonesia.
Red colobus	*Colobus kirkii*	Kenya.
Zanzibar red colobus	*Colobus badius rufomitratus*	Zanzibar (Tanzania).
Kloss' gibbon	*Hylobates klossi*	Indonesia.
Pileated gibbon	*Hylobates pileatus*	Malaysia.
Orangutan	*Pongo pygmaeus*	Indonesia, Malaysia, Brunii.
Gorilla	*Gorilla gorilla*	Central and western Africa.
Brazilian three-toed sloth	*Bradypus torquatus*	Brazil.
Pink fairy armadillo	*Chlamyphorus truncatus*	Argentina.
Volcano rabbit	*Romerolagus diazi*	Mexico.
Mexican prairie dog	*Cynomys mexicanus*	Mexico.
Thin-spined porcupine	*Chaetomys subspinosus*	Brazil.
Sperm whale	*Physeter catodon*	Worldwide.
Baleen whales, all species	*Mysticete*, all members of the genera *Balaena, Megatptera, Eubalaena, Eschrichtus.*	Worldwide.
Northern kit fox	*Vulpes velox hebes*	Canada.
Asiatic wild dog	*Cuon alpinus*	Russia, Pakistan, India (Central and Southeast Asia).
Mexican grizzly bear	*Ursus arctos nelsoni*	Mexico.
Formosan yellow-throated marten	*Martes flavigula chrysospila*	Formosa.
Black-footed ferret	*Mustela nigripes*	United States, Canada.
Cameroun clawless otter	*Paraonyx microdon*	Cameroons.
La Plata otter	*Lutra platensis*	Uruguay, Argentina, Bolivia.
Giant otter	*Pteronura brasiliensis*	Amazon Basin.
Barbary hyaena	*Hyaena hyaena barbara*	Morocco.
Brown hyaena	*Hyaena brunnea*	Southern Africa.
Asiatic cheetah	*Acinonyx jubatus venaticus*	Russia, Afghanistan, Iran, Saudi Arabia (Formerly India and Pakistan).
Spanish lynx	*Felis pardina*	Spain.
Barbary serval	*Felis serval constantina*	Algeria.
Formosan clouded leopard	*Neofelis nebulosa brachyurus*	Formosa.
Asiatic lion	*Panthera leo persica*	India.
Sinai leopard	*Panthera pardus jarvisi*	Sinai, Saudi Arabia.
Barbary leopard	*Panthera pardus panthera*	Morocco, Algeria, Tunisia.
Anatolian leopard	*Panthera pardus tulliana*	Lebanon, Israel, Jordan, Turkey, Syria.
Bali tiger	*Panthera tigris balica*	Bali.
Javan tiger	*Panthera tigris sondaica*	Indonesia.
Caspian tiger	*Panthera tigris virgata*	Russia, Afghanistan, Iran.
Sumatran tiger	*Panthera tigris sumatrae*	Indonesia.
Mediterranean monk seal	*Monachus monachus*	Mediterranean.
West Indian (Florida) manatee	*Trichechus manatus*	United States, Costa Rica, Guatemala, Panama, Brazil, Venezuela.
Amazonian manatee	*Trichechus inunguis*	Peru, Amazon.
Asian wild ass	*Equus hemionus*	Pakistan, Iran, India, China, Afghanistan, Central Asia.
African wild ass	*Equus asinus*	Ethiopia, Somalia, Sudan.
Mountain tapir	*Tapirus pinchaque*	Colombia, Ecuador.
Brazilian tapir	*Tapirus terrestris terrestris*	Venezuela, Argentina, Brazil.
Central American tapir	*Tapirus bairdii*	Guatemala, Costa Rica, Southern Mexico to Colombia and Ecuador.
Sumatran rhinoceros	*Didermoceros sumatrensis*	Southeast Asia—East Pakistan to Vietnam to Indonesia.
Javan rhinoceros	*Rhinoceros sondaicus*	Indonesia, Burma, Thailand.
Northern white rhinoceros	*Ceratotherium simum cottoni*	Congo, Uganda, Sudan.
Pygmy hog	*Sus salvanius*	India, Nepal.
Vicuna	*Vicugna vicugna*	Peru, Bolivia.
Swamp deer	*Cervus duvauceli*	India, Nepal.
Kashmir stag, hangul	*Cervus elaphus hanglu*	Kashmir.
Barbary stag	*Cervus elaphus barbarus*	Morocco, Tunisia, Algeria.
M'Neill's deer	*Cervus elaphus macneilli*	China, Tibet.
Shou	*Cervus elaphus wallichi*	Tibet, Bhutan.

Common name	Scientific name	Where found
Brow-antlered deer	*Cervus eldi*	India, Southeast Asia.
Persian fallow deer	*Dama dama mesopotamica*	Iraq, Iran.
Bawean deer	*Helaphus kuhli (Cervus kuhli)*	Indonesia.
Marsh deer	*Blastocerus dichotomus*	Argentina, Uruguay, Brazil.
Sonoran pronghorn	*Antilocapra americana sonoriensis*	Mexico, United States.
Black-faced impala	*Aepyceros melampus petersi*	Southwest Africa, Angola.
Swayne's hartebeest	*Alcelaphus buselaphus swaynei*	Ethiopia.
Anoa	*Anoa depressicornis*	Indonesia.
Tamaraw	*Anoa mindorensis*	Philippines.
Wood bison	*Bison bison athabascae*	Canada.
Seladang (gaur)	*Bos gaurus*	India, Southeast Asia.
Wild yak	*Bos grunniens mutus*	Tibet.
Kouprey	*Bos sauveli*	Cambodia.
Banteng	*Bibos banteng*	Southeast Asia.
Pyrenean ibex	*Capra pyrenaica pyrenaica*	Spain.
Walia ibex	*Capra walie*	Ethiopia.
Rio de Oro dama gazelle	*Gazella dama lozanoi*	Spanish Sahara.
Mhorr gazelle	*Gazella dama mhorr*	Morocco.
Moroccan dorcas gazelle	*Gazella dorcas massaesylla*	Morocco.
Cuvier's gazelle	*Gazella cuvieri*	Morocco, Tunisia.
Slender-horned gazelle Rhim, Loder's gazelle.	*Gazella leptoceros*	Sudan, Algeria, Egypt, Libya.
Black lechwe	*Kobus leche smithemani*	Zambia.
Kafue lechwe	*Kobus leche kafuensis*	Zambia.
Arabian oryx	*Oryx leucoryx*	Arabian Peninsula.
Clark's gazelle, dibatag	*Ammodorcas clarkii*	Somalia, Ethopia.

Birds

Galapagos penguin	*Spheniscus mendiculus*	Galapagos.
Arabian ostrich	*Struthio camelus syriacus*	Jordan or Saudi Arabia.
West African ostrich	*Struthio camelus spatzi*	Spanish Sahara.
Darwin's rhea	*Pterocnemia pennata*	Argentina, Peru, Uruguay, Bolivia.
Atitlan grebe	*Podilymbus gigas*	Guatemala.
Short-tailed albatross	*Diomedea albatrus*	Japan.
Cahow	*Pterodroma cahow*	Bermuda.
Brown pelican	*Pelecanus occidentalis*	Mexico, United States, Panama, Puerto Rico, Etc.
Chinese egret	*Egretta eulophotes*	China, Korea.
Oriental white stork	*Ciconia ciconia boyciana*	Japan, Korea, China.
Japanese crested ibis	*Nipponia nippon*	Japan, Korea.
Aleutian Canada goose	*Branta canadensis leucopareia*	Japan, United States.
White-winged wood duck	*Cairina scutulata*	India, Thailand, Sumatra, Burma.
American peregrine falcon	*Falco peregrinus anatum*	Canada, United States, Mexico.
Arctic peregrine falcon	*Falco peregrinus tundrius*	Canada, United States, Mexico.
Christmas Island goshawk	*Accipiter fasciatus natalis*	Christmas Island.
Anjouan Island sparrow hawk	*Accipiter francesii pusillus*	Comoro Islands.
Galapagos hawk	*Buteo galapagoensis*	Galapagos.
Monkey-eating eagle	*Pithecophaga jefferyi*	Philippine Islands.
Spanish imperial eagle	*Aquila heliaca adalberti*	Spain, North Africa.
Grenada hook-billed kite	*Chondrohierax uncinatus mirus*	West Indies.
Cuban hook-billed kite	*Chondrohierax wilsonii*	Cuba.
Seychelles kestrel	*Falco araea*	Seychelles Island.
Mauritius kestrel	*Falco punctatus*	Mauritius
Horned guan	*Oreophasis derbianus*	Guatemala, Mexico.
Trinidad white-headed curassow	*Pipile pipile pipile*	Trinidad.
LaPerouse's megapode	*Megapodius laperouse*	Palau, Marianas.
Maleo	*Macrocephalon maleo*	Celebes.
Masked bobwhite	*Colinus virginianus ridgwayi*	United States, Mexico.
Brown eared pheasant	*Crossoptilon mantchuricum*	China.
Chinese monal	*Lophophorus lhuysii*	China.
Sclater's monal	*Lophophorus sclateri*	China, Burma.
Edward's pheasant	*Lophura edwardsi*	South Vietnam.
Imperial pheasant	*Lophura imperialis*	South Vietnam.
Swinhoe's pheasant	*Lophura swinhoii*	Formosa.
Palawan peacock pheasant	*Polyplectron emphanum*	Philippine Islands.
Mikado pheasant	*Syrmaticus mikado*	Formosa.
Bar-tailed pheasant	*Syrmaticus humiae*	Burma, China.
Blyth's tragopan	*Tragopan blythii*	Burma, China.
Cabot's tragopan	*Tragopan caboti*	China.
Western tragopan	*Tragopan melanocephalus*	India.
Whooping crane	*Grus americana*	Canada, United States.

Common name	Scientific name	Where found
Japanese crane	*Grus japonensis*	Japan, China.
Auckland Island rail	*Rallus pectoralis muelleri*	New Zealand.
Kagu	*Rhynochetos jubatus*	New Caledonia.
Great Indian bustard	*Choriotis nigriceps*	India, Pakistan.
New Zealand shore plover	*Thinornis novae-seelandiae*	New Zealand.
Eskimo curlew	*Numenius borealis*	United States.
Audouin's gull	*Larus audouinii*	Morocco, Cyprus.
California least tern	*Sterna albifrons browni*	Mexico, United States.
Cloven-feathered dove	*Drepanoptila holosericea*	New Caledonia.
Chatham Island pigeon	*Hemiphaga novaeseelandiae chathamensis*	New Zealand.
Azores wood pigeon	*Columba palumbus azorica*	Azores.
Grenada dove	*Leptotila wellsi*	West Indies.
Palau ground dove	*Gallicolumba canifrons*	Palau.
Ochre-marked parakeet	*Pyrrhura cruentata*	Brazil.
Kakapo	*Strigops habroptilus*	New Zealand.
Red-brown parrot	*Amazona rhodocorytha*	Brazil.
Bahamas parrot	*Amazona leucocephala bahamensis*	Bahamas.
St. Vincent parrot	*Amazona guildingi*	West Indies.
St. Lucia parrot	*Amazona versicolor*	West Indies.
Imperial parrot	*Amazona imperialis*	West Indies.
Australian night parrot	*Geopsittacus occidentalis*	Australia.
Turquoise parakeet	*Neophema pulchella*	Australia.
Beautiful parakeet	*Psephotus pulcherrimus*	Australia.
Paradise parakeet	*Psephotus chrysopterygius*	Australia.
Forbes' parakeet	*Cyanoramphus auriceps forbesi*	New Zealand.
Mauritius ring-necked parakeet	*Psittacula krameri echo*	Mauritius.
Thick-billed parrot	*Rhynchopsitta pachyrhyncha*	Mexico, United States.
Red-faced malkoha	*Phaenicophaeus pyrrhocephalus*	Ceylon.
Seychelles owl	*Otus insularis*	Seychelles.
Palau owl	*Otus podargina*	Palau.
Mrs. Morden's owlet	*Otus irenese*	Kenya.
Anjouan scops owl	*Otus rutilus capnodes*	Anjouan Islands.
Long-tailed ground roller	*Uratelornis chimaera*	Madagascar.
Imperial woodpecker	*Campephilus imperialis*	Mexico.
Ivory-billed woodpecker	*Campephilus principalis*	Cuba, United States.
Tristram's woodpecker	*Dryocopus javensis richardsi*	Korea.
Euler's flycatcher	*Empidonax euleri johnstonei*	Grenada, West Indies.
New Zealand bush wren	*Xenicus longipes*	New Zealand.
Noisy scrub-bird	*Atrichornis clamosus*	Australia.
Rufous scrub-bird	*Atrichornis rufescens*	Australia.
Ponape mountain starling	*Aplonis pelzelni*	Ponape Island.
Rothschild's starling	*Leucopsar rothschildi*	Bali.
Kokako	*Callaeas cinerea*	New Zealand.
Piopio	*Turnagra capensis*	New Zealand.
Reunion cuckoo shrike	*Coracina newtoni*	Reunion Island.
Mauritius cuckoo shrike	*Coracina typica*	Mauritius.
Guadeloupe house wren	*Troglodytes aedon guadeloupensis*	Guadeloupe Island.
St. Lucia wren	*Troglodytes aedon mesoleucus*	St. Lucia, West Indies.
Martinique brown trembler	*Cinclocerthia ruficauda gutturalis*	Martinique.
White-breasted thrasher	*Ramphocinclus brachyurus*	Martinique, St. Lucia Island.
Mauritius olivaceous bulbul	*Hypsipetes borbonicus olivaceus*	Mauritius Island.
Cebu black shama	*Copsychus niger cebuensis*	Philippine Islands.
Seychelles magpie-robin	*Copsychus sechellarum*	Seychelles Island.
Western whipbird	*Psophodes n. nigrogularis*	Australia.
Western bristlebird	*Dasyornis brachypterus longirostris*	Australia.
Eyrean grass-wren	*Amytornis goyderi*	Australia.
Palau fantail	*Rhipidura lepida*	Palau.
White-necked rock-fowl	*Picathartes gymnocephalus*	Togo to Sierra Leone.
Grey-necked rock-fowl	*Picathartes oreas*	Cameroon.
Nauru nightingale warbler	*Acrocephalus luscinia rehsei*	Nauru Island.
Rodrigues warbler	*Bebrornis rodericanus*	Rodriguez Island.
Seychelles warbler	*Bebrornis sechellensis*	Seychelles.
Scarlet-breasted robin	*Petroica multicolor multicolor*	Norfolk Island.
Chatham Island robin	*Petroica traversi*	New Zealand.
Tahiti flycatcher	*Pomarea nigra nigra*	Tahiti.
Tinian monarch	*Monarcha takatsukasae*	Tinian Island.
Seychelles black-flycatcher	*Terpsiphone corvina*	Seychelles.
Seychelles white-eye	*Zosterops modestus*	Seychelles.
Ponape great white-eye	*Rukia sanfordi*	Ponape.
Semper's warbler	*Leucopeza semperi*	St. Lucia Island.
Bachman's warbler	*Vermivora bachmanii*	Cuba, United States.
Barbados yellow-warbler	*Dendroica p. petechia*	West Indies.
Kirtland's warbler	*Dendroica kirtlandii*	Bahama, United States.
Seychelles fody	*Foudia sechellarum*	Seychelles.
Sao Miguel bullfinch	*Pyrrhula pyrrhula murina*	Azores.
Slender-billed grackle	*Cassidix palustris*	Mexico.

Amphibians and reptiles

Common name	Scientific name	Where found
Israel painted frog	*Discoglossus nigriventer*	Israel.
Stephen Island frog	*Leiopelma hamiltoni*	New Zealand.
River terrapin, Tuntong	*Batagur baska*	Burma, India, Indonesia, Malaysia, Pakistan.
Galapagos tortoise	*Testudo elephantopus*	Galapagos (Ecuador).
Madagascar radiated tortoise	*Testudo radiata*	Madagascar.
Hawksbill turtle	*Eretmochelys imbricata*	Tropical seas.
Leatherback turtle	*Dermochelys coriacea*	Tropical and temperate seas.
South American river turtle	*Podocnemis expansa*	Orinoco and Amazon River Basin.
South American river turtle	*Podocnemis unifilis*	Orinoco and Amazon River Basin.
Short-necked or swamp tortoise	*Pseudemydura umbrina*	Australia.
Yacare	*Caiman yacare*	Bolivia, Argentina, Peru, Brazil.
Orinoco crocodile	*Crocodylus intermedius*	Orinoco River Drainage.
Cuban crocodile	*Crocodylus rhombifer*	Cuba.
Morelet's crocodile	*Crocodylus moreletii*	Mexico, British Honduras, Guatemala.
Nile crocodile	*Crocodylus niloticus*	Africa.
Gavial	*Gavialis gangeticus*	Pakistan.
Round Island day gecko	*Phelsuma guentheri*	Mauritius.
Day gecko	*Phelsuma newtoni*	Mauritius.
Barrington land lizard	*Conolophus pallidus*	Galapagos.
Tuatara	*Sphenodon punctatus*	New Zealand.
Jamaica boa	*Epicrates subflavus*	Jamaica.
Anegada ground iguana	*Cyclura pinguis*	Anegada Island.

Fish

Ala balik	*Salmo platycephalus*	Turkey.
Cicek	*Acanthorutilus handlirschi*	Turkey.
Miyako tanago	*Tanakia tanago*	Japan.
Ayumodoki	*Hymenophys curta*	Japan.
Mexican blindcat	*Prietella phreatophila*	Mexico.
Nekogigi	*Corenbagrus ichikawai*	Japan.
Giant catfish	*Pangasianodon gigas*	Thailand.
Catfish	*Pangasius sanitwongsei*	Thailand.

Mollusk

Mollusk	*Papustyla pulcherrima*	Manus Island (Admiralty Island).

APPENDIX B

DESIGNATED PORTS AND EXCEPTIONS THERETO

1. *Designated ports.* The following ports are designated as ports of entry for all fish and wildlife, except shellfish and fishery products imported for commercial purposes which may enter through any Customs district or port: [1] New York, New York; Miami, Florida; Chicago, Illinois; San Francisco, California; Los Angeles, California.

2. *Specific exceptions.* (a) Tampa, Florida, is a port of entry for fish.

(b) In any case of emergency diversion of a shipment of live fish or live wildlife to a place in the United States other than a designated port, the Regional Director of the Bureau of Sport Fisheries and Wildlife (see Appendix C) or his designee may make appropriate arrangements for the immediate clearance for importation of such fish or wildlife, where it appears that delay in clearance would endanger or impair the health of such fish or wildlife. In any instance where the Regional Director of the Bureau of Sport Fisheries and Wildlife or his designee can not be reached, any customs officer is authorized to clear and release the fish or wildlife upon receipt, where applicable, of a properly executed Declaration for the Importation of Fish or Wildlife (Form 3-177).

(c) (1) Except for any species or subspecies which appears on the Endangered Species List, any fish or wildlife whose country of origin is Canada, or which was previously exported from the United States into Canada, may enter the United States through any of the ports designated in section 1 of Appendix B or through any of the following customs ports of entry:

(i) State of Alaska—Tok Junction.

(ii) State of Washington—Blaine, Sumas, Oroville.

(iii) State of Idaho—Eastport.

(iv) State of Montana—Sweetgrass, Raymondi.

(v) State of North Dakota—Portal, Pembina, Dunseith.

(vi) State of Minnesota—Noyes, International Falls, Grand Portage.

(vii) State of Michigan—Sault Sainte Marie, Detroit, Port Huron.

(viii) State of Ohio—Cleveland.

(ix) State of New York—Buffalo-Niagara Falls, Ogdensburg, Rouses Point.

(x) State of Vermont—Highgate Springs, Derby Line.

(xi) State of Maine—Houlton, Calais.

(2) Except for any species or subspecies which appears on the Endangered Species List, any fish or wildlife whose country of origin is Mexico, or which was previously exported from the United States into Mexico, may enter the United States through any of the ports designated in section 1 of Appendix B or through any of the following customs ports of entry:

(i) State of California—Calexico, San Diego-San Ysidro.

(ii) State of Arizona—Nogales, San Luis.

(iii) State of Texas—El Paso, Laredo, Brownsville.

(3) Prior to any entry pursuant to (1) or (2) above, the importer or his agent must submit a signed and dated statement to the customs officer at the port of entry showing his name and address, the number and a description of the items being imported, and containing the following certification: "Subject to the criminal penalties of 18 U.S.C. 1001, I hereby certify that the fish or wildlife named hereon does not appear on the Endangered Species List and originated in (Canada) (Mexico) or were previously exported from the United States into (Canada) (Mexico)."

(c) (1) Except for any species or subspecies which appears on the Endangered Species List, fish or wildlife which are entered into Alaska, Hawaii, Puerto Rico, Guam, American Samoa, or the Virgin Islands, and which are not to be forwarded or transshipped within the United States may be imported through any of the ports designated in section 1 of Appendix B or at the following ports:

(i) Alaska—Juneau, Anchorage, Fairbanks.

(ii) Hawaii—Honolulu.

(iii) Puerto Rico—San Juan.

(iv) Guam—Honolulu, Hawaii.

(v) American Samoa—Honolulu, Hawaii.

(v) American Samoa—Honolulu, Hawaii. Rico.

(2) Prior to any such entry, the importer or his agent must submit a signed and dated statement to the customs officer at the port of entry showing his name and address, the numbers and descriptions of the items being imported, and containing the following certification: "Subject to the criminal penalties of 18 U.S.C. 1001, I hereby certify that the fish or wildlife named hereon do not appear on the Endangered Species List and are not to be forwarded or transshipped within the United States."

(d) (1) Except for any species or subspecies which appears on the Endangered Species List, fish or wildlife imported from Mexico or Canada by an individual as game or a game trophy lawfully taken in Mexico or Canada, may enter the United States at any port of entry.

(2) Such entry must be accompanied by Customs Form 3315, Declaration for Free Entry of Game Animals or Birds Killed by United States Residents.

(e) Except for any species or subspecies which appears on the Endangered Species List, fish or wildlife products which are transported accompanied or unaccompanied as personal effects or as part of household effects, including game trophies transported as part of household effects but excluding any other game or game trophies, may enter the United States at any customs port of entry.

(f) Any person who has obtained the prior approval of the Secretary may import scientific specimens, except specimens of species or subspecies which appear on the Endangered Species List, at any customs port of entry. Approval may be obtained by applying to the Director, Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, Washington, D.C. 20240. The application shall contain the following information:

(i) Name, address, and institutional affiliations of the applicant;

(ii) General description of types of specimens normally imported or received, along with documentation of such importation or receipt;

(iii) Complete description of purposes or uses of such scientific specimens;

(iv) Any other information deemed necessary by the Director;

(v) A certification in the following language: "I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 275), and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.";

(vi) Signature of the applicant;

(g) Nothing in this subsection shall be construed as allowing the transportation of migratory birds and game mammals or fish to and from Canada or Mexico in any way contrary to the provisions of Parts 10, 13, and 15 of this chapter.

[1] As a result of hearings on ports of entry, the Port of Honolulu, Hawaii, was deleted, and the Port of New Orleans, Louisiana, will be added if approval by the Secretary of the Treasury is secured as required by law.

3. *Exception by permit.* (a) Any person may apply for a permit to import fish or wildlife at any non-designated port. The application must be dated and in writing, and should be submitted to the Regional Director of the Bureau of Sport Fisheries and Wildlife (see Appendix C) at least 10 days prior to entry. It shall contain the following:

(i) The name and address of the applicant;

(ii) Designation of the item or items to be entered, including species or subspecies, number, method of shipment, and description, such as "tanned hides;"

(iii) Purpose of the importation;

(iv) Intended port of entry;

(v) A statement of the reasons why importation should be allowed at the requested port of entry rather than at a designated port, including appropriate documentation or affidavits;

(vi) If the permit is being requested for a series of importations over a period of time, include a detailed narrative statement of the circumstances, along with documentary evidence showing a previous pattern of such importation for at least one year, or other documentary evidence as required by the circumstances;

(vii) A certification in the following language: "I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 275) and regulations promulgated thereunder, and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001."

(viii) Signature of the applicant.

(b) The issuance of permits under this section will be limited to those applicants who can show, to the satisfaction of the Regional Director of the Bureau of Sport Fisheries and Wildlife, sufficient economic hardship or other reasonable justification for entry at a non-designated port. Permits may cover a single importation, a series of related importations, or importation over a specified period of time.

(c) Any permit issued under this section may specify any conditions deemed necessary by the Regional Director of the Bureau of Sport Fisheries and Wildlife, including the requirement that the applicant pay any reasonable costs incurred by the Department in inspecting the shipment(s) at a non-designated port.

APPENDIX C

REGIONAL DIRECTORS

Following are the addresses of the various Regional Directors of the Bureau of Sport Fisheries and Wildlife, Department of the Interior:

Region 1: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, 730 NE. Pacific Street, P.O. Box 3737, Portland, Oregon 97208. Telephone: 503 234–4050.	Includes: Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington.
Region 2: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Federal Building, P.O. Box 1306, 517 Gold Avenue SW., Albuquerque, New Mexico 87103. Telephone: 505 843–2321.	Includes: Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas, Utah, Wyoming.
Region 3: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Telephone: 612 725–3500.	Includes: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, North & South Dakota, Wisconsin.
Region 4: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Peachtree-Seventh Building, Atlanta, Georgia 30323. Telephone: 404 526–5100.	Includes: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North & South Carolina, Tennessee, Virginia, District of Columbia.
Region 5: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, U.S. Post Office and Courthouse, Boston, Massachusetts 02109. Telephone: 617 223–2961.	Includes: Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.

[F.R. Doc. 70–6666; June 1, 1970; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 24]

COMPUTATION OF OVERTIME SERVICES RENDERED IN BROKEN PERIODS

Notice of Proposed Rule Making

Notice is hereby given that under the authority of section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), and sections 451 and 624, Tariff Act of 1930, as amended (19 U.S.C. 1451, 1624), it is proposed to amend § 24.16 of the Customs Regulations.

The purpose of the proposed amendment is to provide a uniform method of computing customs overtime services when rendered in broken periods at night or on a Sunday or holiday. Under present regulations when Customs overtime services at night or on a Sunday or holiday are rendered in broken periods and 2 hours or more intervene between periods during which services are actually performed, the district director of customs determines whether the service shall be treated as continuous with compensable waiting time or as two or more distinct assignments.

Since it is desirable that overtime service rendered in broken periods be treated on a uniform basis throughout the Customs Service and to provide such uniformity in computing such overtime services, it is proposed to amend § 24.16 (f) of the Customs Regulations as set forth in tentative form below:

§ 24.16 Overtime services; overtime compensation; rate of compensation.

* * * * *

(f) *Broken periods.* When overtime services at night or on a Sunday or holiday are rendered in broken periods, the actual time each assignment began and ended shall be reported. Overtime services rendered in such broken periods shall be treated as though the services had been continuous except when the total of the compensation computed separately for each such period in accordance with the provisions of paragraph (g) of this section is less than when computed as though the services had been considered continuous. In no case shall any employee be entitled to receive more than 2½ days' pay by reason of the fact that he is given two or more assignments during one night.

* * * * *

Prior to the issuance of the proposed amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearings will be held.

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

Approved: May 5, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-6744; Filed, June 1, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 52]

INSPECTION AND CERTIFICATION OF PROCESSED FRUITS AND VEGETABLES AND RELATED PRODUCTS

Approved Identication

Notice is hereby given that the U.S. Department of Agriculture is considering a revision to the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products (7 CFR 52.1–52.87) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627). This revision would affect the manner in which the USDA "Officially Sampled Stamp" may be used.

Statement of consideration leading to the amendment of the regulations governing the inspection of processed products. The regulations provide that processed products which are not packed under continuous inspection shall not be identified by approved grade or inspection marks. However, such products may be inspected and identified with an officially sampled stamp. This stamp is intended for identification purposes only and should not be construed to mean compliance with a grade, when such processed product is grade labeled, or as meeting a specification. Because of misunderstanding on the use of the officially sampled stamp the option for stamping cases and certificates must remain with the Department. This will assure that the stamp is not used in a manner that implies acceptance of a product which in fact fails a specification or is labeled with a false grade statement. To maintain this needed control, § 52.53(d) is amended to read as follows:

§ 52.53 Approved identification.

* * * * *

(d) *Products not eligible for approved identification.* Processed products which have not been packed under continuous inspection as provided for in this part shall not be identified by approved grade or inspection marks (except honey and maple syrup which may bear such grade marks), but such products may be inspected as provided in this part and at the option of the Department may be identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) with an officially drawn sample mark similar in form and design to the example in figure 9 of this section: *Provided,* That the stamp will not be placed on shipping cases where any grade marks are on the cases or packages unless the product meets such grades.

* * * * *

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate, not later than 30 days after publication thereof in the FEDERAL REGISTER with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submittals made pursuant to this notice will be available for public review at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

(Secs. 202–208, 60 Stat. 1087 as amended; 7 U.S.C. 1621–1627)

Dated: May 27, 1970.

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

[F.R. Doc. 70-6765; Filed, June 1, 1970; 8:49, a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

ANCHORAGE INTRASTATE AIR QUALITY CONTROL REGION

Notice of Proposed Designation and Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate the Anchorage Intrastate Air Quality Control Region (Alaska) as set forth in the following new § 81.54 which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designation effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the State of Alaska and appropriate local authorities, both within and without the proposed region, who are affected by or interested in the proposed designation, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designation. Such consultation will take place at 1:30 p.m., June 8, 1970, in the Anchorage City Council Chambers, Z. J. Loussac Library, 427 F Street, Anchorage, Alaska.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852 of such intention at least 1 week prior to the consultation. A report prepared for the consultation is available upon request to the Office of the Commissioner.

In Part 81 a new § 81.54 is proposed to be added to read as follows:

§ 81.54 Anchorage Intrastate Air Quality Control Region.

The Anchorage Intrastate Air Quality Control Region (Alaska) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alaska:
Greater Anchorage Area Borough.
Kenai Peninsula Borough.
Matanuska-Susitna Borough.

This action is proposed under the authority of sections 107(a) and 301(2) of the Clean Air Act, section 2, Public Law 90–148, 81 Stat. 490, 504, 42 U.S.C. 1857c–2(a), 1957g(a).

Dated: May 27, 1970.

JOHN T. MIDDLETON,
Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70–6766; Filed, June 1, 1970; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 70–75]

PASSAIC RIVER, N.J.

Drawbridge Operation

1. The Commandant, U.S. Coast Guard is considering a request by the New Jersey Department of Transportation to issue special operation regulations for its drawbridge across the Passaic River at Route 3, Rutherford, N.J. Present regulations for this bridge require it to open on signal. The proposed regulations would require at least 6 hours' advance notice. Authority for this action is set forth in section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2) and 49 CFR 1.46(c)(5)).

2. Accordingly, it is proposed to amend 33 CFR 117.225(f) by adding subparagraph (2–b) which shall read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(2–b) Passaic River, Highway Route 3 bridge at Rutherford. At least 6 hours' advance notice required.

* * * * *

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before June 29, 1970. All submissions should be made in writing to the Commander, Third Coast Guard District, Governors Island, New York, N.Y. 10004.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address, and firm or organization, if any, of the person making the submission.

5. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, Third Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: May 26, 1970.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 70–6778; Filed, June 1, 1970; 8:50 a.m.]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70–SW–34]

CONTROL ZONES AND TRANSITION AREAS

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Benton, Little Rock, Pine Bluff, and Stuttgart, Ark., terminal areas.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (35 F.R. 2054), the Little Rock, Ark. (Adams Field), control zone is amended to read:

LITTLE ROCK, ARK. (ADAMS FIELD)

Within a 5-mile radius of Adams Field (lat. 34°43'45" N., long. 92°13'45" W.), within 1.5 miles each side of the ILS localizer southwest course extending from the 5-mile radius zone to the LOM, and within 3.5 miles each side of the ILS localizer northeast course extending from the 5-mile radius zone to 12 miles northeast of the airport excluding the portion within the Little Rock, Ark. (Little Rock AFB), control zone.

(2) In § 71.171 (35 F.R. 2054), the Little Rock, Ark. (Little Rock AFB), control zone is amended to read:

LITTLE ROCK, ARK. (LITTLE ROCK AFB)

Within a 5-mile radius of Little Rock AFB (lat. 34°55'05" N., long. 92°08'45" W.), within 1.5 miles each side of the ILS localizer northeast course extending from the 5-mile radius zone to 1.5 miles west of the OM, within 1.5 miles each side of the Jacksonville TACAN 076° radial extending from the 5-mile radius zone to 6.5 miles east of the TACAN, within 2 miles each side of the extended centerline of Runway 24 extending from the 5-mile radius zone to 6 miles southwest of the airport, and within 1.5 miles each side of the Jacksonville TACAN 241° radial extending from the 5-mile radius zone to 7 miles southwest of the TACAN.

(3) In § 71.171 (35 F.R. 2054), the Pine Bluff, Ark., control zone is amended by deleting "* * * the Pine Bluff VORTAC 185° radial * * *" and substituting "* * * the Pine Bluff VORTAC 186° radial * * *" therefor.

(4) In § 71.181 (35 F.R. 2134), the Little Rock, Ark., transition area is amended to read:

LITTLE ROCK, ARK.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 34°39'15" N., long. 92°36'-00" W., thence to lat. 35°06'00" N., long. 92°18'00" W., to lat. 35°06'00" N., long. 91°-58'00" W., to lat. 34°47'00" N., long. 91°56'-00" W., to lat. 34°31'00" N., long. 92°01'00" W., to lat. 34°26'00" N., long. 92°30'00" W., to lat. 34°28'00" N., long. 92°36'00" W., thence clockwise along the arc of a 6.5-mile radius circle centered at lat. 34°33'30" N., long. 92°36'30" W. to point of beginning.

(5) In § 71.181 (35 F.R. 2134), the Pine Bluff, Ark., transition area is amended to read:

PINE BLUFF, ARK.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Grider Field (lat. 34°10'35" N., long. 91°55'55" W.), and within 5 miles each side of the Little Rock VORTAC 137° radial and the Pine Bluff VORTAC 007° and 186° radials extending from the Little Rock, Ark., transition area to 22.5 miles south of the Pine Bluff VORTAC.

(6) In § 71.181 (35 F.R. 2134), the Stuttgart, Ark., transition area is amended to read:

STUTTGART, ARK.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stuttgart Municipal Airport (lat. 34°36'15" N., long. 91°34'30" W.), and within 3.5 miles each side of the 350° bearing from the Stuttgart RBN (lat. 34°39'52" N., long. 91°35'30" W.) extending from the 6.5-mile radius area to 11.5 miles north of the RBN.

(7) In § 71.181 (35 F.R. 2134), the Benton, Ark., transition area is revoked.

The instrument approach procedures at Adams Field, Little Rock AFB, and Grider Field have been revised to conform them to Terminal Instrument Procedures (TERPs). The application of TERPs and current airspace criteria requires alteration of the Little Rock (Adams Field and Little Rock AFB) and Pine Bluff control zones and the Little Rock, Pine Bluff, and Stuttgart transition areas to provide controlled airspace protection for aircraft conducting IFR operations to and from these airports. Approach/departure procedures at Little Rock and Benton require extensions to the basic transition areas. To simplify charting, reduce, and clarify descriptions, and provide continuity of controlled airspace, the Little Rock and Benton transition areas have been combined in this proposal.

Additional controlled airspace, extending upward from 1,200 feet above the surface, is required and is contained in a separate proposal for the Arkansas transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on May 20, 1970.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 70-6738; Filed, June 1, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-WE-39]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Ontario, Oreg., transition area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The instrument approach, departure, and holding procedures utilizing the Ontario RBN have been reviewed in accordance with U.S. Standard for Terminal Instrument Procedures (TERPS). The proposed airspace is required to provide controlled airspace for prescribed instrument procedures.

In consideration of the foregoing, the Federal Aviation Administration proposed the following airspace action.

In § 71.181 (35 F.R. 2134) the description of the Ontario, Oreg., transition area is amended to read as follows:

ONTARIO, OREG.

That airspace extending upward from 700 feet above the surface within 4.5 miles west and 9.5 miles east of the 168° and 348° bearings from the Ontario, Oreg., RBN, extending from 18.5 miles south to 6 miles north of the RBN.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on May 19, 1970.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 70-6737; Filed, June 1, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SW-35]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Forrest City, Ark., and West Helena, Ark., terminal areas.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.181 (35 F.R. 2134), the Forrest City, Ark., transition area is amended to read:

FORREST CITY, ARK.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Forrest City Municipal Airport (lat. 34°56'42" N., long. 90°46'16" W.), and within 3.5 miles each side of the 180° bearing from the Forrest City RBN (lat. 34°56'28" N., long. 90°46'24" W.) extending from the 5.5-mile radius area to 11.5 miles south of the RBN.

(2) In § 71.181 (35 F.R. 2134), the West Helena, Ark., transition area is amended to read:

WEST HELENA, ARK.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Thompson-Robbins Airport (lat. 34°34'29" N., long. 90°40'48" W.), and within 3.5 miles each side of the 350° bearing from the Thompson-Robbins RBN (lat. 34°34'16" N., long. 90°40'33" W.) extending from the 5.5-mile radius area to 11.5 miles north of the RBN.

The application of current airspace criteria requires that the Forrest City, Ark., and West Helena, Ark., transition areas be modified as proposed to provide controlled airspace protection for aircraft executing approach/departure procedures at the Forrest City Municipal Airport at Forrest City and the Thompson-Robbins Airport at Helena-West Helena.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on May 20, 1970.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 70-6739; Filed, June 1, 1970; 8:47 a.m.]

Hazardous Materials Regulations Board

[49 CFR Parts 172, 173]

[Docket No. HM-49; Notice 70-10]

TRANSPORTATION OF HAZARDOUS MATERIALS

Dimethyl Ether in Cargo Tanks

The Hazardous Materials Regulations Board is considering amending the Department's Hazardous Materials Regulations to authorize the transportation of dimethyl ether, a flammable compressed gas, in specifications MC 330 and MC 331 cargo tanks.

This proposal is based on a petition submitted by the Bureau of Explosives at the request of the Compressed Gas Association and upon the satisfactory experience gained under the terms of special permits over the past several years. The Board is advised that many cargo tank shipments have been made under these special permit provisions during which time no reports of adverse experience have been received by the Department.

The petitioner has proposed a minimum design pressure of 265 psig for the cargo tanks. However, the Board believes that cargo tanks having a minimum design pressure of 200 psig are adequate for this service. This is based on the vapor pressures of dimethyl ether at 115°F. and 130°F. which are approximately 151 psia and 187 psia, respectively. Section 173.315 (c)(1) of the regulations states that the vapor pressure (psig) at 115°F. must not exceed the design pressure of the cargo tank.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 172 and 173 as follows:

I. Part 172 would be amended as follows:

In § 172.5 paragraph (a) the Commodity List would be amended as follows:

§ 172.5 List of explosives and other dangerous articles.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
Change				
Dimethyl ether	F.G	173.306, 173.304 173.314, 173.315.	Red Gas	300 pounds.
* * *	* * *	* * *	* * *	* * *

* * * * * * *

II. Part 173 would be amended as follows:

In § 173.315 paragraph (a)(1) Table would be amended, Note 16 would be added; paragraphs (h)(2) Table, and (i)(2) Table would be amended as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *
(1) * * *

Kind of gas	Maximum permitted filling density: Percent by weight (see Note 1)	Maximum permitted filling density: Percent by volume (see par. (f) of this section)	Specification container required: Type (see Note 2)	Specification container required: Minimum design pressure (p.s.i.g.)
Add				
Dimethyl ether (see Note 16)		89 See Note 7	MC 330, MC 331	200
* * *	* * *	* * *	* * *	* * *

* * * * * * *

NOTE 16: Specifications MC 330 and MC 331 cargo tanks must be equipped with emergency discharge controls that comply with § 178.337-11(c) of this chapter.

* * * * *

(h) * * *
(2) * * *

Kind of gas:	*Permitted gauging device*
Add	
Dimethyl ether	None.
* * *	* * *

* * * * *

(i) * * *
(2) * * *

Kind of gas:	*Minimum start-to-discharge pressure (p.s.i.g.)*
Add	
Dimethyl ether	200
* * *	* * *

* * * * *

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before July 30, 1970, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of Title 18, United States Code, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on May 26, 1970.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 70-6705; Filed, June 1, 1970; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 67]

[Docket No. 18866; FCC 70-536]

INTRASTATE AND INTERSTATE OPERATIONS OF TELEPHONE COMPANIES

Separating and Allocating Plant Investment, Operating Expenses, Taxes, and Reserves

1. Notice is hereby given of proposed rule making to consider changes in Part 67 of the Commission's rules relating to jurisdictional separations. Such rule

making shall be on a continuous basis in an open docket until further order of the Commission. The Commission will, from time to time, issue specific proposals for comment by interested parties.

2. As the Commission stated in its report and order of January 30, 1969, in Docket No. 17975 (FCC 69-65), we are well aware that because of the increasingly rapid changes in telephone technology and innovations in service offerings and rate structure, jurisdictional separations will require continuing review and possible revisions in the light of changed conditions in the industry. As we also noted, we intend to continue our cooperation with the NARUC, as in the past, in the conduct of joint studies and reviews of jurisdictional separations matters.

3. For purposes of this proceeding, there is hereby convened a Joint Board pursuant to the provisions of section 410 of the Communications Act of 1934, as amended. The Joint Board shall consist of the three members of the Commission's Telephone Committee as from time to time designated, and four State commissioners to be nominated by the National Association of Regulatory Utility Commissioners and approved by this Commission. The Chairman of this Commission shall be Chairman of the Joint Board so long as he is a member of the Telephone Committee. Should the Chairman of the Commission at any time not be a member of the Telephone Committee, the Commission by further order will designate the Chairman of the Joint Board. The Joint Board shall recommend for approval by the Commission such rules of procedure as may be necessary for the conduct of this proceeding.

4. The Joint Board shall convene, pursuant to call of the Chairman, to consider what change or changes should be proposed to be made in the provisions of Part 67 of the Commission's rules. The Board shall consult with the NARUC-FCC Staff Committee on Separations, and such other interested parties as it may choose to consult, and shall recommend to the Commission the change or changes which it believes should be made the subject of rule making proceedings, with a statement of the reasons for such changes.

5. The Commission will, upon consideration of such recommendations of the Joint Board, issue a further notice specifying the change or changes that are to be proposed in the rule making proceeding. The Commission may, if it should appear desirable, include in such notice of proposed rule making alternative proposals in addition to the recommendations of a majority of the Joint Board.

6. The Joint Board, upon consideration of the comments and submissions made in response to the notice, shall prepare a recommended decision on the issues involved in the proceeding, and shall refer same to the Commission for its consideration.

7. The Commission will afford the State commission members of the Joint Board an opportunity to participate in its deliberations when considering the recommended decision of the Joint Board and any further action that may be required in the proceeding. The State members of the Joint Board shall sit with the Commission en banc at any oral argument that may be scheduled in the proceeding.

8. The Joint Board shall be composed of the Commission's Telephone Committee and the following State Commissioners:

Honorable George I. Bloom, Chairman of the Pennsylvania Public Utilities Commission.

Honorable William R. Clark, Chairman of the Missouri Public Service Commission.

Honorable William Symons, Jr., President of the California Public Utilities Commission.

Honorable Ben T. Wiggins, Vice Chairman of the Georgia Public Service Commission.

It is so ordered.

Adopted: May 20, 1970.

Released: May 27, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-6752; Filed, June 1, 1970; 8:49 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 302]

FLAMMABLE FABRICS

Testing Certain Classes of Fabrics

Notice is hereby given all interested parties that the Federal Trade Commission proposes to amend paragraph (a) of § 302.5 (Rule 5) of the rules and regulations under the Flammable Fabrics Act (Part 302, Title 16, Chapter I, Subchapter C, Code of Federal Regulations).

Interested parties may participate by submitting in writing to the Federal Trade Commission, Washington, D.C. 20580, their views, arguments, or other data on or before the 20th day of July 1970. Written rebuttal may be submitted until August 10, 1970.

Such action is taken pursuant to the authority given to the Federal Trade Commission under section 5(c) of the Flammable Fabrics Act (67 Stat. 112, as amended, 15 U.S.C. section 1194) whereby "The Commission is authorized and directed to prescribe such rules and regulations, including provisions for maintenance of records relating to fabrics, related materials, and products, as may be necessary and proper for administration and enforcement of this Act."

The matter to be considered is a proposed amendment of paragraph (a) of § 302.5 (Rule 5) of Part 302, rules and regulations under the Flammable Fabrics Act, together with possible changes, revisions, or deletions, so as to provide the conditions under which certain fabrics and articles of wearing apparel which are affected by drycleaning or washing but which are not normally and customarily drycleaned or washed may be tested for flammability and marketed, and to provide for warning the trade and the consuming public of danger from flammability should such fabrics or articles of wearing apparel be drycleaned or washed.

Amended paragraph (a) of § 302.5 (Rule 5) would read:

§ 302.5 Testing certain classes of fabrics.

(a) (1) Any textile fabric sold for use in, or which may reasonably be expected to be used in, articles of wearing apparel or which is contained in an article of wearing apparel and which has been treated with a flame retardant or processed in such a manner that its flammability will be increased by dry cleaning or washing but which in its normal and customary use as wearing apparel would not be drycleaned or washed, need not, upon test made under the procedures outlined in Commercial Standard 191-53, be washed or drycleaned as prescribed by paragraphs 4.4 and 4.5 of such Commercial Standard if such fabric or article of wearing apparel when marketed or handled is labeled or stamped in a clear, legible, and conspicuous manner with a permanent label or stamp containing appropriate care and treatment instructions, including a warning that the fabric will be dangerously flammable if drycleaned or washed, as the case may be. Examples of the type of disclosures referred to are: "Caution: Dryclean Only—Dangerously Flammable If Washed" or "Caution: Wash Only—Dangerously Flammable If Drycleaned" or "Caution: Fabric Will Be Dangerously Flammable If Washed or Drycleaned".

(2) Labels affixed to articles of wearing apparel shall be of such a type as to remain on and affixed thereto and plainly legible and readable throughout the life of the article of wearing apparel.

(3) Fabrics subject to this paragraph shall be stamped on the selvage at least once every yard with a plainly legible and permanent legend containing the required statement as to flammability as specified in subparagraph (1) of this paragraph, and shall be accompanied by an invoice or other paper containing the same legend as to flammability as appears on the fabric, together with a statement that a permanent label containing such legend must be affixed to each garment made of the fabric for resale. An example of the type of disclosure which must appear on invoices, where appropriate, is: "Caution: Dry-Clean Only—Dangerously Flammable If Washed. Any garment made from this fabric for resale must bear a permanent label containing this statement."

(4) Fabrics subject to the above subparagraphs may not be used in the manufacture of garments for infants, toddlers, and children up to and including size 6X.

* * * * *

[1] Commissioner Johnson dissenting and issuing a statement which is filed as part of the original document.

Issued: May 28, 1970.

By the Commission.

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

[F.R. Doc. 70-6751; Filed, June 1, 1970; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

[Rev. 9]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business Farm Equipment Dealer for Purpose of Receiving Financial Assistance

Notice is hereby given that the Administrator of the Small Business Administration proposes to establish a new definition of a small business concern primarily engaged in the retail sale of new and/or used farm machinery and equipment and farm production supplies (Standard Industrial Classification (SIC) Industry No. 5252, Farm Equipment Dealers (Retail)), for the purpose of receiving financial assistance.

Currently a concern primarily engaged in SIC Industry No. 5252, Farm Equipment Dealers (Retail) is small business for the purpose of receiving financial assistance if, together with its affiliates, its annual sales for its preceding fiscal year do not exceed $1 million. The Small Business Administration (SBA) has been furnished with information that in recent years, farm equipment dealers have tended to enter into equipment leasing and other fields such as automotive and truck sales, and therefore that dealers annual sales have substantially increased. It has been suggested that, as a result of the aforesaid, the currently effective $1 million annual sales size standard is unrealistically low as a definition of a small business in this industry.

Based on all of the information now before it, the Administrator of the Small Business Administration proposes to increase the financial assistance size standard for Industry No. 5252, Farm Equipment Dealers (Retail) to annual sales not exceeding $3 million.

Specifically, it is proposed to add to Schedule D of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations the following industry size standard:

Industry or subindustry code	Industry, subindustry or class of products	Annual sales size standard (maximum) (in millions)
5252	Farm equipment dealers.	3.0

Interested persons may file with the Small Business Administration, within 15 days after publication of this proposal in the FEDERAL REGISTER, written statements of facts, opinions, or arguments concerning the proposal. All correspondence shall be addressed to:

Marshall J. Parker, Associate Administrator for Procurement and Management Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

Attention: Size Standards Staff

Dated: May 25, 1970.

HILARY SANDOVAL, Jr., *Administrator.*

[F.R. Doc. 70-6772; Filed, June 1, 1970; 8:50 a.m.]

Notices

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

MAY 25, 1970.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, 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 May 26, 1970, through June 4, 1970, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 70-6729; Filed, June 1, 1970; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Utah 8231, 8986, 8987]

UTAH

Notice of Classification

MAY 25, 1970.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412) and section 7 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315f), as amended, the lands described below are hereby classified as proper for selection by and transfer to the State of Utah.

The lands affected by this classification are located in Washington County, Utah.

SALT LAKE MERIDIAN

T. 42 S., R. 16 W.,
Sec. 34, W½SW¼, SE¼SW¼, SW¼SE¼.
T. 43 S., R. 16 W.,
Sec. 3, all;
Sec. 4, S½NE¼, SE¼;
Sec. 10, all;
Sec. 11, N½N½, S½NW¼, W½SW¼;
Sec. 12, lot 3, N½NW¼;
Sec. 13, S½SE¼;
Sec. 15, N½, N½SW¼, SW¼SW¼.

Containing 2,631.77 acres.

For a period of 30 days interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240 (43 CFR 2411.1-2(d)).

R. D. NIELSON, *State Director.*

[F.R. Doc. 70-6720; Filed June 1, 1970; 8:46 a.m.]

Office of the Secretary

WILLIAM ANGUS DAVIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 27, 1970.

Dated: April 27, 1970.

WILLIAM ANGUS DAVIS.

[F.R. Doc. 70-6721; Filed, June 1, 1970; 8:46 a.m.]

FRANK DRAKE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 30, 1970.

Dated: May 5, 1970.

FRANK S. DRAKE.

[F.R. Doc. 70-6722; Filed, June 1, 1970; 8:46 a.m.]

FRANKLIN STUART FEHR

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) November 20, 1969—Elected Director, York Haven Power Co., which is a subsidiary of Metropolitan Edison Co., which is a subsidiary of General Public Utilities Corp. (100%).
(2) See the following table:

Metropolitan Edison Co.—3.8%-	Preferred...	3 Shares.
First National Bank of Bernville.	Common...	4 Shares.
New York State Electric & Gas Corp.	....do....	9 Shares.[1]
General Public Utilities Corp.	....do....	98 Shares.
General Mills	....do....	5 Shares.
Halls Motor Transport	....do....	100 Shares.[2]
A.T. & T.	....do....	10 Shares.
North American Rockwell Corp.	....do....	35 Shares.
Philadelphia Electric Co.	....do....	55 Shares.
Tenneco	....do....	30 Shares.
Mutual Fund for Investing in U.S. Government Securities, Inc.		105.422 Shares.

[1] Purchased additional 75 shares 1-28-70.
[2] Purchased additional share since last report.

(3) No change.
(4) No change.

This statement is made as of April 30, 1970.

Dated: April 30, 1970.

F. STUART FEHR.

[F.R. Doc. 70-6723; Filed, June 1, 1970; 8:46 a.m.]

EDWARD C. GLASS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 24, 1970.

Dated: April 24, 1970.

E. C. GLASS.

[F.R. Doc. 70-6724; Filed, June 1, 1970; 8:46 a.m.]

DONALD B. GREGG

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.

(3) No change.
(4) No change.

This statement is made as of April 14, 1970.

Dated: May 9, 1970.

DONALD B. GREGG.

[F.R. Doc. 70-6725; Filed, June 1, 1970; 8:46 a.m.]

EVAN W. JAMES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months.

(1) No change.
(2) NeKoosa-Edwards stock exchanged for that of Great Northern-NeKoosa.
(3) No change.
(4) No change.

This statement is made as of May 4, 1970.

Dated: May 4, 1970.

EVAN W. JAMES.

[F.R. Doc. 70-6726; Filed, June 1, 1970; 8:46 a.m.]

JACK P. LEWIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Add: Wachovia Real Estate Investment; Citizens and Southern National Bank.
(3) No change.
(4) No change.

This statement is made as of April 27, 1970.

Dated: April 27, 1970.

JACK P. LEWIS.

[F.R. Doc. 70-6727; Filed, June 1, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B2543) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing that § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended to provide for the safe use of acrylamide-diallyldimethyl-ammonium chloride-glyoxal terpolymer as a wet-strength and dry-strength agent in the manufacture of paper and paperboard intended for food-contact use.

Dated: May 25, 1970.

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

[F.R. Doc. 70-6713; Filed, June 1, 1970; 8:45 a.m.]

CHEVRON CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 0F0975) has been filed by Chevron Chemical Co., 940 Hensley Street, Richmond, Calif. 94804, proposing the establishment of tolerances (21 CFR Part 120) for residues of the insecticide naled (1,2-dibromo-2,2-dicholoroethyl dimethyl phosphate) and its conversion product 2,2-dichlorovinyl dimethyl phosphate, expressed as naled, in or on the raw agricultural commodities: Alfalfa, celery, collards, and kale at 3 parts per million; and beans, bean forage, cottonseed, grass (pasture and range), grapes, peaches, soybeans, soybean forage, sugar beets (roots and tops), sugarcane, and walnuts at 0.5 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic procedure with thermionic detection.

Dated: May 25, 1970.

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

[F.R. Doc. 70-6715; Filed, June 1, 1970; 8:46 a.m.]

PENNWALT CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0R2534) has been filed by Pennwalt Corp., 900 First Avenue, King of Prussia, Pa. 19406 proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of iron oxide, carbon black (channel process), and phthalocyanine blue (C.I. pigment blue 15, C.I. No. 74160) as colorants in polyvinylidene fluoride resins.

Dated: May 20, 1970.

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

[F.R. Doc. 70-6716; Filed, June 1, 1970; 8:46 a.m.]

UNION CARBIDE CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B2544) has been filed by Union Carbide Corp., Post Office Box 65, Tarrytown, N.Y. 10591, proposing that § 121.2520 *Adhesives* (21 CFR 121.2520) be amended in subparagraph (c)(5) to delete the present higher molecular weight limitation for polypropylene glycol (molecular weight 150–3,000).

Dated: May 25, 1970.

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

[F.R. Doc. 70-6717; Filed, June 1, 1970; 8:46 a.m.]

UPJOHN CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 0F0973) has been filed by The Upjohn Co., Kalamazoo, Mich. 49001, proposing that § 120.200 *2,6-Dichloro-4-nitroaniline; tolerances for residues* (21 CFR 120.200) be amended by changing the existing tolerance of 20 parts per million for residues of the fungicide in or on nectarines to allow for postharvest application in addition to preharvest application.

The analytical method proposed in the petition for determining residues of the fungicide is a microcoulometric gas chromatographic technique.

Dated: May 20, 1970.

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

[F.R. Doc. 70-6718; Filed, June 1, 1970; 8:46 a.m.]

CARBOFURAN

Notice of Establishment of Temporary Tolerance for Pesticide Chemicals

At the request of the FMC Corp., Middleport, N.Y. 14105, a temporary tolerance of 0.1 part per million is established for residues of the insecticide carbofuran and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl *N*-methylcarbamate in or on the raw agricultural commodity potatoes. The Commissioner of Food and Drugs has determined that this temporary tolerance is safe and will protect the public health.

A condition under which this temporary tolerance is established is that the insecticide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the name of the Niagara Chemical Division, FMC Corp.

This temporary tolerance expires May 25, 1971.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 25, 1970.

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

[F.R. Doc. 70-6714; Filed, June 1, 1970; 8:45 a.m.]

Office of Education

NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES

Notice of Acceptance of Applications for Filing

Notice is hereby given that the following described applications for Federal financial assistance in the construction of noncommercial educational broadcasting facilities are accepted for filing under the provisions of title III, part IV of the Communications Act of 1934, as amended (47 U.S.C. 390-399), and in accordance with 45 CFR 60.8.

Any interested person may, pursuant to 45 CFR 60.10, within 30 calendar days from the date of this publication, file comments regarding these applications with the Director, Educational Broadcasting Facilities Program, U.S. Office of Education, Washington, D.C. 20202.

EDUCATIONAL RADIO

San Diego State College, 5402 College Avenue, San Diego, Calif. 92115, File No. 44-R to expand the facilities of noncommercial educational radio station KEBS-FM, on Channel 208, San Diego, Calif., accepted as of April 1, 1970. Estimated project cost: $43,715. Grant requested: $32,775. Application signed by: Mr. Malcolm A. Love, President.

The Board of Regents, University of Wisconsin, 750 University Avenue, Madison, Wis. 53706, File No. 45-R, to improve the facilities of noncommercial radio station WHA-AM, Channel 970, Madison, Wis., accepted as of April 30, 1970. Estimated project cost: $294,007. Grant requested: $218,007. Application signed by: Mr. Robert W. Erickson, Director of Research Administration—Financial.

Approved:

JAMES E. ALLEN, Jr.,
U.S. Commissioner of Education.

[F.R. Doc. 70-6745; Filed, June 1, 1970; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY ET AL.

Designation

SECTION A. *Acting Assistant Secretary for Equal Opportunity.* The officials appointed to the following listed positions are hereby designated to serve as Acting Assistant Secretary for Equal Opportunity during the absence of the Assistant Secretary for Equal Opportunity, with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Equal Opportunity: *Provided*, That no official is authorized to serve as Acting Assistant Secretary for Equal Opportunity unless all other officials whose position titles precede his in this designation are not available to act by reason of absence or a vacancy in the position:

1. Deputy Assistant Secretary for Equal Opportunity.
2. Director, Office of Housing Opportunity.
3. Director, Office of Assisted Programs.

SEC. B. *Acting Director, Office of Housing Opportunity.* The officials appointed to the following listed positions are hereby designated to serve as Acting Director, Office of Housing Opportunity, during the absence of the Director, Office of Housing Opportunity, with all the powers, functions, and duties redelegated or assigned to the Director, Office of Housing Opportunity: *Provided*, That no official is authorized to serve as Acting Director, Office of Housing Opportunity, unless all other officials whose position titles precede his in this designation are not available to act by reason of absence or a vacancy in the position:

1. Deputy Director, Office of Housing Opportunity.
2. Director, Special Projects Division.
3. Director, Conciliation Division.
4. Director, Investigation Division.

SEC. C. *Acting Director, Office of Assisted Programs.* J. Lawrence Duncan is hereby designated to serve as Acting Director, Office of Assisted Programs, during the absence of the Director, Office of Assisted Programs, with all the powers, functions, and duties redelegated or assigned to the Director, Office of Assisted Programs.

(Delegation of authority published at 34 F.R. 946, Jan. 22, 1969)

Effective date. This document is effective as of April 20, 1970.

SAMUEL J. SIMMONS,
Assistant Secretary for Equal Opportunity.

[F.R. Doc. 70-6754; Filed, June 1, 1970; 8:49 a.m.]

CERTAIN HUD EMPLOYEES

Redelegation of Authority To Administer Oaths Under Title VIII (Fair Housing) of Civil Rights Act of 1968

Each of the following named employees under the Assistant Secretary for Equal Opportunity is hereby authorized to administer oaths under section 811(a) of the Civil Right Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a):

1. Robert J. Affeldt.
2. Walter E. Bailey.
3. James H. Carew.
4. Nancy A. Chisholm.
5. Eric Feirtag.
6. Kenneth F. Holbert.
7. Rosalind A. Knapp.
8. Edward P. Lovett.
9. Katrina D. Ross.
10. Laura L. Spencer.

(Delegation of authority published at 35 F.R. 6877, Apr. 30, 1970)

Effective date. This redelegation of authority shall be effective upon publication in the FEDERAL REGISTER.

SAMUEL J. SIMMONS,
Assistant Secretary for Equal Opportunity.

[F.R. Doc. 70-6755; Filed, June 1, 1970; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20826]

ALASKA SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that the above-entitled proceeding is hereby assigned for hearing at the following places before Associate Chief Examiner Ralph L. Wiser:

Day an time	City	Address
9 a.m., June 15, 1970.	Ketchikan, Alaska	Council Chambers, City Hall.
9 a.m., June 17 1970.	Juneau, Alaska.	U.S. District Courtroom, Federal Bldg.
9 a.m., June 19, 1970.	Fairbanks, Alaska.	U.S. District Courtroom, Room 310, U.S. Post Office and Courthouse.
9 a.m., June 22, 1970.	Nome, Alaska.	U.S. District Courtroom, Federal Bldg.
9 a.m., June 24, 1970.	Anchorage, Alaska.	Loussac Library, 427 F St.
9 a.m., June 26, 1970.	Kodiak, Alaska.	KEA Auditorium.
10 a.m., July 7, 1970 (local time).	Washington, D.C.	Room 726, Universal Bldg., Connecticut and Florida Aves., NW.

This is an investigation instituted by the Board for the purpose of a comprehensive review of major route patterns serving Alaska. It embraces (1) a review of 61 pairs of points to determine whether additional service should be authorized on a nonsubsidized basis and whether existing authorizations to serve these markets should be suspended, terminated, or otherwise modified; (2) determination as to whether the authorizations of Alaska Airlines, Inc., Wien Consolidated Airlines, Inc., and Western Air Lines, Inc., to serve six points (Cordova, Gustavus, King Salmon, McGrath, Unalakleet, and Yakutat) should be suspended, terminated, or otherwise modified; (3) alteration, amendment, or modification of Alaska Airlines' certificate for Routes 124 and 138 and Wien Consolidated Airlines' certificate for Route 126 to (a) effect a realignment of the segments, (b) eliminate or modify irregular route authority and authority to provide service under the 25-mile rule; (c) award certificate authority to serve points actually served during 1968 under the foregoing authorities, (d) award certificate authority to serve points presently served pursuant to a

temporary exemption, and (e) delete or suspend authority to serve points not served by the certificate holder with its own equipment; and (4) continued suspension or other disposition of the certificate of public convenience and necessity issued to Howard J. Mays. Applications for certificate of public convenience and necessity or amendments thereto which involve air transportation within the scope of the proceeding by Alaska Airlines, Inc., Kodiak Airways, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., and Wien Consolidated Airlines, Inc., have been consolidated.

For further details with respect to the issues involved in this proceeding, interested persons are referred to the orders and notices entered by the Board and the Examiner, the documents filed by the parties, and the Examiner's prehearing conference report served September 17, 1969, and supplemental prehearing conference report served October 3, 1969, all of which are on file with the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 22, 1970.

[SEAL] RALPH L. WISER,
Associate Chief Examiner.

[F.R. Doc. 70-6756; Filed, June 1, 1970; 8:49 p.m.]

[Docket No. 18388]

FLYING TIGER LINE, INC., ADDITIONAL POINTS CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be heard by the Board on June 17, 1970, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., May 26, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-6757; Filed, June 1, 1970; 8:49 a.m.]

[Docket No. 22104; Order 70-5-125]

UNITED AIR LINES, INC.

Order Providing for Further Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of May 1970.

On April 23, 1970, United Air Lines, Inc. (United), filed an application pursuant to Subpart N of Part 302 of the Board's procedural regulations, for amendment of its certificate of public convenience and necessity for route 1 to modify condition 13 so as to enable it to provide turnaround service in the Chicago-Dayton market.[1]

Trans World Airlines, Inc. (TWA), filed a petition to dismiss United's application pursuant to Rule 1405(b).

In addition, the city of Columbus, Ohio, and the Columbus Area Chamber of Commerce objected to United's application being set for hearing unless United's application for unrestricted Columbus-Chicago authority, Docket 22105, is consolidated in the instant proceeding. United filed an answer stating that it does not object to the Columbus parties' request for consolidation so long as such consolidation does not delay the expedited processing of United's application.

The city of Dayton and the Dayton Area Chamber of Commerce filed an answer stating that they have no objection to the setting of United's application for hearing.

Upon consideration of the foregoing, we do not find that United's application is not in compliance with, nor is inappropriate for processing under the provisions of Subpart N.[2] Accordingly, we order further proceedings pursuant to the provisions of Subpart N, §§ 302.1406–302.1410, with respect to United's application.[3]

Accordingly, it is ordered, That:

1. The application of United Air Lines, Docket 22104, be and it hereby is set for further proceedings pursuant to Rules 1406–1410 of the Board's procedural regulations; and

2. This order shall be served upon all parties served by United Air Lines, Inc., in its application.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-6758; Filed, June 1, 1970; 8:49 a.m.]

COUNCIL ON ENVIRONMENTAL QUALITY

NATIONAL OIL AND HAZARDOUS MATERIALS POLLUTION CONTINGENCY PLAN

This National Contingency Plan (June 1970), prepared at the direction of the 91st Congress and Public Law 91-224, provides a mechanism for coordinating the response to a spill of oil or other hazardous material. (This Plan supersedes the National Multiagency Oil and Hazardous Materials Contingency Plan—September 1968.)

TABLE OF CONTENTS

LIST OF ANNEXES

NOTE: Annexes Nos. I–IX, XI, and XV were filed with the Office of the Federal Register as part of the original document.

100 INTRODUCTION

101 BACKGROUND

101.1 This plan was developed pursuant to the provisions of the Water Quality Improvement Act of 1970 (Public Law 91-224). Paragraph 2 of subsection C authorizes the President, within 60 days after the section becomes effective, to prepare and publish such a plan. The plan provides for efficient, coordinated and effective action, to minimize damage from oil (and other) discharges, including containment, dispersal, and removal. The plan includes (a) assignment of

[1] United is requesting the removal of a long-haul restriction requiring all flights serving Chicago and Dayton to serve Washington, D.C.

[2] Rule 1404 of the Board's rules of practice requires that an applicant must have "an average" of 20-percent or better participation in a given market during the latest four calendar quarters for which data is available. Contrary to TWA's allegation, the rule does not require the applicant to achieve a 20-percent or better average participation in each quarter.

[3] Pursuant to Rule 1411, we will rule on the motion of the Columbus parties for consolidation in our subsequent order determining whether United's application should be set for hearing.

duties and responsibilities, (b) identification, procurement, maintenance, and storage of equipment and supplies, (c) establishment of a strike force and emergency task forces, (d) a system of surveillance and notice, (e) establishment of a national center to coordinate identifying, containing, dispersing, and removing oil, and (g) a schedule identifying dispersants and other chemicals that may be used in carrying out the plan, the waters in which they may be used, and quantities which may be safely used. The plan will be revised from time to time.

101.2 Operation of the National Contingency Plan requires a nationwide net of regional contingency plans; this plan establishes guidelines for that nationwide net.

102 PURPOSE AND OBJECTIVES

102.1 This plan (including the annexes) provides for a pattern of coordinated and integrated responses to pollution spills by Departments and agencies of the Federal Government. It establishes a national response team and provides guidelines for the establishment of regional contingency plans and response teams. This plan also promotes the coordination and direction of Federal, State, and local response systems and encourages the development of local government and private capabilities to handle such pollution spills.

102.2 The objectives of this plan are: To develop appropriate preventive and preparedness measures and effective systems for discovering and reporting the existence of a pollution spill; to institute, promptly, measures to restrict the further spread of the pollutant; to assure that the public health, welfare, and natural resources are provided adequate protection; to apply techniques to cleanup and dispose of the collected pollutants; to provide for a scientific response to spills as appropriate; to provide strike forces of trained personnel and adequate equipment to respond to polluting spills; and to institute actions to recover cleanup costs and to effect enforcement of existing Federal statutes and regulations issued thereunder. Detailed guidance toward the accomplishment of these objectives is contained in the basic plan, the annexes and the regional plans.

103 SCOPE

103.1 This plan will be effective for all U.S. navigable waters including inland rivers, Great Lakes, coastal territorial waters, and the contiguous zone and high seas beyond this zone where there exists a threat to U.S. waters, shoreface, or shelf-bottom.

103.2 The provisions of this National Oil and Hazardous Materials Pollution Contingency Plan are applicable to all Federal agencies. Implementation of this plan is compatible and complementary to currently effective assistance plans, agreements, security regulations, and responsibilities based upon Federal statutes and Executive orders.

104 ABBREVIATIONS

104.1 Department and agency title abbreviations:

DHEW—Department of Health, Education, and Welfare.
DOD—Department of Defense.
DOI—Department of the Interior.
DOT—Department of Transportation.
OEP—Office of Emergency Preparedness.
FWQA—Federal Water Quality Administration.
USCG—U.S. Coast Guard.
USPHS—U.S. Public Health Service.
COE—U.S. Army Corps of Engineers.
USN—U.S. Navy.
USGS—U.S. Geological Survey.

104.2 Operational title abbreviations:

NIC—National Interagency Committee for Control of Pollution by Oil and Hazardous Materials.
NRC—National Response Center.
NRT—National Response Team.
RRC—Regional Response Center.
RRT—Regional Response Team.
OSC—On-Scene Commander.

105 DEFINITIONS (WITHIN THE MEANING OF THIS PLAN)

105.1 "Discharge" includes but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

105.2 "Pollution incident" is a spill, including an imminent threat of spill, of oil or other hazardous substance of such magnitude or significance as to require immediate response to contain, cleanup, or dispose of the material to prevent a substantial threat to public health or welfare, which includes threats to fish, shellfish, wildlife, shorelines, and beaches.

105.3 "Major disaster" is any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe in any part of the United States which, in the determination of the President, is or threatens to become of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the effort and available resources of States and local governments in alleviating damage, hardship, or suffering.

105.4 "Oil": Oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

105.5 "Hazardous substance" is an element or compound, other than oil as defined in 105.4, which when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, presents an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

105.6 "Minor spill" is a discharge of oil of less than 100 gallons in internal waters, or less than 1,000 gallons in offshore waters, or a spill of small quantities of other substances. Discharges that: (1) Occur in or endanger critical water areas; (2) generate critical public concern; (3) become the focus of an enforcement action; or (4) pose a threat to public health or welfare, should be classified as moderate or major spills depending on their degree of impact.

105.7 "Moderate spill" is a discharge of oil of 100 gallons to 10,000 gallons in the internal waters or 1,000 gallons to 100,000 gallons in offshore waters, or a discharge of any material of any size that poses a threat to the public health or welfare.

105.8 "Major spill" is a discharge of oil of more than 10,000 gallons in internal waters or more than 100,000 gallons in offshore waters or a discharge of any size of such nature and quantity that human health or welfare are substantially threatened.

105.9 "Potential spill" is any accident or other circumstance which threatens to result in the discharge of oil or other hazardous substance. A potential spill shall be classified as to severity based on the guidelines above.

105.10 "Primary agencies": Those Departments or agencies which are designated to have primary responsibility to promote effective operation of this plan. These agencies are: DOI, DOT, OEP, DHEW, and DOD.

105.11 "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

105.12 "Remove or removal" is the removal of oil from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare.

200 FEDERAL POLICY AND RESPONSIBILITY

201 FEDERAL POLICY

201.1 The Congress has declared that it is the policy of the United States that there should be no discharges of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone. Further, the discharge in harmful quantities of oil into or upon the navigable waters of the United States, adjoining shorelines or into or upon the waters of the contiguous zone is prohibited except where permitted under Article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine.

201.2 A primary thrust of regional plans is to provide a Federal response capability at the regional level. OSC shall determine if the person responsible for the discharge of oil or other hazardous substances is taking adequate action to remove the pollutant or adequately mitigate its effects. When such person is taking adequate action, the principal thrust of Federal activities shall be to observe and monitor progress and to provide advice and counsel as may be necessary. In the event that the person responsible for a pollution incident does not act

promptly, does not take or propose to take proper and appropriate actions to contain, clean up and dispose of pollutants or the discharger is unknown, further Federal response actions shall be instituted.

201.3 The Federal agencies possessing facilities or other resources which may be useful in a Federal response situation will make such facilities or resources available for use in accordance with this plan as supplemented by the regional plans. Agencies making resources available shall make such assignment consistent with operational requirements, within the limits of existing statutory authority.

202 FEDERAL RESPONSIBILITY

202.1 Each of the primary Federal agencies has responsibilities established by statute, Executive order or Presidential directive, which may bear on the Federal response to a pollution incident. This plan intends to promote the expeditious and harmonious discharge of these responsibilities through the recognition of authority for action by those agencies having the most appropriate capability to act in each specific situation. Responsibilities and authorities of these several agencies relevant to the control of pollution incidents are detailed in the annex. In the development of the regional plans, provision shall be made to assure recognition of the statutory responsibilities of all involved agencies.

202.2 The Department of the Interior is responsible for administering, developing, and revising the National Oil and Hazardous Materials Contingency Plan and for developing and revising the plans in areas where the Coast Guard is not assigned the responsibility to furnish or provide for OSC's (sec. 306.2). In this activity DOI will give full consideration to the recommendations of NIC concerning the interpretation, revision and application of the plan. Through the resources of the Federal Water Quality Administration, DOI will provide technical expertise to NRT and the RRT's relative to water pollution control techniques. The assessment of damage to fish and wildlife resources will be made by the appropriate DOI agency.

202.3 The Department of Transportation through the U.S. Coast Guard, supplies expertise in the fields of navigation, port safety and security, and maritime law enforcement. Additionally, the Coast Guard maintains continuously manned facilities that are capable of command, control, and survillance for spills occurring on the navigable waters of the United States or the high seas. The Coast Guard is responsible for developing and revising those portions of the regional plans applicable to areas where the Coast Guard is assigned the responsibility to furnish or provide for OSC's (sec. 306.2). DOI will provide guidance to and coordinate with DOT regarding pollution control and the protection of natural resources in the preparation of such plans.

202.4 The Office of Emergency Preparedness will maintain an awareness of pollution incidents as they develop. The normal OEP procedures will be followed to evaluate any request for a major disaster declaration received from a Governor of a State. If the President declares a major disaster under Public Law 81–875 for the pollution incident, the Director, OEP, will provide coordination and direction of the Federal response in accordance with OEP policies and procedures.

202.5 The Department of Defense, consistent with its operational requirements, may provide assistance in critical pollution incidents and in the maintenance of navigation channels, salvage, and removal of navigation obstructions.

202.6 The Department of Health, Education, and Welfare is responsible for providing expert advice and assistance relative to those spills that constitute a threat to public health.

202.7 Any Federal agency may make resources available. Primary agencies, however, have the following additional responsibilities: For providing official representation to NIC, NRT, and RRT; for making information available as may be necessary; and, for keeping RRT informed, consistent with national security considerations, of changes in the availability of resources that would affect the operation of this plan.

203 NON-FEDERAL RESPONSIBILITY

203.1 State and local governments, industry groups, the academic community, and others are encouraged to commit resources for response to a spill. Their specific commitments are outlined by the regional plans. Of special relevance here is the organization of a standby scientific response capability.

300 PLANNING AND RESPONSE ELEMENTS

301 NATIONAL INTERAGENCY COMMITTEE

301.1 The National Interagency Committee for Control of Pollution by Oil and Hazardous Materials (NIC) is the principal instrumentality for plans and policies of the Federal preparedness and response to pollution incidents. The Committee is composed of representatives of the primary agencies. The representative of DOI will serve as Chairman of NIC and the representative of DOT will serve as Vice Chairman.

301.2 NIC will develop procedures to promote the coordinated response of all Federal, State, and local governments and private agencies to pollution spills, and will make recommendations to DOI concerning the interpretation, revision, and application of the National Plan. To facilitate the development of such procedures, NIC may request each agency to supply pertinent data and information on its response capability and operating procedures.

301.3 NIC will review regional contingency plans and make recommendations for improving the effectiveness of such plans. NIC will also coordinate and review reports from NRC and the RRC on the handling of major or unusual pollution incidents for the purpose of analyzing such incidents and recommending needed improvements in the contingency plans. Summary reports and other documents of an evaluative nature will be coordinated through NIC.

301.4 In considering the National posture for response to pollution incidents, the NIC will consider and make appropriate recommendations relating to the training of response team personnel, research, development, test and evaluation activities needed to support response capabilities, equipment, and material stockpiling and other matters as the need arises.

301.5 NIC will establish and maintain liaison with the U.S. National Committee for the Prevention of Pollution of the Seas by Oil to promote a consistent U.S. posture regarding oil pollution control.

302 NATIONAL RESPONSE CENTER

302.1 The National Response Center (NRC) is the Washington, D.C., headquarters site for activities relative to pollution incidents. NRC will be accommodated in quarters described in the annex, and will provide communications, information storage, necessary personnel, and facilities to promote the smooth and adequate functioning of this activity.

303 NATIONAL RESPONSE TEAM

303.1 The National Response Team (NRT) consists of representatives of the primary agencies and shall act as an emergency response team to be activated in the event of a pollution incident involving oil or other hazardous material which: (a) Exceeds the response capability of the region in which it occurs; (b) transects regional boundaries; or, (c) involves national security or presents a major hazard to substantial numbers of persons or nationally significant amounts of property. A representative of DOI shall be the Chairman and a representative of DOT shall be Executive Secretary of NRT. The Executive Secretary shall maintain records of the NRT activities along with national and regional plans for pollution emergency responses. When NRT is activated because of a water pollution emergency situation, the Chairman of NRT will assume the role of principal coordinator of NRT activities.

303.2 A continual surveillance of incoming reports from the RRC's will be maintained in NRC. Whenever reports which require or appear to require a national response are received, the members of NRT will be advised of the receipt of such reports and NRT may be activated on the request of any member.

303.3 During pollution incident operations, NRC will act as the focal point for national public information releases and for information transfer between the OSC and the Washington, D.C., headquarters of the agencies concerned, thereby promoting rapid and accurate information transfer and minimizing the radiation of spurious and incomplete information about any given situation. Public information activities are considered in the annex.

303.4 During a pollution incident, NRT will evaluate reports coming from the OSC, requesting additional information as may be indicated. NRT will coordinate the actions of other regions or

districts in supplying needed assistance to the OSC. NRT may recommend courses of action through RRT for consideration by the OSC but has no operational control of the OSC. On the basis of reports and information about a pollution incident, NRT may request other Federal, State, local governments, or private agencies to consider taking action under whatever authorities they may have to accomplish needed deployment of personnel to monitor and observe the handling of any pollution incident. Copies of all reports and documents developed by NRT and RRT as a result of pollution incidents will be provided to NIC for its evaluation.

304 REGIONAL RESPONSE CENTER

304.1 The Regional Response Center (RRC) is the regional site for pollution control response activities. It will be accommodated in quarters described in each regional plan and will provide communications, information storage and other necessary personnel and facilities to promote the proper functioning and administration of the contingency plans.

305 REGIONAL RESPONSE TEAM

305.1 The Regional Response Team (RRT) consists of regional representatives of the primary agencies. RRT shall act as an emergency response team performing response functions within the region similar to those described for NRT. RRT will also perform review and advisory functions relative to the regional plan similar to those prescribed for NIC at the national level. Additionally, the RRT shall determine that a pollution incident exists, the duration and extent of the Federal response, and when a shift of on-scene coordination from the predesignated OSC to another agency is indicated by the circumstances or progress of a pollution incident.

305.2 For the purpose of the development of regional contingency plans, the standard regions developed for purposes of general Federal administration shall be used, except as may otherwise be agreed upon by the Departments of Interior and Transportation on a case-by-case basis for operational reasons. Any region may be divided into subregional or small areas of the plan, and shall as a minimum be divided into areas corresponding to the areas in which the Department of the Interior and Coast Guard are respectively responsible for furnishing or providing for the OSC's.

305.3 The agency membership on RRT is as established by the National Contingency Plan; however, individuals representing the primary agencies may vary depending on the subregional area in which the incident occurs. Details of such representation are specified in each regional contingency plan.

306 ON-SCENE COORDINATION

306.1 Coordination and direction of Federal pollution control efforts at the scene of a spill or potential spill shall be accomplished through an On-Scene Commander (OSC). The OSC is the single executive agent predesignated by regional plan to coordinate and direct such pollution control activities in each area of the region.

306.1–1 In the event of a spill of oil or other hazardous substance, the first Fedeal official on the site, from any of the primary agencies, shall assume coordination of activities under the Plan until the predesignated OSC becomes available to take charge of the operation.

306.1–2 The OSC shall determine pertinent facts about a particular spill, such as the nature, amount, and location of material spilled, probable direction and time of travel of the material, resources and installations which may be affected and the priorities for protecting them.

306.1–3 The OSC shall initiate and direct as required, Phase II, Phase III, and Phase IV operations as hereinafter described.

306.1–4 The OSC shall call upon and direct the deployment of needed resources in accordance with the regional plan to initiate and continue containment, countermeasures, cleanup, restoration, and disposal functions.

306.1–5 The OSC shall provide necessary suport activities and documentation for Phase V activities.

306.1–6 In carrying out this plan, the OSC will fully inform and coordinate closely with RRT to insure the maximum effectiveness of the Federal effort in protecting the natural resources and environment from pollution damage.

306.1–7 It is recognized that in some cases the OSC, particularly where he is a Coast Guard Officer, may have other functions such as search and rescue, or port safety and security which must be performed along with pollution control functions.

306.2 The U.S. Coast Guard is assigned the responsibility to furnish or provide for OSC's for the high seas, coastal and contiguous zone waters, coastal and Great Lakes ports and harbors (and such other places as may be agreed upon between the Departments of the Interior and Transportation). The Department of the Interior will furnish or provide for OSC's in other areas. A major consideration in the selection of an OSC for a particular area will be that agency's capability and resources for on-scene coordination of pollution control activities. Each OSC and his area of responsibility will be detailed in the regional plans.

400 FEDERAL RESPONSE OPERATIONS—RESPONSE PHASES

400.1 The actions taken to respond to a spill or pollution incident can be separated into five relatively distinct classes or phases. For descriptive purposes, these are: Phase I. Discovery and Notification; Phase II. Containment and Countermeasures; Phase III. Cleanup and Disposal; Phase IV. Restoration; and Phase V. Recovery of Damages and Enforcement. It must be recognized that elements of any one phase may take place concurrently with one or more other phases.

401 PHASE I—DISCOVERY AND NOTIFICATION

401.1 Discovery of a spill may be through deliberate discovery procedures, such as vessel patrol, aircraft searches, or similar procedures, or through random discovery by incidental observations of government agencies, private agencies, or the general public. In the event of deliberate discovery, the spill would be reported directly to the RRC. Reports from random discovery may be initially through fishing or pleasure boats, police departments, telephone operators, port authorities, news media, etc. Regional plans should provide for such reports to be channeled into RRC as promptly as possible to facilitate prompt reaction.

401.2 The severity of the spill will determine the reporting procedure and the participating Federal agencies to be notified promptly of the spill. The severity of the spill is determined by the nature and quantity of materials spilled, the location of the spill and the resources adjacent to the spill area which may be affected by it. Regional plans should specify critical water use areas and detail alerting procedures and communication links.

402 PHASE II—CONTAINMENT AND COUNTERMEASURES

402.1 These are defensive actions to be initiated as soon as possible after discovery and notification of a spill or pollution incident. After the OSC determines that further Federal response actions are needed and depending on the circumstances of each particular case, various actions may be taken. These may include source control procedures, public health protection activities, salvage operations, placement of physical barriers to halt or slow the spread of a pollutant, emplacement or activation of booms or barriers to protect specific installations or areas, control of the water discharge from upstream impoundments and the employment of chemicals and other materials to restrain the pollutant and its effects on water related resources. Surveillance activities will be conducted as needed to support Phase II and Phase III actions.

403 PHASE III—CLEANUP AND DISPOSAL

403.1 This includes those actions taken to remove the pollutant from the water and related on-shore areas such as the collection of oil through the use of sorbers, skimmers, or other collection devices, the removal of beach sand, and safe, nonpolluting disposal of the pollutants which are recovered in the cleanup process.

404 PHASE IV—RESTORATION

404.1 This includes those actions taken to restore the environment to its prespill condition, such as replacement of contaminated beach sand.

405 PHASE V—RECOVERY OF DAMAGES AND ENFORCEMENT

405.1 This includes a variety of activities, depending on the location of and circumstances surrounding a particular

spill. Recovery of damages done to Federal property and to State or local government property is included; however, third party damage is not considered in this phase. Recovery of the costs of cleanup is a part of this phase. Enforcement activities under appropriate authority such as the Federal Water Pollution Control Act, as amended, the Refuse Act of 1899, and State and local statutes and ordinances are also included. The collection of scientific and technical information of value to the scientific community as a basis for research and development activities and for the enhancement of our understanding of the environment may also be considered in this phase. It must be recognized that the collection of samples and necessary data must be performed at the proper times during the case for enforcement and other purposes.

406 PROCEDURES TO BE FOLLOWED FOR THE PURPOSE OF WATER POLLUTION CONTROL

406.1 The agency furnishing the OSC for a particular area is assigned responsibility to undertake and implement Phase I activities in that area. Other agencies should incorporate Phase I activities into their on-going programs whenever practicable. Upon receipt of information, either from deliberate or random discovery activities, that a spill has occurred, the OSC and the RRT for the affected area will be notified. Subsequent action and dissemination of information will be in accordance with the applicable regional plan.

406.2 The OSC is assigned responsibility for the initiation of Phase II actions and should take immediate steps to effect containment or other appropriate countermeasures.

406.3 The OSC is assigned responsibility for conduct of Phase III activities.

406.4 The OSC is assigned responsibility for the conduct of Phase IV activities utilizing techniques concurred in by the RRT.

406.5 Phase V activities shall be carried out by the individual agencies in accordance with existing statutes, with such assistance as is needed from other agencies.

406.6 In the conduct of continuing Phase II actions after the determination by RRT that a pollution incident exists, Phase III activities, and continuing Phase IV activities after the deactivation of the RRT, water pollution control techniques, to the extent not provided for in the applicable regional plan, must receive the concurrence of the DOI representative on the RRT with respect to the use of chemicals (see Annex X).

500 COORDINATING INSTRUCTIONS

501 DELEGATION OF AUTHORITY

501.1 Delegation of authority or concurrence in proposed or continuing water pollution control activities may be either verbal or written by the representative on RRT of the agency having concomitant statutory authority.

502 MULTIREGIONAL ACTIONS

502.1 In the event that a spill or a potential spill moves from the area covered by one contingency plan into another area, the authority to initiate pollution control actions shall shift as appropriate. In the event that a polluting spill or potential spill affects areas covered by two or more regional plans, the response mechanism called for by both plans shall be activated; however, pollution control actions shall be fully coordinated as detailed in the regional plans.

503 U.S. PUBLIC VESSELS AND FEDERALLY OPERATED FACILITIES

503.1 When a spill is caused by a U.S. public vessel or by a federally controlled facility, the responsible agency shall provide the OSC and take the initial response actions. Continuing water pollution control actions taken under Phase II, III, and IV must be concurred in by the RRT if activated or if the RRT is not activated, concurrence will be obtained from the representative on RRT of the agency having concomitant statutory authority.

504 NUCLEAR POLLUTION

504.1 In the event of a nuclear pollution incident the procedures of the Interagency Radiological Assistance Plan shall apply.

505 NOTIFICATION

505.1 All reports of spills or potential spills should be forwarded to the predesignated On-Scene Commander immediately. The detailed instructions for further alerting and notification and reporting procedures are contained in regional plans.

506 GENERAL PATTERN OF RESPONSE ACTIONS

506.1 When the On-Scene Commander receives a report of a spill, or potential spill, the report should be evaluated. In most situations, the sequence of actions shown below should be followed.

506.1–1 Investigate the report to determine pertinent information such as type and quantity of material, source of spill, and the threat posed to public health or welfare.

506.1–2 Designate the severity of the situation and determine the future course of action to be followed.

506.1–3 Effect notification in accordance with regional plan.

506.2 The result of the report probably can be categorized by one of five classes. Appropriate action to be taken in each specific type case is outlined below:

506.2–1 If the investigation shows that the initial information overstated the magnitude or danger of the spill and there is no water pollution involved, it should be considered a false alarm and the case should be closed.

506.2–2 If the investigation shows a minor spill with the discharger taking appropriate cleanup action, contact is made with the discharger, the situation is monitored and information is gathered for possible enforcement action.

506.2–3 If the investigation shows a minor spill with improper action being taken the following measures should be taken:

a. Attempt should be made to prevent further discharges from the source.

b. The discharger should be advised of the proper action to be taken.

c. If after providing advice to the discharger and this advice is not followed, the discharger should be warned of legal responsibility for cleanup and violations of law.

d. Information should be collected for possible enforcement action.

e. The On-Scene Commander should notify appropriate State and local officials. He should keep the Regional Response Center advised and initiate Phase II and III activities as conditions warrant.

506.2–4 When the initial report or investigation indicates that a moderate spill has occurred or that a potential moderate spill situation exists, the On-Scene Commander should follow the same general procedures as for a minor spill. Additionally, the On-Scene Commander should make a recommendation on declaration of a pollution incident.

506.2–5 When the initial report indicates that a major spill has occurred or that a potential major spill situation exists, the On-Scene Commander should follow the same procedures as for minor and moderate spills. RRC should, however, be notified immediately of the situation even if the initial report has not been confirmed.

507 STRIKE FORCE

507.1 A nucleus national level strike force, consisting of personnel trained, prepared and available to provide the necessary services to carry out this plan has been established by the Coast Guard. This force, presently located on the east coast, is being augmented and will soon be sited at various locations throughout the country. The national level strike force will be made available if requested to assist in response during pollution incidents and may be made available to assist during other spill situations. The national level strike force may be requested through the appropriate Coast Guard District Commander, or the Commandant, U.S. Coast Guard. The strike force will direct the operation of any government-owned specialized pollution cleanup equipment and will function under the OSC.

507.2 Regional plans shall provide the designation of local strike force teams consisting of personnel from operating units within the region. They shall be trained, prepared, and available to provide necessary services to help carry out the plan. Regional plans shall specify the location of the local strike force teams. The services of the local strike force

teams will be obtained through the appropriate Coast Guard District Commander. These teams are to be capable of merging with other strike forces within the region, or of being sent outside their own region. They are to be capable of supplementing the national level strike force. The local strike force teams should be capable of full independent response to all minor spill situations and joint coordinative response to moderate or major spill situations or pollution incidents.

507.3 There shall be established at major ports (designated from time to time by the President) emergency task forces of trained personnel, adequate oil pollution control equipment and material, and a detailed oil pollution prevention and removal plan. These emergency task forces will be complementary to the national and local level strike forces. Although designed primarily for operation in the designated port area, they should be capable of operating at other locations when directed. Regional plans encompassing any such designated ports shall include a detailed port plan.

600 Federal Agencies

601 Amendment of the Plan

601.1 The plan shall be modified through procedures described in the plan.

602 Amendment of the Annexes

602.1 Annexes shall be developed or modified by the representatives to the National Interagency Committee for Control of Pollution by Oil and Hazardous Materials.

603 Amendment of the Regional Plans

603.1 Regional plans may be modified by the Coast Guard or the Department of the Interior in their respective areas with the concurrence of the agencies affected by such changes.

Pursuant to the direction of the President, the above National Oil and Hazardous Materials Pollution Contingency Plan, prepared by the National Interagency Committee for Control of Pollution by Oil and Hazardous Materials (consisting of the Secretaries of the Departments of the Interior, Transportation, Defense, Health, Education, and Welfare, and the Director of the Office of Emergency Preparedness) is to be published in the Federal Register.

Russell E. Train,
Chairman, Council on Environmental Quality.

May 27, 1970.

Annex X

2000 Schedule of Dispersants and Other Chemicals to Treat Oil Spills

2001 *General.* 2001.1 This schedule shall apply to the navigable waters of the United States and adjoining shorelines, and the waters of the contiguous zone as defined in Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

2001.2 This schedule applies to the regulation of any chemical as hereinafter defined that is applied to an oil spill.

2001.3 This schedule advocates development and utilization of mechanical and other control methods that will result in removal of oil from the environment with subsequent proper disposal.

2001.4 Relationship of the Federal Water Quality Administration (FWQA) with other Federal agencies and State agencies in implementing this schedule: In those States with more stringent laws, regulations, or written policies for regulation of chemical use, such State laws, regulations, or written policies shall govern. This schedule will apply in those States that have not adopted such laws, regulations or written policies.

2002 *Definitions.* Substances applied to an oil spill are defined as follows:

2002.1 Collecting agents—includes chemicals or other agents that can gell, sorb, congeal, herd, entrap, fix, or make the oil mass more rigid or viscous in order to facilitate surface removal of oil.

2002.2 Sinking agents—are those chemical or other agents that can physically sink oil below the water surface.

2002.3 Dispersing agents—are those chemical agents or compounds which emulsify, disperse, or solubilize oil into the water column or act to further the surface spreading of oil slicks in order to facilitate dispersal of the oil into the water column.

2003 *Collecting agents.* Considered to be generally acceptable providing that these materials do not in themselves or in combination with the oil increase the pollution hazard.

2004 *Sinking agents.* Sinking agents may be used only in marine waters exceeding 100 meters in depth where currents are not predominantly on-shore, and only if other control methods are judged by FWQA to be inadequate or not feasible.

2005 *Authorities controlling use of dispersants*—2005.1 *Regional response team activated.* Dispersants may be used in any place, at any time, and in quantities designated by the On-Scene Commander, when their use will:

2005.1–1 In the judgement of the On-Scene Commander, prevent or substantially reduce hazard to human life or limb or substantial hazard of fire to property.

2005.1–2 In the judgement of FWQA, in consultation with appropriate State agencies, prevent or reduce substantial hazard to a major segment of the population(s) of vulnerable species of waterfowl.

2005.1–3 In the judgement of FWQA, in consultation with appropriate State agencies, result in the least overall environmental damage, or interference with designated uses.

2005.2 *Regional response team not activated.* Provisions of section 2005.1–1 shall apply. The use of dispersants in any other situation shall be subject to this schedule except in States where State laws, regulations, or written policies are in effect that govern the prohibition, use, quantity, or type of dispersant. In such States, the State laws, regulations, or written policies shall be followed during the cleanup operation.

2006 *Interim restrictions on use of dispersants for pollution control purposes.* Except as noted in 2005.1, dispersants shall not be used:

2006.1 On any distillate fuel oil.

2006.2 On any spill of oil less than 200 barrels in quantity.

2006.3 On any shoreline.

2006.4 In any waters less than 100 feet deep.

2006.5 In any waters containing major populations, or breeding or passage areas for species of fish or marine life which may be damaged or rendered commercially less marketable by exposure to dispersant or dispersed oil.

2006.6 In any waters where winds and/or currents are of such velocity and direction that dispersed oil mixtures would likely, in the judgement of FWQA, be carried to shore areas within 24 hours.

2006.7 In any waters where such use may affect surface water supplies.

2007 *Dispersant use.* Dispersants may be used in accordance with this schedule if other control methods are judged to be inadequate or infeasible, and if:

2007.1 Information has been provided to FWQA, in sufficient time prior to its use for review by FWQA, on its toxicity, effectiveness and oxygen demand determined by the standard procedures published by FWQA. [Prior to publication by FWQA of standard procedures, no dispersant shall be applied, except as noted in section 2005.1–1 in quantities exceeding 5 p.p.m. in the upper 3 feet of the water column during any 24-hour period. This amount is equivalent to 5 gallons per acre per 24 hours.]

2007.2 Applied during any 24-hour period in quantities not exceeding the 96-hour TL_{50} of the most sensitive species tested as calculated in the top foot of the water column. The maximum volume of chemical permitted, in gallons per acre per 24 hours, shall be calculated by multiplying the 96-hour TL_{50} value of the most sensitive species tested, in p.p.m., by 0.33; except that in no case, except as noted in section 2005.1–1, will the daily application rate of chemical exceed 540 gallons per acre or one-fifth of the total volume spilled, whichever quantity is smaller.

2007.3 Dispersant containers are labeled with the following information:

2007.3–1 Name, brand, or trademark, if any, under which the chemical is sold.

2007.3–2 Name and address of the manufacturer, importer, or vendor.

2007.3–3 Flash point.

2007.3–4 Freezing or pour point.

2007.3–5 Viscosity.

2007.3–6 Recommend application procedure(s), concentration(s), and conditions for use as regards water salinity, water temperature, and types and ages of oils.

2007.3–7 Date of production and shelf life.

2007.4 Information to be supplied to FWQA on the:

2007.4–1 Chemical name and percentage of each component.

2007.4–2 Concentrations of potentially hazardous trace materials, including, but not necessarily being limited to: Lead, chromium, zinc, arsenic, mercury, nickel, copper, and chlorinated hydrocarbons.

2007.4–3 Descriptions of analytical methods used in determining chemical characteristics outlined in 2007.4–1, 2 above.

2007.4–4 Methods for analyzing the chemical in fresh and salt water are provided to FWQA, or reasons why such analytical methods cannot be provided.

2007.4–5 For purposes of research and development, FWQA may authorize use of dispersants in specified amounts and locations under controlled conditions irrespective of the provisions of this schedule.

Annex XX

3000 Regional Contingency Plans

3001 General. 3001.1 Regional Contingency Plans have been developed for all U.S. coastal and inland navigable waters.

3001.2 These plans are available for review at the local District or Regional offices of the Coast Guard and FWQA respectively.

3002 Cross references. 3002.1 State Standard Administrative Regions, USCG District and FWQA Regions are as follows:

States	Coast Guard District (Coastal)	FWQA region (Inland)
Region I		
Maine	1st	Northeast.
New Hampshire	1st	Do.
Vermont		Do.
Massachusetts	1st	Do.
Connecticut	3d	Do.
Rhode Island	1st	Do.

States	Coast Guard District (Coastal)	FWQA region (Inland)
Region II:		
New York		Do.
(Coastal Area)	3d	Do.
(Great Lakes Area).	9th	Do.
New Jersey	3d	Do.
Region III:		
Pennsylvania		Middle Atlantic.
(East Coast)	3d	Do.
(Lakeside)	9th	Do.
Maryland	5th	Do.
Delaware	3d	Northeast.
West Virginia		Ohio Basin.
Virginia	5th	Middle Atlantic.
Puerto Rico	7th	Southeast.
Virgin Islands	7th	Do.
Region IV:		
Kentucky		Ohio Basin.
Tennessee		Do.
North Carolina	5th	Middle Atlantic.
South Carolina	7th	Do.
Georgia	7th	Do.
Florida		Southeast.
(Atlantic & Gulf Coasts).	7th	Do.
(Panhandle)	8th	Do.
Alabama	8th	Do.
Mississippi	8th	Do.
Canal Zone	7th	Do.
Region V:		
Minnesota	9th	Great Lakes.
Wisconsin	9th	Do.
Michigan	9th	Do.
Illinois	9th	Do.
Indiana	9th	Do.
Ohio	9th	Do.
Region VI:		
New Mexico		South Central.
Texas	8th	Do.
Oklahoma		Do.
Arkansas		Do.
Louisiana	8th	Do.
Region VII:		
Nebraska		Missouri Basin.
Iowa		Great Lakes.
Kansas		Missouri Basin.
Missouri		Do.
Region VIII:		
Montana		Missouri Basin.
Wyoming		Do.
Utah		Southwest.
Colorado		Missouri Basin.
Region IX:		
California		Southwest.
(Northern)	12th	Do.
(Southern)	11th	Do.
Nevada		Do.
Arizona		Do.
New Mexico		South Central.
Hawaiian Islands		Southwest.
Region X:		
Washington	13th	Northwest.
Oregon	13th	Do.
Idaho		Do.
Alaska	17th	Do.

3002.2 Please refer to Annex IV for addresses and telephone numbers as appropriate FWQA and CG offices.

[F.R. Doc. 70-6746; Filed, June 1, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18746 etc.; FCC 70R-190]

SANDERN OF IOWA, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Sandern of Iowa, Inc., Shenandoah, Iowa, Docket No. 18746, File No. BP-18554; Shenandoah Broadcasting Co., Shenandoah, Iowa, Docket No. 18747, File No. BP-18557; Buddy Tucker Evangelistic Association, Inc., Shenandoah, Iowa, Docket No. 18748, File No. BP-18578; C & H Broadcasting, Inc., Shenandoah, Iowa, Docket No. 18749, File No. BP-18579; For construction permits to operate the deleted KFNF facilities at Shenandoah, Iowa.

1. This standard broadcast proceeding involves the mutually exclusive applications of Sandern of Iowa, Inc. (Sandern), Shenandoah Broadcasting Co. (Shenandoah), Buddy Tucker Evangelistic Association, Inc. (Tucker), and C & H Broadcasting, Inc. (C & H),[1] to operate the deleted KFNF facilities at Shenandoah, Iowa, which ceased operation as of July 6, 1969. By memorandum opinion and order (FCC 69-1267, 20 FCC 2d 546), released November 25, 1969, the applications were designated for hearing on various issues, including limited financial issues against Sandern and Tucker, a legal qualifications issue against Tucker, an issue to determine whether Tucker would make time available for the presentation of other religious viewpoints, and a standard comparative issue. Presently before the Review Board are two petitions to enlarge issues: one, filed December 15, 1969, by Shenandoah, seeks inclusion of Suburban issues against the other applicants in this proceeding[2] and of a "trafficking" issue against Sandern, and clarification and enlargement of the legal qualifications issue outstanding against Tucker; the other, filed December 15, 1969, by Tucker, also seeks inclusion of a Suburban issue against Sandern.[3]

Suburban issues. 2. In support of its request for a Suburban issue against Tucker, Shenandoah alleges that only 11 persons in Shenandoah, and 12 others in the proposed primary coverage area, were surveyed by Tucker and that, although those surveyed were all community leaders, they were not a representative cross-section of community life. Petitioner also alleges that Tucker's survey questionnaire failed to ascertain community "needs and interests" and merely solicited the kind of programming a community leader felt would solve existing community "problems" and that leader's personal program preferences. Since Tucker's survey was not attuned to the ascertainment of community needs, Shenandoah asserts, the applicant's proposed programs are clearly not responsive to community needs. On this basis, the petitioner concludes that Tucker's Suburban showing does not meet the criteria set forth in Minshall Broadcasting Co., 11 FCC 2d 796, 12 RR 2d 502 (1968); Southern Minnesota Supply Co., 18 FCC 2d 824, 16 RR 2d 950 (1969); and Georgia Radio, Inc., 19 FCC 2d 779, 17 RR 2d 330 (1969). In its opposition to the Suburban request, Tucker argues that the cases cited by Shenandoah have been effectively displaced as precedent by the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 69-1402, 20 FCC 2d 880, released December 19, 1969, and, in any event, that the petitioner has failed to make even a prima facie case against Tucker. In this regard, Tucker contends that, in a community of 6,567 persons, a survey of 11 leaders representing a wide range of interests such as business, religious, governmental, educational, and social, does not represent an unreasonable effort; and that, considering the low density of population in the entire service area, 12 contacts in the service area outside of the principal community cannot be considered insufficient. According to Tucker, since community "problems" are generally synonymous with community "needs and interests" (citing the Commission's Primer), Shenandoah's argument that the applicant's proposed programs are unrelated to community "needs" is based upon a false premise. Finally, the applicant points to several proposed programs which assertedly will provide a forum for the discussion of community needs and interests.[4]

3. In support of its request for a Suburban issue against Sandern, Shenandoah asserts that only 12 community leaders were contacted by Sandern and that no interviews with members of the general listening public or with persons residing outside of Shenandoah were held. Referring to the Sandern application, the petitioner points out that it reflects that two meetings sponsored by the Shenandoah Chamber of Commerce were held; that, at both meetings, only community leaders were present; and that the only "needs" elicited at the meetings concerned civic promotions and personal programing preferences. In support of

[1] By Order, FCC 70M-504, released Apr. 2, 1970, the Chief Hearing Examiner, pursuant to a petition to dismiss, filed Mar. 18, 1970, by C & H, dismissed that party's application with prejudice.

[2] With the dismissal of the C & H application, noted in footnote 1, supra, Shenandoah's request for a Suburban issue against that applicant has been mooted.

[3] Also before the Board are the following related pleadings: (a) Broadcast Bureau's comments on the petitions, filed Jan. 8, 1970; (b) Sandern's opposition to the petitions, filed Jan. 9, 1970; (c) C & H's opposition to the Shenandoah request, filed Jan. 9, 1970; (d) Tucker's opposition to the Shenandoah request, filed Jan. 12, 1970; and (e) Shenandoah's reply to the Bureau's comments, filed Jan. 19, 1970. The Board notes that Shenandoah has not filed a reply to the other applicants' oppositions; that Tucker has not filed a reply either to the Bureau's comments or to Sandern's opposition; and that the time for filing such replies has passed.

[4] The Broadcast Bureau, in its comments on the petitions to enlarge, suggests that the Review Board dismiss the petitions relative to the Suburban issue request without prejudice to their refilling after the applicants have been given an opportunity to amend their proposals in light of the clarification of Suburban requirements contained in the Commission's Primer. In reply to the Bureau's suggestion, Shenandoah contends that the Bureau has misconstrued the Commission's Notice of Inquiry (FCC 69-1402) and that leave to amend program showings may only be granted after a deficiency has been shown to exist which was due to a lack of clarity in Commission policy. Since the applicants against whom Suburban issues are now requested have apparently decided to stand on their current program showings, we will reject the Bureau's suggestion and we will consider the adequacy of those showings under prevailing and known standards.

a similar request for a Suburban issue against Sandern, Tucker adds that, with a few exceptions, Sandern has not listed the suggestions of its interviewees, has not indicated their occupations (in order to determine their status as community leaders), and has not listed the residences of the interviewees in order to show their inclusion in the proposed service area). With the exception of a September 30, 1969, amendment where suggestions are listed, Tucker contends that only program preferences were elicited. Both Shenandoah and Tucker conclude that Sandern's efforts to ascertain community needs and interests have failed to meet existing Suburban requirements and that, as a result, an issue is required.[5]

4. In its opposition to both petitions, Sandern preliminarily argues that the absence of a Suburban issue against it in the designation Order imposes a heavy burden which neither petitioner has met. Pointing to the size of Shenandoah and its available broadcast facilities, Sandern contends that, as the recent Primer indicates, community survey methodology varies with the size of the community and the number of distinct groups or organizations located therein. In this regard, the applicant points to its consultations with representative community leaders (Chamber of Commerce president, Council of Churches president, chief of police, mayor, fire chief, employment service representative, business representatives of the agricultural segment of the community), its listing of 50 specific persons by name and suggestions received both as to community and programing needs and its evaluation of needs in terms of program proposals. Sandern also points to similarities in the applicants' program showings and to the major item of community concern developed by them, i.e., the desire of the community to keep the 920 kc/s station. Sandern recites several other community needs allegedly uncovered in its survey and defends its inclusion of programing-related needs in its application by reference to paragraph 3 of the Primer, where the Commission cautioned that needs apart from community problems should not be overlooked by broadcast applicants. Finally, Sandern contends that the petitioners have failed to articulate how Sandern's community survey is deficient under available precedent and that, absent a serious challenge to its program proposal, the proceeding should not be prolonged or complicated by the addition of a Suburban issue.

5. The Review Board is of the opinion that a Suburban issue must be added against both Tucker and Sandern. With regard to Tucker's program showing, we note that the applicant has been permitted to amend that portion of its application. See Order, FCC 70M-311, released March 4, 1970. The effect of the amendment is to incorporate a survey of the general listening public in Shenandoah and certain other communities into Tucker's Suburban showing; this survey has uncovered several community problems worthy of the applicant's attention. However, the amendment has not cured a basic deficiency in Tucker's survey technique, i.e., the failure to show consultations with leaders of groups and organizations which constitute a representative cross-section of the principal community to be served. Primer, 20 FCC 2d at 881. Of the 11 community leaders originally listed by Tucker in its application, two (the mayor and the fire chief of Shenandoah) were not interviewed because of their unavailability and two others (the chief of police and the president of the Kiwanis), during their interviews, failed to indicate any important area problems.[6] Interviews with seven leaders in a community of 6,567 can hardly be characterized as an adequate survey of a representative cross-section of community groups and organizations. See Martin Lake Broadcasting Company, 21 FCC 2d 180, 18 RR 2d 245 (1970); Click Broadcasting Company, 18 FCC 2d 797, 16 RR 2d 929 (1969). Moreover, it appears that the applicant's sampling did not include consultations with leaders representing agricultural, labor, minority, professional and social service groups; this failure assumes added significance because the applicant's recent survey of the listening public apparently uncovered community problems of concern to such groups. Click Broadcasting Company, 19 FCC 2d 497, 17 RR 2d 164 (1969). Since the applicant's survey methodology appears to have been deficient and since Tucker has not attempted in any meaningful sense to demonstrate that the leaders contacted were truly representative of the various elements of the community, we are unable to assess whether the applicant has developed programing responsive to outstanding community problems. Accordingly, a Suburban issue is warranted and will be specified.

6. With regard to Sandern, it is also clear that a more extensive and more meaningful showing of survey efforts is required. Sandern, in its application, initially lists 12 individuals who were interviewed in March 1969, and who are assertedly governmental, civic, and business leaders of Shenandoah. However, no more than seven or eight of these individuals can qualify as community leaders on the basis of the information provided in Sandern's survey showing. The applicant also refers to two separate meetings arranged by the local Chamber of Commerce at which many individuals, claimed to be community leaders, were present; however, these "leaders" are not identified by title with any group or community interest and one-half are not even identified as to residence.[7] With very few exceptions, Sandern has not listed the suggestions received from these "leaders", and apparently the only "needs" elicited from the applicant's survey efforts concern civic promotions and personal program preferences rather than community needs or problems. North American Broadcasting Company, Inc., 21 FCC 2d 631, 18 RR 2d 452 (1970). For example, Sandern asserts that ascertained needs and interests fall into two broad categories: (1) The community's desire to keep the KFNF facilities operations; and (2) the community's preference for farm-oriented programing. In a September 30, 1969, amendment to its application, Sandern makes a belated attempt to identify some ascertained community needs or problems culled from three area residents (two of whom had earlier been contacted by the applicant), but, as Tucker points out, the number of suggestions received is clearly insufficient. See Radio Antilles, Inc., FCC 69-619, 16 RR 2d 548 (1969). In effect then, a serious question is raised as to whether Sandern has approached a representative cross section of leaders and individuals in either its principal community to be served or in its outlying service area in order to ascertain the significant community needs or problems and to design its programing in response thereto. City of Camden, 18 FCC 2d 412, 16 RR 2d 555 (1969).

"TRAFFICKING" ISSUE

7. Shenandoah requests that the following issue against Sandern be included in this proceeding:

> To determine whether John Bozeman (Mack Sanders) is attempting to engage in trafficking of licenses through the use of a beneficial trust containing his 40 percent stock interest in Pier-San of Nebraska, Inc., licensee of Station KOOO, Omaha, Nebr.

In support of its requested issue, Shenandoah asserts that Bozeman is a 40 percent stockholder in the licensee of Station KOOO, Omaha, Nebr., and a 70 percent stockholder in the Sandern application; that there is a 1 mv/m contour overlap between Station KOOO and the proposed facility; and that, because of this overlap, Bozeman has placed his stock interest in Station KOOO in trust with himself as beneficiary. Shenandoah maintains that, if the Sandern application is denied, the trust will terminate and the stock in Station KOOO will revert to Bozeman; but that, if the Sandern application prevails, Bozeman will be a 70 percent stockholder in the Shenandoah facility and a 40 percent beneficial stockholder in Station KOOO. The petition submits that the beneficial nature of Bozeman's trust, in effect, permits him to engage in a sophisticated

[5] Tucker also points out that since occupations of interviewees are generally not listed in the Sandern application, there is no way of telling whether a representative cross-section of community leaders was contacted. It is Tucker's position that the alleged experience of Sandern's principal in the community is also insufficient unless coupled with an adequate survey, citing Andy Valley Broadcasting System, Inc., 12 FCC 2d 3, 12 RR 2d 691 (1968).

[6] The Commission's Primer indicates that if an applicant gets little information as to the existence of community problems, he should reexamine his efforts to determine whether the scope and depth of his consultations have been meaningful and adequate. See Part B, paragraph 20.

[7] See Click Broadcasting Company, supra, 19 FCC 2d at 503 n. 14, 17 RR 2d at 171, n. 14; 18 FCC 2d at 800, 16 RR 2d at 932.

type of "trafficking" at the expense of the public interest by circumventing § 73.35 of the Commission's rules, which prohibits the acquisition of substantial interests in overlapping AM facilities. Moreover, Shenandoah urges that such a precedent would encourage substantial stockholders in corporate licensees of smaller broadcast facilities to put their stock interests in similar trusts and to file "strike" applications against larger broadcast facilities in the same service area. Finally, Shenandoah argues that the fact that the Commission has required, in its designation order, that Bozeman divest himself of his Station KOOO stock if the Sandern application prevails is immaterial since Bozeman will have already made a risk-free profit from his speculation in broadcast licenses. On this basis, the petitioner concludes that the requested issue must be added to this proceeding.

8. In its comments opposing the request, the Broadcast Bureau notes that the Bozeman trust is an irrevocable one assigning all of Bozeman's stock in Station KOOO to a trustee; that the trust terminates only upon the sale of Station KOOO or the denial of the Sandern application; and that the Commission, in its designation order, found that the trust agreement effectively removes any control of Station KOOO from Bozeman, but still found it appropriate to provide that any grant to Sandern be conditioned upon Bozeman's divestiture of his beneficial interest in Station KOOO. The Bureau argues that Shenandoah has not explained how the trust arrangement constitutes "trafficking" or how Bozeman, by this arrangement, will have profited at the expense of the public interest. The Bureau submits that Bozeman is selling Station KOOO, which he has owned for 10 years, because of Commission rules and that the petitioner has not alleged that Bozeman acquired his interest in the station with the intent of selling it for a profit and has not shown any pattern of broadcast acquisitions and sales by Bozeman. In its opposition to the instant request, Sandern points out that there is no suggestion, much less a claim, of a strike application here and that, consequently, Shenandoah's argument that approval of this trust arrangement would set an unwelcome precedent is inapposite. Moreover, Sandern notes that it was the first applicant to file for the available frequency and that other applicants appeared much later after the Commission had announced acceptance of Sandern's application and had made provision for the filing of competing proposals. For these reasons, both the Bureau and Sandern urge that the request be denied.

9. The requested "trafficking" issue will be denied. The Board agrees with the Bureau that Shenandoah has not shown that Bozeman acquired an interest in and/or operated Station KOOO with the intent to sell or otherwise dispose of said interest for profit rather than to serve the public interest; nor is there any indication that Bozeman had any improper speculative intent with regard to the station as a result of his stock interest in the licensee of that station. See Harriman Broadcasting Company, 9 FCC 2d 731, 10 RR 2d 981 (1967). It has not even been alleged that Station KOOO was not operated in the public interest during the period of Bozeman's stock ownership in the licensee.[8] Shenandoah has alleged, but has failed to show how, the trust arrangement will permit Bozeman to derive a "risk-free profit from speculation in licenses." Where, as here, the circumstances have warranted, the Commission and the Board have permitted an applicant to continue prosecution of its proposal conditioned upon an agreement to dispose of an existing broadcast interest, which, if retained, would render the proposed operation contrary to the provisions of § 73.35 of the rules. Nebraska Rural Radio Association, FCC 65-368, 5 RR 2d 67 (1965); KWHK Broadcasting Co., Inc., 4 FCC 2d 365, 8 RR 2d 66 (1966). Shenandoah's further assertion that approval of the trust arrangement in this case will encourage the filing of "strike" applications is also lacking in merit. Petitioner has not requested a strike issue nor has it attempted to show how use of the trust arrangement would evidence an improper purpose or motive characteristic in the filing of strike applications, such as the intent to impede, obstruct or delay grant of another application. See Sumiton Broadcasting Co., Inc., 15 FCC 2d 400, 14 RR 2d 1000 (1968). Under these circumstances, the Board must conclude that petitioner has failed to supply sufficient factual allegations to justify the requested relief.

LEGAL QUALIFICATIONS ISSUE

10. Shenandoah also requests that designated Issue 2[9] in this proceeding be clarified and enlarged in the following manner:

> To determine whether the corporate power granted in the Articles of Incorporation of the Buddy Tucker Evangelistic Association, Inc., are sufficiently broad to permit it to engage in broadcasting, and, if not, whether the articles may be, or have properly been amended to permit such corporate activity.

Notwithstanding the revision of Tucker's articles of incorporation to authorize the corporate applicant "to construct, own and operate radio stations and receive revenue therefrom," Shenandoah submits that a substantial question exists as to whether the corporate applicant has, in fact, complied with the requirements of the law of the State of Iowa and/or the amendment provisions set forth in its own articles of incorporation, namely, Article XII, which permits such amendments if assented to by a majority of the Tucker stockholders at a regular or special meeting.[10] Asserting that compliance with the procedures established in Article XII has not been shown by Tucker, petitioner argues that the relief requested is appropriate.

11. In opposition, both Tucker and the Bureau contend that petitioner's request is not warranted, for the issue, as specified by the Commission, presumes the regularity of any amendment to the applicant's articles of incorporation. Tucker adds that it has tendered an amendment to its pending application which clearly indicates the procedure followed in amending its articles;[11] that the amendment includes the revision of its articles of incorporation and a waiver of notice of the special meeting at which the revision was adopted; and that, therefore, petitioner's request has been mooted. The Bureau and Tucker argue that designated Issue 2 should not be clarified and enlarged as requested.

12. Clarification and enlargement of designated Issue 2, as requested by the petitioner, will be denied. The Board agrees with Tucker and the Bureau that the issue as specified by the Commission presumes the regularity of any amendment to Tucker's articles of incorporation. Such an amendment to its articles has been filed by Tucker and has been accepted by the Examiner. Shenandoah vaguely asserts, but nowhere shows, that the amendment submitted by Tucker contravenes the law of the State of Iowa. Attached to the amendment accepted by the Examiner and relating to compliance with the procedural requirements of Article XII is a statement by the five Tucker stockholders that they waived notice of the special meeting at which the amendment to the articles of incorporation was adopted; also attached to the amendment accepted by the Examiner is a statement by Tucker's secretary to the effect that the revision was duly and regularly passed and adopted by a majority vote of said members of the corporation. In the absence, therefore, of some collateral challenge to the procedural regularity of the Tucker revision of its articles of incorporation in a local court of competent jurisdiction, the Board has no adequate basis for doubting the regularity of the revision.[12]

13. *Accordingly, it is ordered*, That the petition to enlarge issues, filed December 15, 1969, by Shenandoah Broadcasting Co., Is granted to the extent indicated below, and is denied in all other

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[8] See WHUT Broadcasting Co., Inc., 20 FCC 2d 1097, 18 RR 2d 1 (1969).

[9] Designated Issue 2 reads as follows:

2. To determine whether the corporate power granted in the Articles of Incorporation of the Buddy Tucker Evangelistic Association, Inc., are sufficiently broad to permit it to engage in broadcasting, and, if not, whether the articles may be amended to permit such corporate activity.

[10] Article XII states in pertinent part that: * * * notice of such special meeting shall be given by mailing to each member at his last known Post Office address at least ten (10) days prior to such meetings and notice signed by the Secretary setting forth the proposed amendment in substance.

[11] By Order, FCC 70M-51, released Jan. 13, 1970, the Hearing Examiner accepted the Tucker amendment.

[12] The Board recently noted "the Commission's extreme reluctance to interfere in questions of alleged violations of State law where no challenge has been made in the State courts and the determination is one more appropriately resolved by the State courts rather than the Commission." Home Service Broadcasting Corporation, 21 FCC 2d 168, 176, 18 RR 2d 63, 72 (1970).

respects; and the petition to enlarge issues, filed December 15, 1969, by Buddy Tucker Evangelistic Association, Inc., is granted; and

14. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issues:

To determine the efforts made by Buddy Tucker Evangelistic Association, Inc., to ascertain the community needs and interests of the area to be served and the means by which said applicant proposes to meet those needs and interests.

To determine the efforts made by Sandern of Iowa, Inc., to ascertain the community needs and interests of the area to be served and the means by which said applicant proposes to meet those needs and interests.

15. *It is further ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof under said issues will be on Buddy Tucker Evangelistic Association, Inc., and Sandern of Iowa, Inc., respectively.

Adopted: May 22, 1970.

Released: May 25, 1970.

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

[F.R. Doc. 70-6750; Filed, June 1, 1970; 8:48 a.m.]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Pursuant to the Commission's action of May 20, 1970, the following application has been accepted for filing and will be given expeditious consideration. Accordingly, notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on July 7, 1970, this application will be considered as ready and available for processing:

KFQD, Anchorage, Alaska.
KFQD, Inc.
Has: 750 kc., 10 kw., U.
Req: 750 kc., 10 kw., 50kw-LS, U.

Pursuant to §§ 1.227(b)(1) and 1.591 (b) of the Commission's rules, an application, in order to be considered with this application or with any other application on file by the close of business July 6, 1970, which involves a conflict necessitating a hearing must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by whichever date is earlier: (a) The close of business on July 6, 1970, or (b) the earlier "cutoff" date which this application may have by virtue of a conflict necessitating a hearing with an application appearng on a previous list.

The attention of any party in interest desiring to file pleadings concerning this application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements to such pleadings.

Adopted: May 22, 1970.

Released: May 25, 1970.

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

[F.R. Doc. 70-6749; Filed, June 1, 1970; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 5-A.1 (Rev. 1)]

DIRECTOR, OFFICE OF BUSINESS DEVELOPMENT, AND CHIEF, GOVERNMENT CONTRACTS DIVISION

Delegation of Authority

Delegation of authority No. 5-A.1 (34 F.R. 13892) is hereby revised to read as follows:

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Procurement and Management Assistance by Delegation of Authority No. 5-A (32 F.R. 18002), the following authority relating to the implementation of section 8(a) of the Small Business Act is hereby redelegated to the specific positions as indicated herein:

A. *Director, Office of Business Development.* 1. To enter into contracts on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, or materials to the Government and agreeing as to the terms and conditions of such contracts;

2. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer; and

3. To arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

B. *Chief, Government Contracts Division.* 1. To enter into contracts on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, or materials to the Government and agreeing as to the terms and conditions of such contracts;

2. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer; and

3. To arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

Effective date: May 22, 1970.

MARSHALL J. PARKER,
Associate Administrator for Procurement and Management Assistance.

[F.R. Doc. 70-6774; Filed, June 1, 1970; 8:50 a.m.]

[Delegation of Authority No. 5-B.1]

DIRECTOR, OFFICE OF BUSINESS DEVELOPMENT, AND CHIEF, GOVERNMENT CONTRACTS DIVISION

Delegation of Authority Regarding Financial Assistance

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Procurement and Management Assistance by Delegation of Authority No. 5-B, Revision 1 (34 F.R. 781), the following authority is hereby redelegated to the specific positions as indicated herein:

A. *Director, Office of Business Development.* To take all necessary actions in connection with the administration and management of grants, agreements, and contracts executed by the Associate Administrator for Procurement and Management Assistance under the authority granted in section 406 of the Economic Opportunity Amendment of 1967, except termination of the original grant, agreement, or contract. This includes without limitation the authority to issue amendments, changes, or modifications to such grants, agreements, and contracts.

B. *Chief, Government Contracts Division.* To take all necessary actions in connection with the administration and management of grants, agreements, and contracts executed by the Associate Administrator for Procurement and Management Assistance under the authority granted in section 406 of the Economic Opportunity Amendment of 1967, except termination of the original grant, agreement, or contract. This includes without limitation the authority to issue amendments, changes, or modifications to such grants, agreements, and contracts.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting in that position.

Effective date: May 22, 1970.

MARSHALL J. PARKER,
Associate Administrator for Procurement and Management Assistance.

[F.R. Doc. 70-6775; Filed, June 1, 1970; 8:50 a.m.]

[Delegation of Authority No. 30C; Lubbock, Tex., Disaster 1]

MANAGER, DISASTER BRANCH OFFICE, LUBBOCK, TEX.

Delegation of Authority Regarding Financial Assistance Functions

I. Pursuant to the authority delegated to the district director by Delegation of Authority No. 30-C, 35 F.R. 5440, the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Lubbock, Tex., Disaster Branch Office.* 1. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; to approve disaster guaranteed loans up to $350,000, and to decline disaster guaranteed loans in any amount.

2. To execute loan authorizations for Central, regional, and district approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator.
By ----------
Manager, Disaster Branch Office.

3. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: May 12, 1970.

F. S. NEUMANN,
District Director, Lubbock, Tex.

[F.R. Doc. 70-6776; Filed, June 1, 1970; 8:50 a.m.]

PHILLIPS INDUSTRIAL FINANCE CORP.

Notice of Application for License as Minority Enterprise Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations Governing Small Business Investment Companies (33 F.R. 326, 13 CFR Part 107) under the name of Phillips Industrial Finance Corp., 257 Adams Building, Bartlesville, Okla. 74003, for license to operate in the State of Oklahoma as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act), License No. 10/10-5155.

The proposed officers and directors are as follows:

Marvin L. Franklin.	President and director.	Phillips Apartment Hotel, Apartment 624, Bartlesville, Okla. 74003.
Leo H. Johnstone.	Vice president and director.	1830 Moonlight Dr., Bartlesville, Okla. 74003.
David S. Poe.....	Secretary, treasurer and director.	1609 Hillcrest Dr., Bartlesville, Okla. 74003.
George C. Meese.	Assistant secretary, assistant treasurer.	4406 Meadow Lane Pl., Bartlesville, Okla. 74003.
Henry D. Powell.	Controller....	3400 Harvey Road, Bartlesville, Okla. 74003.
Hayward C. Marsh.	Director.....	2412 Country Club Road, Bartlesville, Okla. 74003.
Warren A. Roberts.	Director.....	1208 Swan Dr., Bartlesville, Okla. 74003.

None of the above will be salaried, nor will any one of them own, directly or indirectly, any capital stock or other securities of the applicant. The company which will be a wholly owned subsidiary of Phillips Petroleum Co., proposes to commence operations with a capitalization of $150,000. As a MESBIC, the company's investment policy states that its investments will be made solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such small business concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may not later than 10 days from the date of publication of this notice, submit to SBA in writing, relevant comments on the proposed company. Any communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. A copy of this notice shall be published in a newspaper of general circulation in Bartlesville, Okla.

For SBA (pursuant to delegated authority).

Dated: May 19, 1970.

A. H. SINGER,
Associate Administrator for Investment.

[F.R. Doc. 70-6747; Filed, June 1, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI70-1636, etc.]

TENNECO OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MAY 21, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 6, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-1636	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	159	5	El Paso Natural Gas Co. (Aneth Field, San Juan County, Utah).	$4,529	4-27-70	[2] 5-28-70	10-28-70	17.79	[4] [5] 22.22	
RI70-1637	Reading & Bates, Inc., 1100 Philtower Bldg., Tulsa, Okla. 74103.	9	11	Northern Natural Gas Co. (East Ozona Canyon Field, Crockett County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	5,043	4-27-70	[2] 5-28-70	10-28-70	16.0	[3] [5] 17.064	
	do	12	8	El Paso Natural Gas Co. (Spraberry Trend Area, Reagan County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	579	4-27-70	[2] 5-28-70	10-28-70	14.50	[3] [5] 19.3278	
	do	16	6	El Paso Natural Gas Co. (Spraberry Trend Area, Upton and Reagan Counties, Tex.) (RR. District No. 7-C) (Permian Basin Area).	2,897	4-27-70	[2] 5-28-70	10-28-70	14.50	[3] [5] 19.3278	
RI70-1638	Texaco, Inc., Post Office Box 3109, Midland, Tex. 79701.	336	4	Northern Natural Gas Co. (Buckeye Plant, Lea County, N. Mex.) (Permian Basin Area).	22,327	4-29-70	[2] 7-1-70	12-1-70	16.0	[4] [6] 17.0	
	do	358	4	Lone Star Gas Co. (Duncan Field, Stephens County, Okla.) (Oklahoma "Other" Area).	1,378	4-30-70	[2] 7-1-70	12-1-70	[7] 15.01	[4] [6] [7] 16.01	RI68-16.
	do	384	[1] 4	Northern Natural Gas Co. (Gage Area, Ellis County, Okla.) (Panhandle Area).	208	4-30-70	[2] 5-31-70	10-31-70	[10] 17.952	[4] [5] [10] 19.008	
RI70-1639	Texaco, Inc. (Operator), et al.	357	6	Lone Star Gas Co. (Sho-Vel-Tum Field, Carter County, Okla.) (Oklahoma "Other" Area).	2,145	4-30-70	[2] 7-1-70	12-1-70	[7] 15.0	[4] [6] [7] 16.01	RI68-19.
	do	133	46	Natural Gas Pipeline Co. of America (Camrick Southeast Field, Texas County, Okla.) (Panhandle Area).	23	4-30-70	[2] 6-5-70	11-5-70	[11] 18.6	[4] [5] [11] 18.8	
RI70-1640	Caulkins Oil Co. (Operator), agent for Caulkins Producing Co., et al., 315 Majestic Bldg., Denver, Colo. 80202.	5	4	El Paso Natural Gas Co. (Sanchez Lease (Dakota Formation) Rio Arriba County, N. Mex.) (San Juan Basin Area).	5,400	5-1-70	[2] 6-1-70	11-1-70	[10] 13.0	[4] [12] [13] 14.0	
RI70-1641	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	286	4	Montana-Dakota Utilities Co. (Wind River Basin Area, Fremont County, Wyo.).	75	4-29-70	[2] 5-30-70	10-30-70	[10] 15.5386	[4] [5] 16.4667	
	do	279	2	El Paso Natural Gas Co. (Aztec Pictured Cliffs Field, San Juan County, N. Mex.) (Permian Basin Area).	34	4-24-70	[2] 5-25-70	10-25-70	[10] 12.2295	[4] [5] [10] 13.2486	RI64-482.
RI70-1642	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	402	[17] 4	Transwestern Pipeline Co. (Rock Tank Morrow Field, Eddy County, N. Mex.) (Permian Basin Area).	8,851	4-30-70	[2] 5-31-70	10-31-70	[10] 16.58	[4] [5] 17.55	
	do	288	4	Natural Gas Pipeline Co. of America (Mobeetie Field, Wheeler County, Tex.) (RR. District No. 10).	2,027	5-1-70	[2] 6-1-70	11-1-70	[11] 17.9638	[4] [5] [11] 18.0675	RI70-1160.
RI70-1643	Atlantic Richfield Co. Post Office Box 2819, Dallas, Tex. 75221.	324	3	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Seven Sisters, Deep Field, Duval County, Tex.) (RR. District No. 4).	81,065	4-27-70	[2] 5-28-70	10-28-70	16.06	[4] [5] 18.31188	RI70-700.
RI70-1644	Sun Oil Co., Post Office Box 2880, Dallas, Tex. 75221.	152	5	Southern Natural Gas Co. (Knoxo Field, Walthall County, Miss.).	10,783	4-27-70	[2] 5-28-70	10-28-70	20.6	[4] [5] 24.816	
RI64-378	Lexie Buchanan et al., 2114 Alamo National Bank Bldg., San Antonio, Tex. 78205.	2 2	[11] [20] [21] 8 [22] [28] 9	Tennessee Gas Pipeline Co., a division of Tenneco Inc.	---------- 55,489	4-22-70 4-22-70	[22] 4-22-70 [22] 4-22-70	Accepted Accepted—subject to refund in RI64-378	---------- [28] 14.0	---------- [5] [23] 17.8	
RI70-1645	Helendale Properties, Inc., National Bank of Tulsa Bldg., Tulsa, Okla. 73102.	1	2	Northern Natural Gas Co. (Beaver County, Okla. (Panhandle Area) and Ochiltree and Lipscomb Counties, Tex.) (RR. District No. 10).	27,826 35,891	[27] 4-21-70	[2] 5-22-70	10-22-70	[11] 17.0 [11] [28] 17.9	[5] [11] 18.0 [5] [11] [28] 18.9675	
RI70-1646	First Transportation Gas Corp., Inc., National Bank of Tulsa Bldg., Tulsa, Okla. 73102	1	7	Transwestern Pipeline Co. (Beaver, Harper, and Ellis Counties, Okla. (Panhandle Area) and Lipscomb and Ochiltree Counties, Tex.) (RR. District No. 10).	28,666 34,434	4-21-70	[2] 5-22-70	10-22-70	[28] [31] 18.173 [28] [31] 18.173	[5] [28] [30] [31] 19.673 [5] [28] [30] [31] 20.173	

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-1647	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	18	11	Michigan Wisconsin Pipe Line Co. (Laverne Field, Harper County, Okla.) (Panhandle Area).	$290	4-27-70	[8] 5-28-70	10-28-70	[22] [23] 19.0 [23] [24] 17.0	[5] [20] [21] 19.5	RI66-327.
RI70-1648	Alma McCutchin (Operator) et al., Post Office Box 1584, Dallas, Tex. 75221.	2	2	Natural Gas Pipeline Co. of America (West Kent-Ham Sand Field, Wise County, Tex.) (RR. District No. 9).	5,400	4-30-70	[9] 5-31-70	10-31-70	[22] 14.5	[5] [8] [22] 16.0	
RI70-1649	Gregg Oil Co., Inc., et al., Post Office Box 4043, Monroe, La. 71201.	1	[20] 4	Southern Natural Gas Co.		4-30-70	[8] 5-31-70	Accepted			
		1	5	(Monroe Field, Ouachita and Union Parishes, La.) (North Louisiana Area).	7,200	4-30-70	[8] 5-31-70	10-31-70	[11] [27] 17.75	[4] [11] [20] [27] 19.75	RI68-194.
RI70-1650	Amarillo Natural Gas Co. (Operator) et al., c/o Amarex, Inc., Arcade Bldg., Room 230, 2000 Classen Center, Oklahoma City, Okla. 73106.	2	18	Panhandle Eastern Pipe Line Co. (Atwell Gas Unit, Seward County, Kans.).	240	4-30-70	[9] 5-31-70	10-31-70	17.0	[5] [8] 18.0	RI67-55.
RI70-1524	Petrodynamics, Inc. (Operator) et al., Post Office Box 10006, Amarillo, Tex. 79106.	2	[20] 1-14	Transwestern Pipeline Co. (Cree-Flowers Field, Roberts County, Tex.) (RR. District No. 10).	5,580	4-27-70	[20] 9-24-70	Accepted—subject to proceeding in RI70-1524	[11] 17.0	[4] [11] [40] 19.583125	
RI70-1651	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	83	7	Lone Star Gas Co. (East Durant Field, Bryan County, Okla.) (Oklahoma "Other" Area).	1,628	5-4-70	[7] 6-4-70	11-4-70	17.915	[5] [8] 19.015	RI66-388.

[1] The stated effective date is the effective date requested by Respondent.
[2] Increase to contract rate.
[3] Pressure base is 15.025 p.s.i.a.
[4] Periodic rate increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] Buyer deducts 0.5 cent from prices shown for dehydration.
[7] Applicable to acreage added by Supplement No. 3.
[8] The stated effective date is the first day after expiration of the statutory notice.
[9] Includes base rate of 17 cents before increase and base rate of 18 cents after increase. Base rate subject to upward and downward B.t.u. adjustment.
[11] Subject to a downward B.t.u. adjustment.
[12] Increase from initially certificated rate to first periodic increase.
[13] Pertains to sales under Supplement No. 3 only.
[14] Includes only tax reimbursement on future production.
[15] Includes double the amount of contractually due tax reimbursement to regain severance tax paid on past production.
[16] Includes partial reimbursement for full 2.55 percent New Mexico Emergency School Tax.
[17] Pertains to acreage added by Supplement No. 3 only.
[18] Base rate plus tax reimbursement exclusive of quality adjustments. No quality statement on file.
[19] Amendment dated Nov. 14, 1969.
[20] Provides for a renegotiated rate of 17.8 cents for the 5-year period commencing Apr. 5, 1969, and for 18.8 cents thereafter.
[21] Extends the term of the contract for 10 years (until Apr. 5, 1979) and deletes formations below the 5500'-B Frio Sand.
[22] The stated effective date is the date of filing.
[23] Renegotiated rate increase.
[24] Proposed rate of 18 cents suspended in Docket No. RI64-378, but not yet made effective subject to refund.
[25] Pertains to formations down to and including the 5500'-B Frio Sand.
[26] As corrected to reflect a proposed rate of 17.8 cents in lieu of 18 cents.
[27] Filing completed Apr. 30, 1970.
[28] Oklahoma production.
[29] Texas production.
[30] "Fractured" rate increase.
[31] Includes 1.173 cents upward B.t.u. adjustment. Base rate subject to upward and downward B.t.u. adjustment.
[32] Subject to upward and downward B.t.u. adjustment.
[33] Applicable only to acreage added by Supplement No. 6.
[34] Applicable only to acreage added by Supplement No. 9.
[35] Agreement dated Mar. 11, 1970, providing for a 2-cent compression charge to be paid by buyer after Feb. 1, 1970.
[36] Includes a compression charge of 2 cents to be paid by buyer.
[37] Includes 1.75-cent tax reimbursement.
[38] Applicable only to the Mills Unit No. 1.
[39] End of the suspension period in Docket No. RI70-1534.
[40] To be substituted for increased rate of 19 cents which is currently suspended in Docket No. RI70-1524 until Sept. 24, 1970.

Caulkins Oil Company (Operator), Agent for Caulkins Producing Company, et al. (Caulkins), requests that its proposed rate be permitted to become effective as of May 1, 1970. Texaco Inc. (Texaco) requests an effective date of April 30, 1970 for Supplement No. 4 to Texaco's FPC Gas Rate Schedule No. 384. Union Oil Company of California requests waiver of the notice requirement to permit an April 27, 1970 effective date for its proposed rate increase. Alma McCutchin (Operator), et al., request an effective date of April 30, 1970. Gregg Oil Co., Inc., et al., request a retroactive effective date of February 1, 1970 for their proposed rate increase. Amarillo Natural Gas Company (Operator), et al., also requests a retroactive effective date of January 1, 1967 for their rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers rate filings and such requests are denied.

The periodic rate increase filed by Tenneco Oil Company (Tenneco) is for a sale that was certificated in Opinion No. 335 issued February 23, 1960, to El Paso Natural Gas Company from the Aneth Area of Utah. No formal guideline prices have been announced by the Commission for the Aneth Area. Since the proposed rate is equal to rates now under suspension for similar sales in the Aneth Area, we conclude that Tenneco's proposed rate increase should be suspended for 5 months from May 28, 1970, the requested effective date.

Continental Oil Company's (Continental) proposed periodic rate increase reflects partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax. The buyer, El Paso Natural Gas Company (El Paso), in accordance with its policy of protesting tax filings proposing reimbursement for the New Mexico Emergency School Tax in excess of 0.55 percent, is expected to file a protest to this rate increase. El Paso questions the right of the producer under the tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico legislation effected a higher rate of at least 0.55 percent, they claim there is controversy as to whether or not the new legislation effected an increased rate in excess of 0.55 percent. In view of the contractual problem presented, the hearing provided for herein for Continental's rate filing shall concern itself with the contractual basis for such rate filing, as well as the statutory lawfulness of the proposed increased rate and charge.

Lexia Buchanan, et al. (Buchanan), has filed an amendment dated November 14, 1969, designated as Supplement No. 8 to Buchanan's FPC Gas Rate Schedule No. 2, which provides for the renegotiated rate proposed herein during the 5-year period beginning April 5, 1969. The amendment also extends the term of the basic contract for 10 years (the basic contract was to have expired on April 5, 1969) and provides for a depth limitation to the presently dedicated acreage (deletes formations below the 5500'-B Frio Sand) where previously no depth limitation existed. Buchanan did not file to amend their certificate nor did they state in the instant filing the reason for deleting the deeper formations. Buchanan has previously filed a redetermined rate increase to 18.0¢, which was suspended in Docket No. RI64-378 until June 1, 1964. Such increase has not been made effective. Buchanan requests a May 15, 1970, effective date for the instant increase but does not give any reasons for the request. Since the suspension period relating to the prior increase has already expired and the rate proposed in the instant filing is less than the rate previously proposed, we conclude that the November 14, 1969, amendment and related rate increase should be accepted for filing, only insofar as such filings pertain to formations down to and including the 5500'-B Frio Sand, with the proposed rate change filing being made subject to the existing rate suspension period in Docket No. RI64-378. If Buchanan desires to place in

effect, subject to refund, the lesser rate proposed herein, a motion to that effect should be filed as provided in section 4(e) of the Act.

Helendale Properties, Inc. (Helendale) and the First Transportation Gas Corporation, Inc. (FTGC) previously submitted notices of change reflecting increases in tax reimbursement only for gas produced in Texas Railroad District No. 10 under the rate schedules involved. Such tax increases were designated as Supplement Nos. 1 and 6 to Helendale's Rate Schedule No. 1 and FTGC's Rate Schedule No. 1, respectively, and were suspended for 1 day in Docket Nos. RI70-1078 and RI70-1070, respectively; however, Respondents did not make the rates effective and no monies have been collected thereunder. Respondents have now submitted motions to withdraw the prior notices of change and to terminate the subject rate proceedings. We believe that it would be in the public interest to grant Respondents' requests to withdraw their prior notices of change and to terminate the rate suspension proceedings in Docket Nos. RI70-1078 and RI70-1070. Accordingly, the rate suspension proceedings in Docket Nos. RI70-1078 and RI70-1070 are considered terminated.

Petrodynamics, Inc. (Petrodynamics) previously filed a fractured increase from 17.0¢ to 19.0¢ per Mcf under its FPC Gas Rate Schedule No. 2. Such increase was suspended for 5 months until September 24, 1970, in Docket No. RI70-1524. Petrodynamics now proposes to further increase the suspended rate to 19.5¢ plus tax reimbursement and requests that such rate be substituted for the previously suspended rate. Inasmuch as Petrodynamics is contractually due the rate of 19.5¢ plus tax reimbursement, we conclude that the proposed rate should be accepted for filing subject to the existing rate proceeding in Docket No. RI70-1524 and remain suspended until September 24, 1970, the end of the suspension period in such proceeding.

Concurrently with the filing of its rate increase, Gregg Oil Co., Inc., et al. (Gregg) submitted a contract agreement dated March 11, 1970, designated as Supplement No. 4 to Gregg's FPC Gas Rate Schedule No. 1, which provides the basis for its proposed rate increase. We believe that it would be in the public interest to accept for filing Gregg's proposed contract amendment to become effective as of May 31, 1970, the expiration date of the statutory notice, but not the proposed rate contained therein which is suspended as ordered herein.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 70-6621; Filed, June 1, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

CENTRAL BANKING SYSTEM, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Central Banking System, Inc., Oakland, Calif., for approval of acquisition of at least 51 percent of the voting shares of Bank of Fairfield, Fairfield, Calif., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of Central Banking System, Inc., Oakland, Calif. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of at least 51 percent of the voting shares of Bank of Fairfield, Fairfield, Calif. (Bank), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks for the State of California and requested his views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on December 6, 1969 (34 F.R. 19393), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant controls five banks with deposits of $262 million—less than 1 percent of total bank deposits in the State of California. (All banking data are as of June 30, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date.) Applicant's initial entry into Solano County by acquisition of a new bank would have no significant effect on concentration of banking resources.

Applicant's closest subsidiary is located 30 miles from Fairfield, county seat of Solano County. Bank's competitors would be four branches of the three large statewide banks, and one unit bank with deposits of $10 million. Applicant's proposal could stimulate additional competition, and would neither eliminate existing competition, foreclose potential competition, nor have adverse effects on the viability or competitive effectiveness of any competing bank.

Based on the foregoing, the Board concludes that increased competition would likely result from consummation of the proposed acquisition. In the past, the Board has expressed concern over the managerial policy and capital position of applicant's largest subsidiary bank. While the basis for that concern has not been entirely eliminated, there have been improvements which, in the Board's judgment, are sufficient to support approval of applicant's acquisition of a newly organized bank. Therefore, the banking factors, as applied to the facts of record, are generally consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served lend additional weight in support of the approval. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order; and that the Bank of Fairfield be opened for business not later than 6 months after the date of this order. The latter time periods may be extended for good cause by the Board, or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[1] May 22, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-6710; Filed, June 1, 1970; 8:45 a.m.]

FIRST FINANCIAL CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Financial Corp., which is a bank holding company located in Tampa, Fla., for prior approval by the Board of Governors of the acquisition by applicant of not less than 80 percent of the voting shares of Bank of Clearwater, Clearwater, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be

[1] Voting for this action: Unanimously with all present.

filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, May 25, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-6708; Filed, June 1, 1970; 8:45 a.m.]

FIRST FINANCIAL CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Financial Corp., which is a bank holding company located in Tampa, Fla., for prior approval by the Board of Governors of the acquisition by applicant of not less than 80 percent of the voting shares of Inter City National Bank of Bradenton, Bradenton, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, May 25, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-6709; Filed, June 1, 1970; 8:45 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PAKISTAN

Entry or Withdrawal from Warehouse for Consumption

MAY 25, 1970.

On July 4, 1969, there was published in the FEDERAL REGISTER (34 F.R. 11285) a letter dated June 30, 1969, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in Pakistan and exported to the United States during the 12-month period beginning July 1, 1969. These levels of restraint were established in order to implement certain provisions of the bilateral cotton textile agreement of July 3, 1967, between the United States and Pakistan. Under that agreement the Government of Pakistan has also undertaken to limit its exports to the United States of cotton textiles and cotton textile products in Group I (Categories 1 through 27) to 65,868,863 square yard equivalents and in Group II (Categories 28 through 64) to 9,376,762 square yard equivalents for the fourth agreement year beginning July 1, 1969.

On May 6, 1970, the Governments of the United States and Pakistan, concluded a new comprehensive bilateral cotton textile agreement, concerning exports of cotton textiles from Pakistan to the United States over a 4-year period beginning on July 1, 1970. At the same time in a separate exchange of notes the following administrative arrangement was agreed upon. All cotton textiles exported to the United States from Pakistan prior to March 1, 1970 in excess of any limit applicable under the agreement of July 3, 1967 will be permitted to be entered without being counted against such limit. All cotton textiles exported to the United States during the period March 1, 1970 through April 30, 1970 will be permitted to be entered and will be charged first against the unused amount in the applicable limits for the agreement year July 1, 1969 through June 30, 1970 and, if these limits have been exhausted, against the applicable limits for the new agreement year beginning July 1, 1970.

Accordingly, there is published below a letter of May 25, 1970, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that for the 12-month period beginning July 1, 1969, and extending through June 30, 1970, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Groups I (Categories 1 through 27) and II (Categories 28 through 64) be limited to the designated levels, and implementing the aforementioned administrative arrangement of May 6, 1970. This letter and the actions pursuant thereto are not designed to implement all the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE,

MAY 25, 1970.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: On June 30, 1969, the Chairman of the President's Cabinet Textile Advisory Committee, directed you to prohibit entry of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Pakistan in excess of the designated levels of restraint. The Chairman further advised you that in the event that there were any adjustments[1] in the levels of restraint you would be so informed by letter from the Chairman of the Interagency Textile Administrative Committee. On January 14, 1970, the Chairman of the Interagency Textile Administrative Committee directed you to adjust certain levels of restraint contained in the directive of June 30, 1969, for cotton textile products in certain specified categories, produced or manufactured in Pakistan. This directive further supplements and amends but does not cancel the directive of June 30, 1969 and January 14, 1970.

Under the authorities referred to in the aforementioned directives of June 30, 1969 and January 14, 1970, and under the terms of those directives, you are directed to prohibit, effective as soon as possible, and for the twelve-month period beginning July 1, 1969 and extending through June 30, 1970, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Pakistan in excess of the following levels of restraint.[2]

The overall level of restraint for Categories 1 through 27, shall be 65,868,863 square yard equivalents. The overall level of restraint for Categories 28 through 64 shall be 9,376,762 square yard equivalents. There is attached to this directive a table containing

[1] The term "adjustments" refers to those provisions of the bilateral cotton textile agreement of July 3, 1967, between the Governments of the United States and Pakistan which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for the limited carryover of short falls in certain categories to the next agreement year; and for administrative arrangements.

[2] These levels have not been adjusted to reflect any entries made on or after July 1, 1969. As of March 31, 1970, the total square yard equivalents reported by Census in those categories of the group of Categories 1 through 27 which were not subject to levels of restraint under the directive of June 30, 1969 was 3,482,839 square yard equivalents and in those categories of the group of categories 28 through 64 not subject to levels of restraint was 3,715,696 square yard equivalents.

the rates of conversion into square yard equivalents for Categories 1 through 4 and 28 through 64 which may be used in implementing this directive.

In carrying out this directive and the aforementioned directives of June 30, 1969 and January 14, 1970, cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Pakistan and exported from Pakistan prior to May 1, 1970 shall be charged against all applicable levels of restraint established for such goods by these directives. In the event that any level of restraint has been exhausted by previous entries such goods shall not be denied entry. It would be appreciated, however, if you would undertake, commencing as soon as possible, to obtain reports on cotton textiles and cotton textile products in Categories 1 through 64 by category, quantity and date of export for such goods which are entered for consumption or withdrawn from warehouse for consumption in excess of any level of restraint established by this directive or the directives of June 30, 1969 and January 14, 1970. Further instructions on the charging of these goods will be provided to you by letter from the Chairman of the Interagency Textile Administrative Committee.

Cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Pakistan and exported from Pakistan on or after May 1, 1970, shall be charged against all applicable levels of restraint established for such goods by this and the aforementioned directives. In the event that any level of restraint has been exhausted by previous entries, such goods shall be denied entry pending the receipt of further instructions thereon.

Cotton textile products, heretofore not subject to a level of restraint, which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1449(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. IV, 1965-68). This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

CONVERSION TABLE

Category No.	Description	Conversion factor	Unit of measure	Page
	Explanatory notes:			
	Cotton			I
	Wool			II
	Manmade fiber			III
	SECTION 1—COTTON			
1	Cotton yarn, carded, singles	4.6	Lb	1
2	Cotton yarn, carded, plied	4.6	Lb	1
3	Cotton yarn, combed, singles	4.6	Lb	1
4	Cotton yarn, combed, plied	4.6	Lb	1
5	Gingham, carded	1.0	Syd	1
6	Gingham, combed	1.0	Syd	1
7	Velveteen	1.0	Syd	1
8	Corduroy	1.0	Syd	1
9	*Sheeting, carded	1.0	Syd	2
10	Sheeting, combed	1.0	Syd	2
11	Lawn, carded	1.0	Syd	3
12	Lawn, combed	1.0	Syd	3
13	Voile, carded	1.0	Syd	4
14	Voile, combed	1.0	Syd	4
15	Poplin and broadcloth, carded	1.0	Syd	5
16	Poplin and broadcloth, combed	1.0	Syd	5
17	Typewriter ribbon cloth	1.0	Syd	5
18	Print cloth, shirting, type, 80 x 80 type, carded	1.0	Syd	5
19	Print cloth, shirting, type, other than 80 x 80 type, carded	1.0	Syd	6
20	Shirting, Jacquard or dobby, carded	1.0	Syd	6
21	Shirting, Jacquard or dobby, combed	1.0	Syd	6
22	Twill and sateen, carded	1.0	Syd	6-7
23	Twill and sateen, combed	1.0	Syd	7-8
24	Woven fabric, n.e.s., yarn-dyed, carded	1.0	Syd	8-9
25	Woven fabric, n.e.s., yarn-dyed, combed	1.0	Syd	9
26	Woven fabric, n.e.s., other, carded	1.0	Syd	9-13
27	Woven fabric, n.e.s., other, combed	1.0	Syd	13-16
28	Pillowcases, carded	1.084	No	16
29	Pillowcases, combed	1.084	No	16
30	Towels, dish	.348	No	16
31	Towels, other	.348	No	16-17
32	Handkerchiefs, whether or not in the piece	1.66	Doz	17-18
33	Table damask and manufactures	3.17	Lb	18
34	Sheets, carded	6.2	No	18
35	Sheets, combed	6.2	No	18
36	Bedspreads and quilts	6.9	No	18
37	Braided and woven elastic	4.6	Lb	19
38	Fishing nets and fish netting	4.6	Lb	19
39	Gloves and mittens	3.527	Dpr	19
40	Hose and half hose	4.6	Dpr	19
41	T-shirts, all white, knit, men's and boys'	7.234	Doz	19
42	T-shirts, other knit	7.234	Doz	19
43	Shirts, knit, other than T-shirts and sweatshirts	7.234	Doz	20
44	Sweaters and cardigans	38.8	Doz	20
45	Shirts, dress, not knit, men's and boys'	22.188	Doz	20
46	Shirts, sport, not knit, men's and boys'	24.457	Doz	20
47	Shirts, work, not knit, men's and boys'	22.186	Doz	21
48	Raincoats, ¾ length or longer, not knit	50.0	Doz	21
49	Coats, other, not knit	32.5	Doz	21-22
50	Trousers, slacks, and shorts (outer), not knit, men's and boys'	17.797	Doz	22
51	Trousers, slacks and shorts (outer), not knit, women's, girls' and infants'	17.797	Doz	23
52	Blouses, not knit	14.53	Doz	23
53	Dresses, (including uniforms) not knit	45.3	Doz	23-24
54	Playsuits, sunsuits, washsuits, creepers, rompers, etc., not knit, n.e.s	23.0	Doz	24
55	Dressing gowns, including bathrobes and beachrobes, lounging gowns, housecoats, and dusters, not knit.	51.0	Doz	24-25
56	Undershirts, knit men's and boys'	9.2	Doz	25
57	Briefs and undershorts, men's and boys'	11.25	Doz	25
58	Drawers, shorts, and briefs, knit, n.e.s	5.0	Doz	26
59	All other underwear, not knit	16.0	Doz	26
60	Pajamas and other nightwear	51.96	Doz	27
61	Brassieres and other body-supporting garments	4.75	Doz	27
62	Wearing apparel, knit, n.e.s	4.6	Lb	27-29
63	Wearing apparel, not knit, n.e.s	4.6	Lb	29-30
64	All other cotton textiles	4.6	Lb	30-35

[F.R. Doc. 70-6681; Filed, May 27, 1970; 1:00 p.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 595 (31 F.R. 12981) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration

dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

B & D Manufacturing Co., Inc., Sanford, Fla.; 4–24–70 to 4–23–71; 10 learners (ladies' blouses and men's sport shirts).

Bishop Co., Weissport, Pa.; 5–9–70 to 5–8–71 (women's and children's blouses).

Bland Sportswear, Inc., Bland, Va.; 4–15–70 to 4–14–71; 10 learners (ladies' dresses and blouses, children's polo shirts and jackets).

Blue Bell, Inc., Ada, Okla.; 4–17–70 to 4–16–71 (men's, boys', misses' and girls' jeans).

Blue Bell, Inc., Coalgate, Okla.; 4–29–70 to 4–28–71 (women's and misses' jeans).

College Casuals Co., Sheppton, Pa.; 4–13–70 to 4–12–71 (women's shorts and slacks).

Covington Industries, Inc., Opp, Ala.; 5–4–70 to 5–3–71 (work clothing).

Dee-Mure Brassiere Co., Inc., Hamlin, W. Va.; 4–24–70 to 4–23–71 (women's brassieres).

Dickson Manufacturing Co., Plant No. 2, Dickson, Tenn.; 4–30–70 to 4–29–71 (work jackets).

E & W of Heber Springs, Inc., Heber Springs, Ark.; 4–23–70 to 4–22–71 (men's and boys' shirts).

E & W of Illmo, Inc., Illmo, Mo.; 4–30–70 to 4–29–71 (men's and boys' dungarees).

East Waterford Textiles, East Waterford, Pa.; 4–15–70 to 4–14–71; 10 learners (women's dresses).

Eastern Shore Sportswear Corp., Cambridge, Md.; 4–27–70 to 4–26–71; 10 learners (children's blouses, skirts and slacks).

Elder Manufacturing Co., Carl Junction, Mo.; 5–5–70 to 5–4–71 (boys' and juveniles' shirts and pajamas).

Federal Corset Co., Douglas, Ga.; 4–21–70 to 4–20–71 (women's girdles and brassieres).

G–B Manufacturers, Inc., Chetopa, Kans.; 4–29–70 to 4–28–71 (men's pants).

Georgetown Dress Corp., Georgetown, S.C.; 4–17–70 to 4–16–71 (children's sportswear).

Greer Shirt Corp., Greer, S.C.; 4–13–70 to 4–12–71 (men's and boys' sport shirts).

Edward Hyman Co., Prentiss, Miss.; 4–17–70 to 4–16–71 (men's work clothing).

Iolani Sportswear, Ltd., Honolulu, Hawaii; 4–22–70 to 4–21–71 (men's shirts).

Key Manufacturing Co., Inc., Tompkinsville, Ky.; 4–25–70 to 4–24–71 (men's and boys' dungarees).

Lee County Manufacturing, Inc., Leesburg, Ga.; 4–8–70 to 4–7–71 (women's smocks, lab coats, and hospital garments).

Linn Manufacturing Co., Linn, Mo.; 5–1–70 to 4–30–71 (men's semidress trousers).

Manhattan Industries, Inc., Americus, Ga.; 4–15–70 to 4–14–71 (men's dress shirts).

Mode O'Day Co., Plant No. 3, Logan, Utah; 5–1–70 to 4–30–71 (women's and children's dresses).

Portland Manufacturing Co., Portland, Tenn.; 5–1–70 to 4–30–71 (women's and girls' blouses).

Prepshirt Manufacturing Corp., Greenville, N.C.; 4–15–70 to 4–14–71 (boys' sport and dress shirts).

Princess Peggy, Inc., Vandalia, Ill.; 5–1–70 to 4–30–71 (women's dresses).

J. H. Rutter Rex Manufacturing Co., Inc., Franklinton, La.; 4–24–70 to 4–23–71 (men's and boys' work pants).

Salant & Salant, Inc., Union City, Tenn.; 4–13–70 to 4–12–71 (men's work pants).

Sherman Manufacturing Co., Darlington, S.C.; 5–7–70 to 5–6–71; 10 learners, (women's dresses).

The Solomon Co., Leeds, Ala.; 5–6–70 to 5–5–71 (men's and boys' trousers and walking shorts).

So-Neet, Inc., Somerset, Pa.; 4–28–70 to 4–27–71; 10 learners (girls' coats).

Spartans Industries, Inc., Smithville, Tenn.; 4–26–70 to 4–25–71 (men's and boys' shirts).

Springfield Garment Manufacturing Co., Springfield, Mo.; 5–7–70 to 5–6–71 (men's slacks).

I. Taitel & Son, Drew, Miss.; 5–8–70 to 5–7–71 (men's and boys' work jackets and infants' pants).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Mowad Manufacturing Co., Inc. El Paso, Tex.; 4–24–70 to 10–23–70; 10 learners (men's, boys' and ladies' pants).

Rogin, Inc., Winder, Ga.; 4–15–70 to 10–14–70; 12 learners (men's dress pants).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Indianapolis Glove Co., Inc., Vardaman, Miss.; 5–4–70 to 5–3–71; 10 learners (work gloves).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods and the number of learners authorized to be employed, are indicated.

Coamo Glove Corp., Coamo, P.R.; 3–30–70 to 3–29–71; 13 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 480 hours at the rates of $1.17 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours (ladies' nylon dress gloves).

Consol Corp. Plant No. 27, Cayey, P.R.; 3–30–70 to 9–30–70; 20 learners for plant expansion purposes in the occupations of cigar machine operating and cigar packing, for a learning period of 320 hours at the rates of $1.32 an hour for the first 160 hours and $1.42 an hour for the remaining 160 hours (cigars).

General Cigar de Utuado, S.A., Utuado, P.R.; 3–30–70 to 3–29–71; 44 learners for normal labor turnover purposes in the occupations of cigar machine operating and cigar packing, for a learning period of 320 hours at the rates of $1.32 an hour for the first 160 hours and $1.42 an hour for the remaining 160 hours (cigars).

Guantes de Ponce, Inc., Ponce, P.R.; 4–2–70 to 4–1–71; 10 learners for normal labor turnover purposes in the occupation of machine stitching, for a learning period of 480 hours at the rates of $1.17 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours (ladies', children's, and men's dress gloves and ladies' and men's combination fabric and leather gloves).

Ricardo Corp., Hormigueros, P.R.; 4–2–70 to 4–1–71; 17 learners for normal labor turnover purposes in the occupation of machine stitching, for a learning period of 480 hours at the rates of $1.17 an hour for the first 240 hours and $1.30 an hour for the remaining 240 hours (ladies' and men's fabric and leather gloves).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review of reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 21st May 1970.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 70–6728; Filed, June 1, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 27, 1970.

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. 41968—*Isobutyl acetate from specified points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, agent (No. B–158), for interested rail carriers. Rates on isobutyl acetate, in tank carloads, as described in the application, from specified points in Louisiana and Texas, to Chicago, Ill., and points taking same rates.

Grounds for relief—Rate relationship.

Tariff—Supplement 36 to Southwestern Freight Bureau, agent, tariff ICC 4867.

FSA No. 41969—*Newsprint and groundwood paper from Velox, Wash.* Filed by Pacific Southcoast Freight Bureau, agent (No. 262), for interested rail carriers. Rates on newsprint and groundwood paper and related articles, in carloads, as described in the application, from Velox, Wash., to points in California and Oregon.

Grounds for relief—Market competition.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70–6760; Filed, June 1, 1970; 8:49 a.m.]

[Notice 86]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 26, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 106674 (Sub-No. 72 TA), filed May 21, 1970. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, Ind. 46923. Applicant's representative: Thomas R. Schilli (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials* (dry), from Chicago Heights, Ill., to points in Indiana, Wisconsin, and Michigan, for 180 days. Supporting shipper: USS Agri-Chemicals, division of United States Steel Corp., 30 Pryor Street SW., Post Office Box 1685, Atlanta, Ga. 30301. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 107064 (Sub-No. 76 TA) (Correction), filed May 1, 1970, published in the FEDERAL REGISTER issue of May 13, 1970, and republished as corrected, this issue. Applicant: STEERE TANK LINES, INC., 2808 Fairmount Street, Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potash, potash products, and potash byproducts*, in bulk, from points in Lea and Eddy Counties, N. Mex., to points in Oklahoma, Kansas, Nebraska, South Dakota, Illinois, Iowa, Arkansas, Missouri, Mississippi, California, Colorado, Arizona, and Texas, on and north of a line beginning at the Texas-Louisiana State line near Panola, Tex., and extending along U.S. Highway 79 to its intersection with U.S. Highway 81 at Round Rock, Tex., thence along U.S. Highway 81 to the international boundary of the United States and Mexico near Laredo, Tex. (except San Antonio, Tex.), for 150 days. NOTE: The purpose of this republication is to show the commodity restriction "in bulk" and include Colorado as a destination State. Supporting shippers: Goodpasture, Inc., Post Office Box 912, Brownfield, Tex., 79316; Kerr-McGee Corp., Oklahoma City, Okla. 73102; Texas Farm Products Co., Post Office Box 9, Nacogdoches, Tex. 75961; Tide Products, Inc., Box 568, Littlefield, Tex. 79339; Occidental Chemical Co., Post Office Box 1185, Houston, Tex. 77001; Red Barn Chemicals, Inc., Post Office Fox 141, Tulsa, Okla. 74102. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75002.

No. MC 114211 (Sub-No. 136 TA), filed May 21, 1970. Applicant: WARREN TRANSPORT, INC., 324 Manhard, Post Office Box 420, Waterloo, Iowa 50704. Applicant's representative: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles, attachments, and parts and accessories for snowmobiles*, from Des Moines, Iowa; Clearfield, Utah; and Detroit, Mich.; to points in the United States (except Alaska and Hawaii). Restricted to shipments originating at the plant and warehouse sites of Massey-Ferguson, Inc., for 180 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315. Send protests to: Chas. C. Biggers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa, 52801.

No. MC 118318 (Sub-No. 19 TA), filed May 21, 1970. Applicant: IDA-CAL FREIGHT LINES, INC., Post Office Box 422, Twin Falls, Idaho 83301. Applicant's representative: Kenneth G. Bergquist, 314 Eastman Building, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products distributed by meat packinghouses*, described in sections A and C, appendix I to report, *Descriptions in Motor Carrier Certificate*, 61 M.C.C. 209 and 766, for 150 days. NOTE: Applicant proposes to tack the requested authority with its Sub-13 authority at Nampa, Idaho. Supporting shipper: Armour & Co., 111 East Wacker Drive, Chicago, Ill. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building, 550 West Fort Street, Boise, Idaho 83702.

No. MC 119641 (Sub-No. 88 TA), filed May 21, 1970. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, Ind. 47944. Applicant's representative: Leo A. Maciolek, Route 1, Box 335, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles, attachments, parts, and accessories for snowmobiles*, from Des Moines, Iowa, Clearfield, Utah, and Detroit, Mich., to points in the United States except Alaska and Hawaii, for 180 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 124816 (Sub-No. 4 TA), filed May 21, 1970. Applicant: N & N TRANSPORTATION CO., INC., 827 Ridgewood Avenue, North Brunswick, N.J. 08902. Applicant's representative: William J. Augello, Jr., 120 East 41st Street, Suite 801, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit pipe*, in flat bed trailers equipped with mechanical unloading device, from Jamesburg, N.J., to points in Maryland, New York, and Pennsylvania, for 150 days. Supporting shipper: Wheeling Pittsburgh Steel Corp., Wheeling, W. Va. 26003; Attention: W. A. Widmer, Manager—Distribution and Warehousing. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 128853 (Sub-No. 3 TA) (Correction), filed April 16, 1970, published FEDERAL REGISTER, issue of April 23, 1970, under No. MC 134505 TA, and republished as corrected this issue. Applicant: COOKE CARTAGE AND STORAGE LTD., 110 Anne Street South, Barrie, Ontario, Canada. Applicant's representative: Ronald J. Mastej, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicle seats*, not in containers, from those ports of entry on the United States-Canada boundary line located at or near Detroit and Port Huron, Mich., to the facilities of the Flexible Co., at Millerburg, Ohio, and the Highway Products, Inc., at Kent, Ohio; and (2) *passenger and operator seats*, not in containers, except furniture and household goods as defined by the Commission, from those ports of entry stated in (1) above to the facilities of the Associated Marine Products, Inc., at Pasadena, Md. Restriction: Restricted to a transportation service to be performed under a continuing contract or contracts with Heywood-Wakefield Co. of Canada, Ltd., for 180 days. NOTE: The purpose of this republication is to show No. MC 128853 (Sub-No. 3 TA), in lieu of No. MC 134505 TA, which docket number was in error. Supporting shipper: Heywood-Wakefield Co. of Canada, Ltd., Orillia, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 129742 (Sub-No. 4 TA), filed May 20, 1970. Applicant: TRANS CANADIAN COURIERS, LTD., a corporation, 20 Morse Street, Toronto, Ontario, Canada. Applicant's representative: John M. Delany, 2 Nevada Drive, Lake

Success, N.Y. 11040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Unexposed and developed plastic film used for identification badges*, between the ports of entry on the United States-Canada boundary line, located at or near Niagara Falls, and Buffalo, N.Y., on the one hand, and, on the other, Buffalo N.Y.; (2) *paint*, in cans or packages, restricted against the transportation of cans, packages or articles, weighing in the aggregate more than 25 pounds from one consignor to one consignee on any one day, between Detroit, Mich., on the one hand, and, on the other, the port of entry on the United States-Canada boundary line, located near Detroit, Mich. In connection with the proposed services under part (1) above, applicant shall transport the commodities between Toronto, Ontario, Canada, and Buffalo, N.Y. It shall transport the commodities between Toronto and the international boundary under its Canadian authority and thence between the international boundary, on the one hand, and, on the other, Buffalo, N.Y., under the authority sought herein. At Buffalo, Trans Canadian shall interline with American Courier Corp., Lake Success, N.Y. American Courier would transport the commodities between Buffalo, N.Y., on the one hand, and, on the other, Rochester, N.Y., under the appropriate interstate authority it is seeking, by application to be filed within the next 2 weeks. The shipper herein is supporting the applications of both, Trans Canadian Couriers Ltd. and American Courier Corp., for 180 days. Supporting shippers: Identicard Ltd., 110 Yonge Street, Toronto, Ontario, Canada; Canadian Pittsburgh Industries Ltd., 48 St. Clair Avenue West, Toronto, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 134621 TA, filed May 21, 1970. Applicant: R. F. NOLL, doing business as NOLL TRANSFER COMPANY, 1010 West Muskingum Avenue, Zanesville, Ohio 43701. Applicant's representative: Edwin H. van Deusen, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate fertilizer, nitro-carbo-nitrate and blasting accessories*, from the plantsite of Kaiser Agricultural Chemical Co., at or near Cumberland, Ohio, to points in Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, Virginia, and West Virginia, for 150 days. Supporting shipper: Kaiser Agricultural Chemicals, Division of Kaiser Aluminum & Chemical Corp., Post Office Box 246, Savannah, Ga. 31402. Send protests to: A. M. Culver, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6759; Filed, June 1, 1970; 8:49 a.m.]

[Application Form Op-Or-9]

SHIPPER CERTIFICATION

Supplemental Instructions

MAY 13, 1970.

By its report in Schaeffer and Schaeffer Ext.—New York City, 106 M.C.C. 100 (decided Nov. 16, 1967), the entire Commission has directed that the following portions of its report be published in the FEDERAL REGISTER and distributed with its application Form Op-Or-9 (49 CFR 1003.1), Application For Motor Carrier Certificate or Permit, revised April 6, 1966; and footnote 1 below reflects construction of the requirements promulgated in the Schaeffer proceeding by the entire Commission in Carl Subler Trucking, Inc., Extension—Canned Goods, 111 M.C.C. 624, and in Carolina Transit Lines of Charlotte, Inc., Common Carrier Application, 111 M.C.C. 630 (decided May 13, 1970), pertinent portions of which the Commission has also directed to be published in the FEDERAL REGISTER. Application Form Op-Or-9 requires an applicant to indicate whether its application will be supported by shippers, or others, who will present evidence in support of the application, as to their need for the service proposed. * * * The requirement contained in the application form is clear. It requires, for applications which are to be supported by 10 or fewer public witnesses, the filing of supporting certifications by each supporting shipper known to the applicant at the time the application is filed. Should more than 10 supporting witnesses be contemplated by the applicant, additional certifications of support must be presented in such number as to be reasonably representative of the total number of witnesses contemplated and the scope of the requested authority. This representative number must be sufficient to apprise both this Commission and interested parties of the identity and character of support upon which applicant will rely. * * * Henceforth,[1] in addition to the filing of the certifications accompanying its application, an applicant will be required to file with this Commission an additional certification of each witness (if less than 10) not known to the applicant at the time of the filing of the application but who becomes known prior to the submission of evidence. Such certification shall be filed with the Commission as soon as practicable following discovery of the witness, shall contain a statement by the witness as to the date on which he first made his support known to the applicant, and copies of such certifications shall be served by applicant upon all parties of record.

In those instances in which more than 10 shippers support the application, it behooves the applicant, at the time of filing, (1) to submit with the application sufficient certifications of support in excess of 10 to be reasonably representative of the total number of witnesses to be presented and the scope of authority applied for, (2) to indicate the total number of shippers whose testimony will be presented, and (3) to identify by name and location those shippers on whose behalf certifications are not filed. If the number of supporting shippers should be increased subsequent to the filing of the application, except in those instances set forth in footnote 1, information regarding identity and location of each of the subsequently acquired supporting shippers should be transmitted promptly to the Commission and all parties to the proceeding.

Noncompliance with the aforementioned requirements, absent a showing of good cause for failing in their observance, will result in the disallowance of testimony and evidence proffered by public witnesses upon whose behalf certifications or identifications (by name and location) have not been filed. * * * Strict adherence to these requirements shall be expected with respect to all applications pending at the time of such publication and to all applications filed subsequent thereto.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-6761; Filed, June 1, 1970; 8:49 a.m.]

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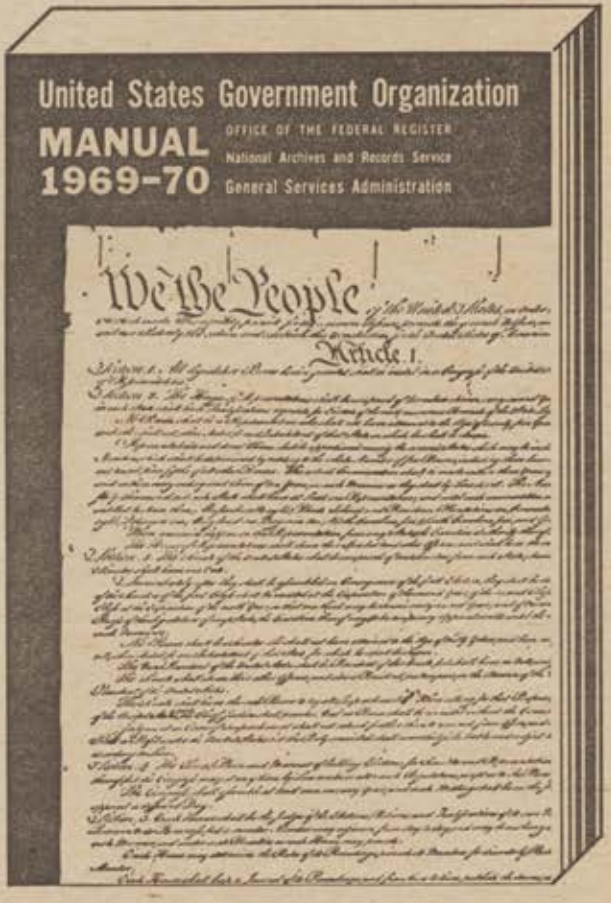
[1] Except with respect to (1) applications for authority to transport passengers; and (2) applications for authority to transport property which have been assigned for handling under the modified procedure, in which event, the additional requirements set forth herein with respect to witnesses whose identity is first made known to an applicant subsequent to the filing of an application shall apply (a) until the entry of an order of the Commission directing that the application be handled under the modified procedure, and (b) to any application assigned for handling under the modified procedure and thereafter reassigned for oral hearing.

United States Government Organization MANUAL 1969–70



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