federal register

SATURDAY, JUNE 10, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 113
Pages 11665–11710

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Rules and Regulations

Title 6—ECONOMIC STABILIZATION

Chapter IV—Internal Revenue Service

PART 401—PROCEDURAL RULES RELATING TO ECONOMIC STABILIZATION MATTERS

Authority To Practice and To Appear Before Internal Revenue Service

The purpose of these amendments is to broaden the classes of persons, now limited to attorneys and certified public accountants, who may appear before the Internal Revenue Service on economic stabilization matters. Under these amendments any natural person age 21 years or older who files a power of attorney and declaration may appear before the Service on economic stabilization matters. These amendments are made as a result of policy decisions recently adopted by the Cost of Living Council, Pay Board, and Price Commission. It remains the position of the Internal Revenue Service, that only attorneys, certified public accountants, and enrolled agents are allowed to practice and represent the public in tax matters before the Service. The amendments are set forth below:

§ 401.1 [Amended]

PARAGRAPH 1. Section 401.2 is amended by deleting the definitions for "Attorney" and "Certified public accountant."

PAR. 2. Section 401.101 is amended by revising paragraph (c) to read as follows:

§ 401.101 **Instructions to applicants.**

* * * * *

(c) A request by or for an applicant must be signed by the applicant or his authorized representative. If the request is signed by a representative of the applicant, or if the representative is to appear before the Internal Revenue Service, including the Office of the Chief Counsel, in connection with the request, he must be a person who complies with the appearance requirements of Subpart H of this part. Such representative must not be under disbarment or suspension to practice before the Internal Revenue Service. Form S–68, Power of Attorney, must be used with regard to determinations requested pursuant to this section.

* * * * *

PAR. 3. Subpart H of 6 CFR Part 401 is amended to read as follows:

Subpart H—Appearance Requirements

§ 401.701 **Rules governing authority to practice; who may appear.**

A person may appear on his own behalf or may be represenetd by any natural person, age 21 years or older, whom he has designated to represent him, except that such designated person may not be under disbarment or suspension from practice before the Internal Revenue Service. Such designation shall be made on Form S–68, Power of Attorney, and signed by the person legally authorized to so designate and shall be filed with the appropriate office of the Internal Revenue Service, including the Office of Chief Counsel, before which the appearance is to be made.

§ 401.702 **Disciplinary actions.**

Persons appearing before the Internal Revenue Service, including the Office of Chief Counsel, on economic stabilization matters will be subject to such rules regarding standards of conduct as the Secretary of the Treasury shall prescribe. The Secretary may after due notice and opportunity for hearing suspend or disbar any person from further appearance before the Service on economic stabilization matters for disreputable conduct as defined in Treasury Department Circular No. 230 (31 CFR Part 10).

Because of the need for immediate guidance from the Internal Revenue Service with respect to the subject matter of this regulation, it is found impracticable to issue such regulation with notice and public procedure thereon under section 553(b) of Title 5 of the United States Code or subject to the effective date limitation of section 553(d) of such title.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Public Law 92–210, 85 Stat. 743; Executive Order No. 11640 (37 F.R. 1213, Jan. 27, 1972), Cost of Living Council Order No. 8 (37 F.R. 2727, Feb. 4, 1972), Pay Board Order No. 4 (37 F.R. 3792, Feb. 19, 1972), Price Commission Order No. 2 (37 F.R. 3212, Feb. 12, 1972))

JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

LEE H. HENKEL,
(Acting) Chief Counsel for the Internal Revenue Service.

[FR Doc.72–8807 Filed 6–9–72;8:48 am]

PART 401—PROCEDURAL RULES RELATING TO ECONOMIC STABILIZATION MATTERS

Subpenas and Oath

On May 3, 1972, notice of proposed rule making with respect to the amendment of the Internal Revenue Service Procedural Rules relating to Economic Stabilization Matters (6 CFR Part 401) to establish procedures for the issuance of subpenas and the administration of oaths pursuant to section 206 of the Economic Stabilization Act of 1970, as amended (85 Stat. 747), and to designate those officers and employees of the Internal Revenue Service who may issue such subpenas and administer such oaths was published in the FEDERAL REGISTER (37 F.R. 8951). No objections to the rules proposed having been received during the 10-day period prescribed in the notice, the regulations as proposed are hereby adopted.

(Economic Stabilization Act of 1970, as amended (85 Stat. 747), Executive Order No. 11640 (37 F.R. 1213, Jan. 27, 1972), Cost of Living Council Order No. 8 (37 F.R. 2727, Feb. 4, 1972), Price Commission Order No. 2 (37 F.R. 3212, Feb. 12, 1972), Pay Board Order No. 4 (37 F.R. 3792, Feb. 19, 1972), Treasury Department Order No. 150–77 (37 F.R. 5513, Mar. 16, 1972), and Internal Revenue Service Order No. 123 (37 F.R. 5763, March 21, 1972))

JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to establish procedures for the issuance of subpenas and the administration of oaths pursuant to section 206 of the Economic Stabilization Act of 1970, as amended (85 Stat. 747), and to designate those officers and employees of the Internal Revenue Service who may issue such subpenas and administer such oaths the procedural rules relating to economic stabilization matters (6 CFR Part 401) are amended by adding a new Subpart L which reads as follows:

Subpart L—Issuance of Subpenas and Administration of Oaths

Sec.
401.1011 Authority to issue subpenas.
401.1012 Service of subpenas.
401.1013 Appearance of the person subpenaed.
401.1014 Enforcement of subpena.
401.1015 Authority to administer oaths.

AUTHORITY: The provisions of this Subpart L issued under sec. 206 of the Economic Stabilization Act of 1970, as amended (85 Stat. 747), Exectuive Order No. 11640 (37 F.R. 1213, Jan. 27, 1972), Cost of Living Council Order No. 8 (37 F.R. 2727, Feb. 4, 1972), Price Commission Order No. 2 (37 F.R. 3212, Feb. 12, 1972), Pay Board Order No. 4 (37 F.R. 3792, Feb. 19, 1972), Treasury Department Order No. 150–77 (37 F.R. 5513, Mar. 16, 1972), and Internal Revenue Service Order No. 123 (37 F.R. 5763, Mar. 21, 1972).

Subpart L—Issuance of Subpenas and Administration of Oaths

§ 401.1011 **Authority to issue subpenas.**

(a) *In general.* For the purpose of determining whether there has been compliance with the provisions of the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799), as amended, any authorized officer or employee of the Internal Revenue Service may examine any books, papers, records, or other data of any person described in paragraph (b) (1), (2), (3), or (4) of this section which may be relevant or material to such inquiry and take from such person, under oath, testimony which may be relevant or material to such inquiry.

(b) *Subpenas.* For the purpose described in paragraph (a) of this section,

the officers and employees of the Internal Revenue Service designated in paragraph (c) of this section, are authorized to summon—

(1) Any person or persons chargeable with compliance with the President's Economic Stabilization Program;

(2) Any officer or employee of such a person;

(3) Any person having possession, custody, or care of books of account, papers, records, or other data relating to the business or affairs of such a person; or

(4) Any other person deemed proper, including (but not limited to) officials and employees of any employee's union (or its bargaining agent) or of any professional or trade association,

to appear before a designated officer or employee of the Internal Revenue Service at a time and place named in the subpena and to produce such books, records, papers, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry. The officers and employees designated in paragraph (c) of this section may designate any other employee of the Internal Revenue Service as the individual before whom a person subpenaed, pursuant to section 206 of the Act, shall appear. Any such other employee, when so designated in a subpena, is authorized to take under oath the testimony of the person subpenaed and to receive and examine books, papers, records, and other data produced in compliance with a subpena.

(c) *Persons who may issue subpenas.* The following officers and employees of the Internal Revenue Service, referred to in paragraph (b) of this section, are authorized to issue subpenas—

(1) Assistant Commissioner (Stabilization),

(2) Regional Commissioners,

(3) Assistant Regional Commissioners (Appellate),

(4) Assistant Regional Commissioners (Stabilization),

(5) Regional Inspectors,

(6) District Directors, and

(7) Director of International Operations.

The authority to issue subpenas may be redelegated only by such officers and employees and may not be redelegated by those persons to whom such officers and employees redelegate.

§ 401.1012 Service of subpenas.

A subpena issued pursuant to § 401.1011 may be served by any authorized officer or employee of the Internal Revenue Service. Service may be made upon a natural person by personal delivery to the subpenaed person of an attested copy of such subpena or by leaving an attested copy of such subpena at his usual place of abode with some person of suitable age and discretion residing therein. Service may be made upon a domestic or foreign corporation or upon a partnership or unincorporated association which is subject to suit under a common name by personal delivery of an attested copy of the subpena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the subpena shall be evidence of the facts it states on the hearing of an application for the enforcement of the subpena. When the subpena requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

§ 401.1013 Appearance of the person subpenaed.

The time and place of examination stated in a subpena issued pursuant to § 401.1011 shall be such as are reasonable under the circumstances. However, the date fixed for the appearance of the person subpenaed and the production of any books, papers, records, or other data under subpena which may be relevant and material to such inquiry shall not be less than 5 days from the date of service. The attendance of witnesses and the production of records may be required from any State, possession, territory, Commonwealth, the District of Columbia, or any other place subject to the jurisdiction of the United States. Witnesses subpenaed shall be paid in accordance with the provisions of 28 U.S.C. 1821.

§ 401.1014 Enforcement of subpena.

Whenever any person is subpenaed pursuant to § 401.1011, the U.S. District Court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or the production of books, papers, records, or other data.

§ 401.1015 Authority to administer oaths.

Any officers and employees of the Internal Revenue Service when so designated in a subpena issued pursuant to § 401.1011 and the officers and employees of the Internal Revenue Service designated in paragraph (c) of § 401.1011 are authorized to administer such oaths or affirmations and certify to such papers as may be necessary in the administration and enforcement of the President's Economic Stabilization Program.

[FR Doc.72-8808 Filed 6-9-72;8:48 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER C—SPECIAL PROGRAMS

[Revision 1]

PART 760—INDEMNITY PAYMENT PROGRAMS

Subpart—Beekeeper Indemnity Payment Program

On May 6, 1972, a notice of proposed rule making regarding amendments to the Beekeeper Indemnity Payment Program regulations was published in the FEDERAL REGISTER (37 F.R. 9224).

Interested persons were given until May 20, 1972, to submit written comments, suggestions, or objections regarding the proposed amendments. Comments received from the notice of proposed rule making were generally negative regarding the proposals to require all commercial beekeepers to file on the basis of proved loss of income, reduced flat rates of indemnification for noncommercial beekeepers and for eliminating the moderate loss category of damage. In view of the comments received, the regulations have been revised to provide all beekeepers the option of filing on the basis of proved loss of income from bee losses or on the basis of modified flat rates of indemnification. Also, the moderate damage category is being retained.

The regulation is revised to read as follows:

This subpart contains the regulations which set forth the terms and conditions under which indemnity payments will be made to eligible beekeepers who suffer losses of their honeybees as a result of the application of pesticides.

Sec.

AUTHORITY: The provisions of this subpart issued pursuant to Public Law 91-524 (84 Stat. 1382).

§ 760.100 Administration.

The beekeeper indemnity payment program is administered by the Agricultural Stabilization and Conservation Service under the supervision and direction of the Deputy Administrator, State and County Operations. In the field, the program is carried out by the ASC State and county committees.

§ 760.101 Definitions.

For the purpose of this subpart, the following terms shall have the meaning specified:

(a) "Apiary" means the place where bees are kept, commonly known as a "bee yard".

(b) "Application period" means any period with respect to which application for payment is made beginning not earlier than January 1, 1967, and ending not later than December 31, 1973.

(c) "ASCS" means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(d) "Bee" means the honeybee, Apis mellifera L.

(e) "Beekeeper" means a person who maintains colonies of bees.

(f) "Colony" means a community of bees living together in a hive with a queen.

(g) "Colony destroyed" means a colony in which the kill of bees by pesticides was so severe that the colony did not survive.

(h) "Colony moderately damaged" means a colony so damaged by pesticides as to destroy only the field bees.

(i) "Colony severely damaged" means a colony in which the field bees were killed by pesticides, the colony suffered damage to the brood, but the colony did survive.

(j) "County committee" means the Agricultural Stabilization and Conservation County Committee.

(k) "DASCO" means the Deputy Administrator, State and County Operations, ASCS.

(l) "Person" means an individual, partnership, association, corporation, trust, estate, or other legal entity.

(m) "Pesticide" means an economic poison which was registered pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k), and approved for use by the Federal Government.

(n) "Queen nucleus" means a small colony of bees maintained solely for the purpose of producing queen bees.

(o) "Queen nucleus destroyed" means a queen nucleus in which the kill of bees by pesticides was so severe that the queen nucleus did not survive.

(p) "State committee" means the Agricultural Stabilization and Conservation State Committee.

§ 760.102 Indemnity payment.

An indemnity payment computed in accordance with § 760.109 will be made under this subpart to a beekeeper who has suffered a loss of his bees as a result of the application of pesticides and who establishes to the satisfaction of the county committee that he meets all of the requirements of this subpart.

§ 760.103 Requirements for eligibility.

(a) A beekeeper, to be eligible for an indemnity payment, shall file an application for payment with the county committee and establish to the satisfaction of the county committee all of the following:

(1) That during the application period, he suffered a loss of bees;

(2) That the loss of bees was caused solely by the use of pesticides near or adjacent to his apiary, and occurred without his fault;

(3) That if he used pesticides, such use of pesticides in no way contributed to the loss of his bees;

(4) That if he had advance knowledge that pesticides were going to be used near or adjacent to his apiary, he took reasonable precautions to protect his bees from exposure to pesticides, or, if he took no such precautions, that his failure to do so was reasonable under the circumstances;

(5) That after exposure of his bees to pesticides, he took reasonable action to minimize the bee loss to the extent that such action was feasible.

(b) A beekeeper, to be eligible for an indemnity payment for losses occurring during 1972 and any subsequent year, shall, no later than July 15 of each such year, submit to the ASCS county office where his headquarters are located a signed statement specifying the number of colonies of bees and queen nuclei maintained at each apiary and the location of each apiary: *Provided, however,* That such statement may be submitted after such date if the county committee determines that the beekeeper's failure to submit the statement by such date was because of illness or other reason beyond his control: *And provided, further,* That an amendment to such statement shall be submitted after such date to reflect any purchase or sale of colonies or queen nuclei after July 15, together with proof of such purchase or sale. The number of colonies and queen nuclei specified in this statement, as amended, shall be the maximum number of colonies and queen nuclei for which the beekeeper will be eligible to receive an indemnity payment for losses occurring during 1972 and any subsequent year.

§ 760.104 Application for payment.

(a) The beekeeper or his legal representative shall complete, sign, and file an application for payment, Form ASCS–448 or Form ASCS–449, with the ASCS county office serving the area where the beekeeper's headquarters is located.

(b) Applications for payment on losses of bees sustained between June 11, 1971, and December 31, 1971, shall be filed as promptly as practicable but not later than 1 year following the date of loss. Applications for payment on losses of bees sustained during 1972 and each subsequent calendar year shall be filed not later than April 1 following the year in which the losses occurred. An application may be filed after the closing date if the county committee determines that the beekeeper was prevented from filing by such date because of illness or other reason beyond his control. Only one indemnity payment covering all applications will be made to the beekeeper for all losses occurring during each such calendar year.

(c) The application for payment shall be accompanied by the information required by §§ 760.105–760.109, and such other information as may be reasonably required to enable the county committee to determine the eligibility of the beekeeper to receive an indemnity payment.

§ 760.105 Proving loss of bees.

A beekeeper shall submit to the county committee either an executed Form ASCS–448, specifying the number of colonies destroyed, severely damaged and moderately damaged; the number of queen nuclei destroyed; and evidence of the loss of bees specified in such form, or an executed Form ASCS–449 together with the evidence of loss of bees specified in such form.

(a) (1) With respect to any loss of bees which occurred between January 1, 1967, and June 11, 1971, both dates inclusive, such evidence may include, but is not limited to:

(i) Official reports of bee losses filed by the beekeeper with State or local authorities.

(ii) Daybooks or other regularly kept business records in which losses of bees were recorded by the beekeeper at the time of such losses.

(iii) Written statements signed by disinterested persons, such as landowners, farmers, or apiary inspectors, having personal knowledge of the beekeeper's loss of bees.

(iv) Photographs showing bee losses: *Provided,* That such photographs shall be authenticated as to date, location, and accuracy of what they portray.

(v) Reports of State or local apiary inspectors.

(vi) The beekeeper's tax returns or other reports showing losses resulting from losses of bees.

(2) If the beekeeper is unable to establish the extent of his loss of bees (that is, whether his loss of bees resulted in his colonies being destroyed, severely damaged, or moderately damaged), the extent of his loss will, for the purposes of this subpart, be deemed to be moderate damage: *Provided,* That the beekeeper submits to the county committee, together with whatever other documents are required by this subpart, a written statement signed by a disinterested person that he witnessed the beekeeper's loss of bees but could not assess the extent of such loss.

(3) If the beekeeper is unable to establish the extent of his loss of queen nuclei (that is, whether his loss resulted in his nuclei being destroyed or severely damaged) payment at the rate of $1.50 for each such damaged queen nucleus will be made: *Provided,* That the beekeeper submits to the county committee, together with whatever other documents are required by this subpart, a written statement signed by a disinterested person that he witnessed the beekeeper's loss of queen nuclei but could not assess the extent of such loss.

(b) With respect to any loss of bees which occurs between June 12, 1971, and the effective date of this revision, such evidence shall be a written inspection report by a disinterested person, such as the State apiarist, ASCS personnel, or other person familiar with beekeeping, describing loss of bees which he has observed. For any loss occurring after the effective date of this revision, such evidence shall be a written report by a State or county apiary inspector or ASCS personnel who has observed this loss. Any report under this paragraph shall:

(1) Describe the losses of bees which he has observed.

(2) Give full information regarding the loss, including but not limited to the following:

(i) Cause of loss;

(ii) Extent of loss (number of colonies destroyed, severely damaged or moderately damaged and number of queen nuclei destroyed);
(iii) Date of loss;
(iv) Location of apiary.

(3) Be completed, signed, and dated within a reasonable time following the loss as determined by the county committee.

(c) If the report required by paragraph (b) of this section is based on inspections of only a sample of the colonies in an apiary, the following guidelines shall be substantially complied with in selecting the samples of colonies to be examined:

(1) Count the colonies in the apiary.

(2) Select the colonies to be included in the sample from all areas of the apiary so as to assure that the sample is representative of conditions in the apiary as a whole. Colonies to be inspected should be selected at random to assure an accurate determination of the extent of loss in the apiary.

(3) Open and thoroughly inspect at least the specified number of colonies for the applicable size of apiary:

Apiary of 1–15 colonies, all colonies.
Apiary of 16–75 colonies, 15 colonies.
Apiary of more than 75 colonies, 20 percent of the colonies.

(d) Beginning with 1972, no change in the degree of loss of bees which occurs after November 1 each year will be recognized and no payment will be made for any loss of queen nuclei which occurs between October 1 and December 31 each year.

§ 760.106 Proving utilization of pesticides.

A beekeeper shall submit to the county committee evidence that the loss of his bees occurred as a result of the utilization of pesticides near or adjacent to his apiary. Such evidence may include, but is not limited to:

(a) Reports of chemical tests performed on the bees which were killed.

(b) Records, signed statements, or official reports of pesticide applicators or farmers who either applied pesticides or contracted for their application within the normal forage range of the beekeeper's bees.

(c) Records, signed statements, or official reports of representatives of local canneries or pesticide vendors who supplied pesticides which were used within the normal forage range of the beekeeper's bees.

(d) Records, signed statements, or official reports of local, State or Federal governmental agencies or colleges and universities having verified information with respect to the application of pesticides in the locality where the beekeeper's apiaries were located.

§ 760.107 Proving nonfault.

A beekeeper shall submit to the county committee (a) a statement signed by the beekeeper stating whether or not he used pesticides, and (b) if he did use pesticides, evidence that his use thereof in no way contributed to the loss of his bees.

§ 760.108 Proving reasonable care.

A beekeeper shall submit to the county committee evidence that he exercised reasonable care in connection with the use of pesticides by others. Such evidence shall consist of, but is not limited to, written statements signed by the beekeeper:

(a) Stating whether or not he received advance notice that pesticides were going to be applied near or adjacent to his apiary.

(b) Describing what actions he took (if he received such notice) to protect his bees from pesticides, or why there was no suitable action he could take.

(c) Describing what steps he took, after exposure of his bees to pesticides, to improve the condition of his colonies and to reduce the extent of bee loss, or why there were no suitable steps he could take.

§ 760.109 Computation of payment.

(a) The county committee will determine the amount of the indemnity payment due a beekeeper whom it has determined to be in compliance with the terms and conditions of this subpart. Such payment shall be in the amount of the beekeeper's net loss from losses of his bees resulting from application of pesticides, less any indemnification for the loss of his bees or payment of any nature which the beekeeper has received through insurance, legal action, or otherwise. The beekeeper may have his net loss determined by the county committee (1) on the basis of evidence submitted by him to the county committee relating to the following:

(i) The cost of bees obtained to replace those lost,
(ii) Loss of sales of honey,
(iii) Loss of pollination fees,
(iv) Loss of sales of queen bees and packaged bees, and
(v) Other loss of income related to the loss of bees, or

(2) On the basis of the following rates:

(i) $15 for each colony destroyed,
(ii) $10 for each colony severely damaged,
(iii) $5 for each colony moderately damaged, and
(iv) $5 for each queen nucleus destroyed.

If a payment is made on a colony for moderate or severe damage, that colony is not eligible for further payments during the calendar year until the colony is restored to normal strength and again damaged by pesticides. In no case will the total payment made on the basis of such rates exceed $15 per colony each year.

§ 760.110 Appeals.

The Appeal Regulations issued by the Administrator, ASCS, Part 780 of this chapter, shall be applicable to appeals by beekeepers from determinations made pursuant to the regulations in this subpart.

§ 760.111 Assignments.

A beekeeper shall not assign any indemnity payment due or to come due under the regulations in this subpart.

§ 760.112 Instructions.

DASCO shall cause to be prepared such forms and instructions as are necessary for carrying out the regulations in this subpart. Beekeepers may obtain such forms, including the following, from the ASCS county office:

ASCS–448–Beekeeper Indemnity Payment Program Report of Loss on a Colony Basis and Application for Payment.
ASCS–449–Beekeeper Indemnity Payment Program Report of Loss on a Loss of Income Basis and Application for Payment.

§ 760.113 Limitation of authority.

(a) County executive directors and State and county committees do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(b) The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee when such action has not been taken by the county committee. The State committee may also (1) correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee without taking any action which is not in accordance with the regulations in this subpart.

(c) No delegation herein to a State or county committee shall preclude DASCO or his designee from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee.

§ 760.114 Estates and trusts; minors.

(a) A receiver of an insolvent debtor's estate and the trustee of a trust estate shall, for the purposes of this subpart, be considered to represent an insolvent beekeeper and the beneficiaries of a trust, respectively, and the honeybee losses of the receiver or trustee shall be considered to be the honeybee losses of the persons he represents. Program documents executed by any such person will be accepted only if such person has authority to sign the applicable documents, and such documents are otherwise legally valid.

(b) A minor who is a beekeeper shall be eligible for indemnity payments only if he meets one of the following requirements: (1) The rights of majority have been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable program documents are signed by the guardian; or (3) a bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had he been an adult.

§ 760.115 Setoffs.

(a) If any indebtedness of the beekeeper to any agency of the United

States is listed on the county claims control record, indemnity payments due the beekeeper under the regulations in this part shall be applied, as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(b) Compliance with the provisions of this section shall not deprive the beekeeper of any right he would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 760.116 Overdisbursement.

A beekeeper shall be personally liable for repayment of the amount by which any indemnity payment disbursed to him exceeds the amount of such payment authorized under the regulations in this subpart.

§ 760.117 Death, incompetency, or disappearance.

In the case of the death, incompetency, or disappearance of any beekeeper who is entitled to an indemnity payment, such payment may be made to the person or persons specified in the regulations contained in Part 707 of this chapter. The persons requesting such payment shall file Form ASCS–325, "Application For Payment of Amounts Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent," as provided in that part.

§ 760.118 Records, and inspection thereof.

The beekeeper, and any other person who furnishes information to such beekeeper or to the county committee to enable the beekeeper to receive an indemnity payment under this subpart, shall maintain any books, records, and accounts supporting any information furnished to the county committee, for 3 years following the end of the year during which the application for payment was filed. The beekeeper or any other person who furnishes such information to the beekeeper or to the county committee shall permit authorized representatives of the Department of Agriculture and the General Accounting Office, during regular business hours, to inspect, examine, and make copies of such books, records, and accounts.

NOTE: The reporting and/or recordkeeping requirement contained herein has been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: Date of publication (6–10–72).

Signed at Washington, D.C., on June 6, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–8793 Filed 6–9–72;8:50 am]

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

[Lemon Reg. 537]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.837 Lemon Regulation 537.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 6, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period June 11, 1972, through June 17, 1972, is hereby fixed at 300,000 cartons.

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

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

Dated: June 8, 1972.

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

[FR Doc.72–8862 Filed 6–9–72;11:23 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

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

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

[Docket No. 72–525]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, paragraph (e)(1) relating to the State of Texas is amended to read:

(1) *Texas.* That portion of the State of Texas comprised of all of Cameron, Harris, Hidalgo, Jim Wells, Moore, Nueces, Starr, Webb, and Willacy Counties.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505.)

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

The amendment quarantines all of Harris County in Texas because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

The amendment imposes certain further restrictions necessary to prevent

the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rule-making proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 7th day of June 1972.

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

[FR Doc.72-8791 Filed 6-9-72;8:50 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Florida after the reference to "California", and a new paragraph (a)(2) relating to the State of Florida is added to read:

§ 82.3 Areas quarantined.

(a) * * *

(2) *Florida.* The adjoining portions of Broward and Dade Counties bounded by a line beginning at the junction of secs. 13 and 24, T. 49 S., R. 38 E. and secs. 18 and 19, T. 49 S., R. 39 E.; thence, following the dividing line between R. 38 E., and R. 39 E., in a southerly direction to the Broward-Dade County lines; thence, following the Broward-Dade County line in an easterly direction to the Dade-Broward levee; thence, following the east bank of the Dade-Broward levee in a southerly direction to the junction of secs. 16, 17, 20, and 21, T. 53 S., R. 39 E.; thence, following the southern boundaries of secs. 16, 15, 14, and 13, T. 53 S., R. 39 E., and the southern boundaries of secs. 18, 17, 16, 15, 14, and 13, T. 53 S., R. 40 E., in an easterly direction to State Highway 25; thence, following State Highway 25 in a southeasterly direction to State Road 25A (also Northwest 54th Street); thence, following State Road 25A (also Northwest 54th Street) in an easterly direction to State Road 9 (also Northwest 27th Avenue); thence, following State Road 9 (also Northwest 27th Avenue) in a northerly, then northeasterly direction to the Seaboard Coast Line Railroad; thence following the Seaboard Coast Line Railroad in a northeasterly direction through the Golden Glades Interchange to Florida's Sunshine Turnpike; thence, following Florida's Sunshine Turnpike in a northwesterly, then northerly direction to Commercial Boulevard; thence, following Commercial Boulevard in a northwesterly, then westerly direction to the junction of secs. 8, 9, 17, and 16, T. 49 S., R. 41 E.; thence, following the western boundary of sec. 16, T. 49 S., R. 41 E., in a southerly direction to the junction of secs. 16, 17, 20, and 21, T. 49 S., R. 41 E.; thence, following the northern boundaries of secs. 20 and 19, T. 49 S., R. 41 E., to the junction of secs. 18 and 19, T. 49 S., R. 41 E., and sec. 13, T. 49 S., R. 40 E.; thence, following the western boundary of sec. 19 in a southerly direction to the junction of sec. 19, T. 49 S., R. 41 E., and secs. 13 and 24, T. 49 S., R. 40 E.; thence, following the northern boundaries of secs. 24, 23, 22, 21, 20, and 19, T. 49 S., R. 40 E., and secs. 24, 23, 22, 21, 20, and 19, T. 49 S., R. 39 E., in a westerly direction to the junction of secs. 13 and 24, T. 49 S., R. 38 E., and secs. 18 and 19, T. 49 S., R. 39 E.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 115, 117, 120, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

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

The amendment quarantines portions of Broward and Dade Counties in Florida because of the existence of exotic Newcastle disease. The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 7th day of June 1972.

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

[FR Doc.72-8792 Filed 6-9-72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-SO-18]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Brunswick, Ga. (Malcolm-McKinnon Airport), control zone and the Brunswick, Ga., transition area.

The Brunswick (Malcolm-McKinnon Airport) control zone is described in § 71.171 (37 F.R. 2056) and the Brunswick transition area is described in § 71.181 (37 F.R. 2143). In the control zone description, an extension is predicated on the Brunswick VOR 023° radial. The final approach radial of VOR Runway 4 instrument approach procedure has been changed to 022°. In the transition area description, an extension is predicated on the Brunswick VOR 203° radial. Effective June 29, 1972, the procedure turn radial for VOR–A instrument approach procedure to Jekyll Island Airport will be changed to Brunswick VOR 215° radial. It is necessary to alter the descriptions to reflect these changes. Since these amendments are minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 29, 1972, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Brunswick, Ga. (Malcolm-McKinnon Airport), control zone is amended as follows: "* * * 023° * * *" is deleted and "* * * 022° * * *" is substituted therefor.

In § 71.181 (37 F.R. 2143), the Brunswick, Ga., transition area is amended as follows: "* * * 203° * * *" is deleted and "* * * 215° * * *" is substituted therefor.

(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 31, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-8764 Filed 6-9-72;8:45 am]

[Airspace Docket No. 72-WE-18]

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

Establishment of Control Zone

On April 28, 1972, a notice of proposed rule making was published in the FED-

ERAL REGISTER (37 F.R. 8539) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would establish a temporary control zone for San Luis Obispo County Airport, Calif.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., August 17, 1972.

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

Issued in Los Angeles, Calif., on June 1, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.171 (37 F.R. 2056) the following control zone is added:

SAN LUIS OBISPO, CALIF.

Within a 3-mile radius of San Luis Obispo County Airport (latitude 35°14'16" N., longitude 120°38'20" W.). This control zone is effective from 0800 to 2000 local time daily August 20 through September 1, 1972.

[FR Doc.72-8765 Filed 6-9-72;8:45 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

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

PART 148h—KANAMYCIN SULFATE

Potency Assay Method

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 141 and 148h are amended as follows to change the potency assay method for kanamycin sulfate from the microbiological agar diffusion assay to the microbiological turbidimetric assay:

1. Part 141 is amended:

§ 141.110 [Amended]

a. In § 141.110 by deleting the item "Kanamycin" both from the table in paragraph (a) and from the table in paragraph (b).

b. In § 141.111 by alphabetically inserting a new item in both the table in paragraph (a) and the table in paragraph (b), as follows:

§ 141.111 Microbiological turbidimetric assay.

* * * * *

(a) * * *

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 141.501)	Initial solvent	Diluent (solution number as listed in § 141.102(a))	Final concentration	Storage time under refrigeration	Standard response line concentrations: Diluent (solution number as listed in § 141.102(a))	Final concentrations-units or micrograms of antibiotic activity per milliliter
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Kanamycin	Not dried		Distilled water	1 mg	1 month	Distilled water	8.0, 8.9, 10.0, 11.2, 12.5, μg.
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

(b) * * *

Antibiotic	Test organism	Medium (nutrient broth)	Suggested volume of standardized inoculum to be added to each 100 milliliters of medium (nutrient broth)	Incubation temperature
			Milliliters	*Degrees C.*
* * *	* * *	* * *	* * *	* * *
Kanamycin	A	3	0.2	37
* * *	* * *	* * *	* * *	* * *

* * * * *

2. Part 148h is amended:

a. In § 148h.1 by revising paragraph (b)(1), as follows:

§ 148h.1 Nonsterile kanamycin sulfate.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient sterile distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 10 micrograms of kanamycin per milliliter (estimated).

b. In § 148h.1a by revising paragraph (b)(1), as follows:

§ 148h.1a Sterile kanamycin sulfate.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient sterile distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 10 micrograms of kanamycin per milliliter (estimated).

c. In § 148h.2 by revising paragraph (b)(1), as follows:

§ 148h.2 Kanamycin sulfate injection.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Place an accurately measured representative aliquot of the sample into an appropriate-sized volumetric flask and dilute to volume with sterile distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 10 micrograms of kanamycin per milliliter (estimated).

d. In § 148h.3 by revising paragraph (b)(1), as following:

§ 148h.3 Kanamycin sulfate capsules.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar with sufficient sterile distilled water to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with sterile distilled water to the reference concentration of 10 micrograms of kanamycin per milliliter (estimated).

Since the matter is noncontroversial, notice and public procedure and delayed effective date are not prerequisite to promulgation of these amendments.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6-10-72).

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

Dated: May 30, 1972.

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

[FR Doc.72-8769 Filed 6-9-72;8:45 am]

PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

Fee for Thin Layer Chromatographic Identity Test

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 146 is amended in § 146.8(b)(1) by revising the chargeable

fee for the thin layer chromatographic identity test to read as follows:

§ 146.8 Fees.

* * * * *

(b) * * *

(1) * * *

Test	Chargeable fee per test
* * *	* * *
Thin layer chromatographic identity--	15
* * *	* * *

* * * * *

As this change is a reduction in a chargeable fee, involving the relaxation of the regulation, and is noncontroversial in nature, notice and public procedure and delayed effective data are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6–10–72).

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

Dated: May 30, 1972.

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

[FR Doc.72-8771 Filed 6-9-72;8:46 am]

PART 148e—ERYTHROMYCIN

Certain Erythromycin Ethylsuccinate Products; Name Change

In a notice published in the FEDERAL REGISTER of March 2, 1972 (37 F.R. 4357), the Commissioner of Food and Drugs proposed that the antibiotic drug regulations be amended to delete the word "granules" from the term "erythromycin ethylsuccinate granules for oral suspension" and to delete the word "chewable" from the term "erythromycin ethylsuccinate chewable tablets." It was also proposed that the specification for disintegration time be added to the erythromycin ethylsuccinate tablet monograph. Interested persons were invited to submit their comments in response to the notice of proposed rule making within 30 days. No comments were received. Accordingly the Commissioner of Food and Drugs concludes that the antibiotic drug regulations should be amended as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 148e is amended as follows:

§ 148e.10 [Amended]

1. In § 148e.10 *Erythromycin ethylsuccinate granules for oral suspension* by deleting the word "granules" from the the heading and from the first sentence of paragraph (a)(1).

2. In § 148e.29 by deleting the word "chewable" from the heading and the first sentence in paragraph (a)(1); inserting a new sentence between the fourth and fifth sentences in paragraph (a)(1); revising paragraphs (a)(3)(i)(*b*) and (ii)(*b*); and adding a new subparagraph (3) to the end of paragraph (b) to read as follows:

§ 148e.29 Erythromycin ethylsuccinate tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Erythromycin ethylsuccinate tablets are composed of erythromycin ethylsuccinate, suitable and harmless diluents, binders, buffers, colorings, and flavorings. Each tablet contains erythromycin ethylsuccinate equivalent to 100 or 200 milligrams of erythromycin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of erythromycin that it is represented to contain. The moisture content is not more than 5 percent. The tablets shall disintegrate within 45 minutes. The erythromycin ethylsuccinate used conforms to the standards prescribed by § 148e.7(a)(1).

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, moisture, and disintegration time.

* * * * *

(ii) * * *

(*b*) The batch: A minimum of 36 tablets.

(b) * * *

(3) *Disintegration time.* Proceed as directed in § 141.540 of this chapter.

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

Dated: May 30, 1972.

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

[FR Doc.72-8770 Filed 6-9-72;8:45 am]

Title 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

PART 10—PRACTICE BEFORE INTERNAL REVENUE SERVICE

Economic Stabilization Matters

The Treasury Department hereby amends Part 10 of Subtitle A of Title 31 of the Code of Federal Regulations (Treasury Department Circular No. 230), concerning practice before the Internal Revenue Service on economic stabilization matters. The purpose of these amendments is to amend the rules prescribed on January 20, 1972, that were published in the FEDERAL REGISTER of Friday, January 21, 1972 (37 F.R. 1016), relating to authority to practice before the Internal Revenue Service on economic stabilization matters. These amendments are made as a result of policy decisions of the Cost of Living Council, Pay Board, and Price Commission, and will permit the Internal Revenue Service to issue regulations, which it is constrained to issue as the delegate of those agencies in the administration of the Economic Stabilization Program. These amendments will permit any person to appear in a representative capacity before the Internal Revenue Service in matters relating to economic stabilization.

Despite these amendments, it remains and shall continue to remain the position of the Treasury Department, and the Internal Revenue Service, that in order to protect the public, only attorneys, certified public accountants, and enrolled agents, because of their training and prescribed standards of conduct, can properly be allowed to practice and represent the public in tax matters before the Internal Revenue Service. In order to preserve this position with respect to the Treasury Department's duty to protect the public, any appearance before the Internal Revenue Service on economic stabilization matters shall not in any manner be considered to be an authorization to practice before the Service for the purposes of tax matters. The proposed amendments are set forth below:

A. Section 10.9 is amended as follows:

1. Paragraph (a) is amended to read as set forth below.

2. The first sentence of paragraph (b) (ending with the colon) is amended to read as set forth below.

3. Paragraph (b) is further amended by adding a new subparagraph (7) to read as set forth below.

§ 10.9 Practice before the Internal Revenue Service on economic stabilization matters.

(a) *Who may practice.* Any person may appear on his own behalf or may be represented by any natural person, age 21 years or older whom he has designated to represent him, except that such designated person may not be under disbarment or suspension from practice before the Internal Revenue Service. Any person who is recognized to practice and to appear before the Internal Revenue Service, including the Office of Chief Counsel, on matters relating to economic stabilization shall comply with such procedural requirements as the Commissioner of Internal Revenue or the Chief Counsel, Internal Revenue Service, as appropriate, may hereafter set forth.

(b) *Disciplinary proceedings.* Pursuant to the regulations contained in Subpart C of this part any person appearing before the Internal Revenue Service, including the Office of the Chief Counsel, on matters relating to economic stabilization may be suspended or disbarred from further appearances before the Internal Revenue Service, including the Office of the Chief Counsel, for disreputable conduct which includes, but is not limited to the following:

* * * * *

(7) Advertising or soliciting, directly, or indirectly, for employment before the Service on matters relating to economic

stabilization, or employing, accepting assistance from, or being employed or associated with any person or firm who advertises or solicits such employment.

B. New § 10.10 is added to Subpart A to read as follows:

§ 10.10 Limited practice in economic stabilization matters.

Nothing contained in the regulations in this part shall be deemed to permit any person not qualified under §§ 10.3 (a), 10.3(b), 10.4, and 10.7 to practice before the Internal Revenue Service in matters other than those matters relating to economic stabilization.

Because of the need for immediate guidance with respect to the subject matter of these amendments, it is found impracticable to issue such rules with notice and public procedure thereon under 5 U.S.C., section 553(b), or subject to the effective date limitation of 5 U.S.C., section 553(d) of such title.

These regulations shall become effective when filed with the FEDERAL REGISTER.

(Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301, 500, 551–559, 31 U.S.C. 1026, Reorg. Plan No. 26 of 1950, 15 F.R. 4935, 64 Stat. 1280, 3 CFR, 1949–1953 Comp.)

[SEAL] SAMUEL R. PIERCE, Jr.,
General Counsel.

[FR Doc.72-8806 Filed 6-9-72;8:48 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5215]

[Oregon 7942 (Wash.)]

WASHINGTON

Amendment of Public Land Order No. 836 of June 8, 1952

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Public Land Order No. 836 of June 8, 1952, partially revoking Public Land Order No. 606 of September 13, 1949, is hereby amended by deleting the last paragraph therefrom, and by substituting the following paragraph:

"This revocation is in furtherance of exchanges under section 8 of the Taylor Grazing Act of June 28, 1934, 48 Stat. 1272, as amended, 43 U.S.C. section 315g (1964), by which the offered lands will benefit a Federal land program. Accordingly, the lands, excepting those lands within the Wallula Townsite, as may be described on a proposed supplemental plat of survey, are hereby classified pursuant to section 7 of said Act, 43 U.S.C. section 315f (1964), as suitable for such exchanges. The lands therefore, will not be open to other use or disposition under the public land laws in the absence of a modification or revocation of such classification (43 CFR 2440.4)."

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 6, 1972.

[FR Doc.72-8774 Filed 6-9-72;8:46 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-21; Notice 72-4]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Glazing and Window Construction

On August 7, 1970, the Director of the Bureau of Motor Carrier Safety issued a notice of proposed rule making, announcing that he was considering amendments to paragraphs (a), (b), and (c) of §§ 393.61 and amendments to 393.63 of the Motor Carrier Safety Regulations (35 F.R. 13024) for the purpose of revising the area requirements of windows in trucks and truck tractors and for the purpose of making bus window requirements consistent with a proposed Motor Vehicle Safety Standard. The comments received in response to the notice have been considered in this issuance of final amendments. The Administrator of the National Highway Traffic Safety Administration has issued the proposed Motor Vehicle Safety Standard (see 37 F.R. 9394) as Standard No. 217. Comments on Motor Vehicle Safety Standard 217 are discussed in that issuance by the Administrator and will not be mentioned here.

Several comments pointed out that there was no demonstrated need to increase truck cab side window minimum size and that a person in a truck had ready access to two doors for emergency egress. These comments are well founded and the proposed amendment to the size of windows in trucks and truck tractors is deleted from this final issuance.

Other changes made in the proposed amendments do not affect the substance of the amendments. The proposed effective date of January 1, 1972, has been changed to July 1, 1973; buses manufactured after the effective date of Standard No. 217, September 1, 1973, are required to conform to Standard No. 217, the term "push-out windows" in §§ 393.61 (b)(2) and in 393.63 (b) and (c) has been changed to "emergency exits" to reflect the fact that emergency exits other than push-out windows are required by Standard No. 217; and the words "including a school bus" have been inserted in § 393.61(b)(2) to make it clear that schoolbuses used in interstate commerce by common and contract carriers by motor vehicle must have the emergency exits provided in Standard No. 217.

In consideration of the foregoing paragraphs (b) and (c) of §§ 393.61 and 393.63 of Part 393 of Title 49, CFR, are amended to read as set forth below. These amendments are effective on July 1, 1973.

(Sec. 204, Interstate Commerce Act, 49 U.S.C. 304; sec. 6, Department of Transportation Act, 49 U.S.C. 1655, delegation of authority by the Secretary of Transportation, 49 CFR 1.48, delegation of authority by the Federal Highway Administrator, 49 CFR 389.4)

Issued on May 31, 1972.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

§ 393.61 Window construction.

* * * * *

(b) *Bus windows.* (1) Except as provided in subparagraph (3) of this paragraph a bus manufactured before September 1, 1973, having a seating capacity of more than eight persons shall have, in addition to the area provided by the windshield, adequate means of escape for passengers through windows. The adequacy of such means shall be determined in accordance with the following standards: For each seated passenger space provided, inclusive of the driver there shall be at least 67 square inches of glazing if such glazing is not contained in a push-out window; or at least 67 square inches of free opening resulting from opening of a push-out type window. No area shall be included in this minimum prescribed area unless it will provide an unobstructed opening sufficient to contain an ellipse having a major axis of 18 inches and a minor axis of 13 inches or an opening containing 200 square inches formed by a rectangle 13 inches by 17¾ inches with corner arcs of 6-inch maximum radius. The major axis of the ellipse and the long axis of the rectangle shall make an angle of not more than 45° with the surface on which the unladen vehicle stands. The area shall be measured either by removal of the glazing if not of the push-out type or of the movable sash if of the push-out type, and it shall be either glazed with laminated safety glass or comply with paragraph (c) of this section. No less than 40 percent of such prescribed glazing or opening shall be on one side of any bus.

(2) A bus, including a school bus, manufactured on and after September 1, 1973, having a seating capacity of more than 10 persons shall have emergency exits in conformity with Motor Vehicle Safety Standard No. 217, Part 571 of this title.

(3) A bus manufactured before September 1, 1973, may conform to Motor Vehicle Safety Standard No. 217, Part 571 of this title, in lieu of conforming to subparagraph (1) of this paragraph.

(c) *Push-out window requirements.* (1) Except as provided in subparagraph (3) of this paragraph, every glazed opening in a bus manufactured before September 1, 1973, and having a seating capacity of more than eight persons, used to satisfy the requirements of paragraph (b)(1) of this section, if not glazed

with laminated safety glass, shall have a frame or sash so designed, constructed, and maintained that it will yield outwardly to provide the required free opening when subjected to the drop test specified in Test 25 of the American Standard Safety Code referred to in § 393.60. The height of drop required to open such push-out windows shall not exceed the height of drop required to break the glass in the same window when glazed with the type of laminated glass specified in Test 25 of the Code. The sash for such windows shall be constructed of such material and be of such design and construction as to be continuously capable of complying with the above requirement.

(2) On a bus manufactured on and after September 1, 1973, having a seating capacity of more than 10 persons, each push-out window shall conform to Motor Vehicle Safety Standard No. 217, Part 571 of this title.

(3) A bus manufactured before September 1, 1973, may conform to Motor Vehicle Safety Standard No. 217, Part 571 of this title, in lieu of conforming to subparagraph (1) of this paragraph.

* * * * *

§ 393.63 Windows, markings.

(a) On a bus manufactured before September 1, 1973, each bus push-out window and any other bus escape window glazed with laminated safety glass required in § 393.61 shall be identified as such by clearly legible and visible signs, lettering, or decalcomania. Such marking shall include appropriate wording to indicate that it is an escape window and also the method to be used for obtaining emergency exit.

(b) On a bus manufactured on and after September 1, 1973, emergency exits required in § 393.61 shall be marked to conform to Motor Vehicle Safety Standard No. 217, Part 571 of this title.

(c) A bus manufactured before September 1, 1973, may mark emergency exits to conform to Motor Vehicle Safety Standard No. 217, Part 571 of this title in lieu of conforming to paragraph (a) of this section.

[FR Doc.72-8803 Filed 6-9-72;8:50 am]

Proposed Rule Making

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 908]

WEATHER MODIFICATION ACTIVITIES

Proposed Maintaining and Submitting of Records

Notice is hereby given that, pursuant to the authority contained in Public Law 92–205, 85 Stat. 735, December 18, 1971, the National Oceanic and Atmospheric Administration (NOAA) proposes to amend Title 15, Code of Federal Regulations, by the addition of Part 908, adopting the rules set forth below.

All interested persons are invited to present their written views, objections, recommendations, or suggestions in connection with the proposed rules to the Administrator, National Oceanic and Atmospheric Administration, Rockville, Md. 20852, on or before September 11, 1972. No oral hearing will be held. The written comments submitted may be inspected by any person, upon application, at the Office of Environmental Modification, NOAA, Room 1004, 6010 Executive Boulevard, Rockville, MD 20852.

The purpose of these proposed rules is to provide for the reporting to the Secretary of Commerce of weather modification activities taking place within the United States. The Secretary is charged under law to assemble and retain records of such weather modification activities and to make these records publicly available to the fullest extent practicable. By so doing, among other things, expertise in the field of weather modification will be increased, and scientists and other concerned persons will have access to scientific information about past and ongoing efforts at weather modification, can avoid unneeded and wasteful duplications of effort, can check both desirable and undesirable atmospheric changes against records of weather modification, and can prevent territorial overlappings of weather modification operations. These rules will be administered by the Administrator, National Oceanic and Atmospheric Administration, on behalf of the Secretary of Commerce.

HOWARD W. POLLOCK,
Acting Administrator.

Sec.

AUTHORITY: The provisions of this Part 908 issued under Public Law 92–205, 85 Stat. 735, Dec. 18, 1971.

The proposed rules are as follows:

§ 908.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Administrator.* The Administrator of the National Oceanic and Atmospheric Administration.

(b) *Person.* Any individual, corporation, company, association, firm, partnership, society, joint stock company, any State or local government or any agency thereof, or any other organization, whether commercial or nonprofit, except where acting solely as an employee, agent, or independent contractor of the Federal Government.

(c) *Weather modification activity.* Any activity performed with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere.

(d) *United States.* The several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or insular possession of the United States.

(e) *Persons whose activities relate to weather modification.* Persons engaged in weather modification activities or engaged in the distribution, sale, repair, or maintenance of equipment or materials known by them to be destined for use in weather modification activities.

(f) *Project.* A related series of weather modification activities having a common objective.

§ 908.2 Persons subject to reporting.

Any person engaged or intending to engage in any weather modification activity in the United States shall be subject to the reporting provisions of this part.

§ 908.3 Activities subject to reporting.

(a) The following, when conducted as weather modification activities, shall be subject to reporting:

(1) Seeding or dispersing of any substance into clouds or fog, to alter drop size distribution, produce ice crystals or coagulation of droplets, alter the development of hail or lightning, or influence in any way the natural development cycle of clouds or their environment;

(2) Using fires or heat sources to influence convective circulation or to evaporate fog;

(3) Modifying the solar radiation exchange of the earth or clouds, through the release of gases, dusts, liquids, or aerosols into the atmosphere;

(4) Modifying the characteristics of land or water surfaces by dusting or treating with powders, liquid sprays, dyes, or other materials;

(5) Releasing electrically charged or radioactive particles, or ions, into the atmosphere;

(6) Applying shock waves, sonic energy sources, or other explosive or acoustic sources to the atmosphere;

(7) Using aircraft propeller downwash, jet wash, or other sources of artificial wind generation; or

(8) Using lasers or other sources of electromagnetic radiation.

(b) In addition to the activities listed above, other similar activities falling within the definition of weather modification as presented in § 908.1 are also subject to reporting.

(c) The requirement for reporting shall not apply to activities of a purely local nature that can reasonably be expected not to modify the weather outside of the area of operation. This exception is presently restricted to the use of small heat sources, fans, fogging devices, or sprays to prevent the occurrence of frost in orchards or citrus groves. Other exceptions may be made in the future by rule of the Administrator.

§ 908.4 Initial report.

(a) Any person intending to engage in any weather modification project or activity in the United States shall provide a report of his intention, to be received by the Administrator at last 30 days before the commencement of such project or activity. This report shall contain at least the following:

(1) The designation, if any, used by the operator for the project or activity;

(2) The date of the contract or other agreement to undertake the activity or project, the dates on which the actual weather modification activities are expected to commence and terminate, and the completion date of the project or contract;

(3) The name and address of the person for whom the project or activity is to be performed;

(4) The purpose of the project or activity;

(5) The approximate size and location of the target area;

(6) A description of the equipment and seeding agents and the techniques to be employed;

(7) The address where logbooks or other records of the project or activity may be obtained; and

(8) Optional remarks to include such other information as the Administrator may request the person to submit.

(b) If circumstances prevent the signing of a contract or agreement to perform, or receipt of an authorization to proceed with, a weather modification activity at a date early enough to comply with § 908.4(a), the initial report shall be provided so as to be received by the Administrator within 10 days of the date of signing of the contract or agreement, or receipt of authorization to proceed. In such cases, the report shall be accompanied by an explanation as to why it was not submitted 30 days prior to the commencement of the activity.

(c) In the event that circumstances beyond the control of the person liable to report under these regulations prevent the submission of the initial report in a timely manner as described above, the report shall be forwarded as early as possible, accompanied by an explanation as to why a timely report has not been provided. If such explanation is deemed adequate, the Administrator may consider the notice as timely filed.

§ 908.5 Interim reports.

(a) Any person engaged in a weather modification project or activity in the United States on October 1 in any year shall submit to the Administrator, not later than 90 days thereafter, an interim report setting forth as of such date the information required below with respect to any such continuing project or activity not previously furnished to the Administrator in a prior interim report; provided that the October 1 date shall not apply if other arrangements have previously been made with the written approval of the Administrator.

(b) The interim report will provide a summary of the project or activity containing at least the following information for each month:

(1) Number of days on which field operations were conducted;

(2) Number of storms, clouds, or other weather phenomena on which modification attempts were made;

(3) Number of seeding flights or generator seeding missions, or other appropriate modification missions that were carried out;

(4) Total number of hours of operation of each type of modification equipment (flight hours, generator hours, etc.);

(5) Total amount of agent used. If more than one agent was used, report total for each type separately.

(c) The totals for the items in paragraph (b) of this section shall be provided for the period covered by the interim report.

§ 908.6 Final report.

Upon completion of a weather modification project or activity the person who performed the same shall submit a report to the Administrator not later than 90 days after completion of the project or activity. The report shall include the file number assigned by the Administrator and the following items:

(a) Information required for the interim reports (to the extent not previously reported).

(b) The total number of seeding or other modification missions accomplished under the project or activity.

(c) The total number of storms, clouds, or other weather phenomena on which modification attempts were made during the project or activity.

(d) The total number of days during the project or activity on which actual modification attempts took place.

(e) The total number of hours of operation of each type of modification equipment during the project or activity.

(f) The total amount of seeding or other modification agent(s) dispensed during the project or activity. If more than one agent was used, each should be listed separately (e.g., dry ice, urea, silver iodide).

(g) The date of completion of the project or activity.

§ 908.7 Supplemental reports.

Notwithstanding other regulations, a supplemental report must be made to the Administrator immediately if any report of weather modification activities submitted under § 908.4, § 908.5, or § 908.6 is found to contain any material inaccuracies, misstatements, and omissions. A supplemental report must also be made if there are changes in plans for the project or activity.

§ 908.8 Maintenance of records.

(a) Any person engaging in a weather modification activity in the United States shall maintain a record of such activity. This record shall contain at least the following, when applicable:

(1) A chronological record of activities carried on, preferably in the form of a daily log, which shall include at least the following information for each unit of weather modification equipment:

(i) Date of log entry (month, day, year).

(ii) Course of aircraft flights or location of each generator or other modification device. Maps may be used.

(iii) Time when modification activity began and ended.

(iv) Total number of hours of operation of each unit of modification equipment. (Flight hours, generator hours, etc.)

(v) Type of seeding or other modification agent used.

(vi) Rate of dispersal of agent during the period of actual operation of weather modification equipment.

(vii) Total amount of agent used. If more than one agent was used, report total for each type separately.

(2) The subtotals of hours of seeding or other activity and amount of seeding or other modification agent should be shown on each page of the daily log. (A suggested form for the daily log is appended to these rules as Appendix C below.)

(b) The following records shall also be maintained, whenever applicable, but need not be made a part of the daily log. Only data specifically collected for the reported activity need be recorded; data available from other sources need not be included.

(1) When available, descriptions of meteorological conditions in target and control areas during the periods of operation; for example, types of clouds and percent of cloud cover, temperature, humidity, the presence of lightning, hail, funnel clouds, severe rain, or snow, and unusual radar patterns.

(2) All measurements made of precipitation in target and control areas.

(3) Any unusual results or significant events which might contribute to the technical evaluation of the activity.

(c) When the activity involves ground generators or other ground-based dispensers, including rockets or artillery projectiles, records of the following shall also be maintained, when applicable:

(1) The location and characteristics of each weather modification device or generator in use;

(2) The name and address of the person responsible for operating each weather modification device or generator;

(3) The times during which each weather modification device or generator is activated;

(4) The basis or criteria for activating and deactivating each weather modification device or generator;

(5) The type of material dispersed by each weather modification device or generator;

(6) The rate of material release during the operation of each weather modification device or generator;

(7) The total amount of material released during each operational period by each weather modification device or generator; and

(8) The intended target altitude, range and type of target during each operational period.

(d) When the activity involves airborne or mobile generators or dispensers, records of the following shall also be maintained, when applicable:

(1) For each aircraft flight or mobile generator run: Ground track, altitude, air speed, times over check points; release points of seeding or other charges, method of seeding and characteristics of flares, rockets, or other delivery systems employed; temperature, average wind direction and speed at release altitude; and, for aircraft: The type of aircraft, the airport or airports used, and the names and addresses of crew members; and

(2) All other applicable information as required for ground operated weather modification activities in paragraph (c) of this section.

§ 908.9 Retention of records.

Records required under § 908.8 shall be retained and available for inspection, upon request of the Administrator, for 5 years after completion of the activity to which they relate. Such records shall be required to be produced for inspection

only at the place where normally kept. The Administrator shall have the right to make copies of such records, if he deems necessary.

§ 908.10 Penalties.

Knowing and willful violation of any rule adopted under the authority of section 2 of Public Law 92–205 shall subject the person violating such rule to a fine of not more than $10,000, upon conviction thereof.

§ 908.11 Maintenance of records of related activities.

(a) Persons whose activities relate to weather modification activities, other than persons engaged in weather modification activities, shall maintain records concerning the identities of purchasers or users of weather modification equipment or materials, the quantities or numbers of items purchased, and the times of such purchases. Such information shall be retained for at least 5 years.

(b) In addition, persons whose activities relate to weather modification shall be required, under the authority of section 4 of Public Law 92–205, to provide the Administrator, on his request, with information he deems necessary to carry out the purposes of this Act.

§ 908.12 Public disclosure of information.

(a) Any records or other information obtained by the Administrator under these rules or otherwise under the authority of Public Law 92–205 shall be made publicly available to the fullest practicable extent. Such records or information may be inspected on written request to the Administrator. However, the Administrator will not disclose any information referred to in section 1905 of title 18, United States Code, and that is otherwise unavailable to the public, except that such information shall be disclosed—

(1) To other Federal Government departments, agencies, and officials for official use upon request;

(2) In any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding; and

(3) To the public, if necessary to protect the health and safety of the people.

(b) Certified copies of such reports and information, to the extent publicly disclosable, may be obtained from the Administrator at cost in accordance with the Department of Commerce implementation of the Freedom of Information Act.

(c) Persons reporting on weather modification projects or related activities shall specifically identify all information that they consider not to be subject to public disclosure under the terms of Public Law 92–205 and provide reasons in support thereof. A determination as to whether or not reported information is subject to public dissemination shall be made by the Administrator.

§ 908.13 Address of letters.

Letters and other communications intended for the Administrator, in connection with weather modification reporting or activities, shall be addressed to: The Administrator, National Oceanic and Atmospheric Administration, Office of Environmental Modification, Reporting Division, Rockville, Md. 20852. When appropriate, a letter may be marked for the attention of a particular officer or individual.

§ 908.14 Business to be transacted in writing.

All business transacted with the National Oceanic and Atmospheric Administration with regard to reports of weather modification activities should be transacted in writing. The appearance of persons engaged in weather modification activities, or their attorneys or representatives, at the National Oceanic and Atmospheric Administration is unnecessary. Actions of the National Oceanic and Atmospheric Administration will be based exclusively on the written record.

§ 908.15 Nature of correspondence.

Reports or correspondence must pertain only to a single activity or project. A report or item of correspondence pertaining to multiple or separate projects or activities may not be used.

§ 908.16 Identification of papers.

When a letter concerns a report, it should state the name of the person who made the report, any serial or identifying number assigned by the National Oceanic and Atmospheric Administration, and other information adequate to identify the subject matter in question.

§ 908.17 Receipt of letters and papers.

Letters and other papers received by the Administrator are stamped with the date of receipt. No papers are received in the National Oceanic and Atmospheric Administration on Saturdays, Sundays, or holidays.

§ 908.18 Times for taking action; expiration on Saturday, Sunday, or holiday.

Whenever periods of time are specified in these rules in days, calendar days are intended. When the day, or the last day, fixed under these rules for taking any action falls on a Saturday, Sunday, or on a holiday within the District of Columbia, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or holiday.

§ 908.19 Language, paper, writing, margins.

All papers filed must be in the English language. All papers that are to become part of the permanent records of the National Oceanic and Atmospheric Administration must be legibly typewritten or printed in permanent ink on but one side of the paper. All reports and correspondence shall be on paper 8 to 8½ by 10½ to 11 inches, and if typewritten, double spaced, with margins of 1½ inches on the left hand side and top. The pages of any report or paper shall be numbered consecutively, starting with 1, the numbers being placed in the center of the bottom margin. Reports shall be submitted on forms obtainable from the Administrator, or on an equivalent format.

§ 908.20 Signature.

All reports filed with the National Oceanic and Atmospheric Administration must be dated and signed by or on behalf of the person conducting or intending to conduct the weather modification activities referred to therein by such person, individually or, in the case of a person other than an individual, by a partner, officer, or other person having corresponding functions and authority. For this purpose "officer" means a President, Vice President, Treasurer, Secretary, or Comptroller. Notwithstanding the foregoing, such reports may also be signed by the duly authorized agent or attorney of the person whose activities are being reported.

§ 908.21 Correspondence held with single person.

All initial reports should designate a single individual to represent the person reporting and with whom correspondence will be conducted. All correspondence will be held with that individual until the Administrator is notified of a change in designation.

§ 908.22 Suspension or waiver of rules.

In an extraordinary situation, any requirement of these rules may be suspended or waived by the Administrator on request of the interested party, to the extent such waiver is consistent with the provisions of Public Law 92–205 and subject to such other requirements as may be imposed.

§ 908.23 Matters not specifically provided for in rules.

All matters not specifically provided for in these rules will be decided in accordance with the merits of each case by or under the authority of the Administrator, and such decision will be communicated in writing to all parties involved in the case.

§ 908.24 Publication of notice of proposed amendments.

Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the FEDERAL REGISTER. If not published with the notice, copies of the text or proposed amendments will be furnished to any person requesting the same. All comments, suggestions, and briefs received within the time specified in the notice will be considered before adoption of the proposed amendments, which may be modified in the light thereof. Informal hearings may be held at the discretion of the Administrator.

§ 908.25 Effective date.

These rules are effective _____.

(a) Any person engaged in a weather modification activity on the effective date

shall furnish the initial report required under § 908.4 within 30 days from the effective date, appropriately modified as circumstances may require.

(b) Any person intending to engage in a weather modification activity scheduled to commence less than 60 days from the effective date of these rules may furnish the required report under § 908.4 as late as 30 days following such effective date.

(c) The explanatory statement required by § 908.4(c), pertaining to late reports, need not be submitted with the initial reports in the above cases.

§ 908.26 Report form.

The pertinent rules of sections of Public Law 92–205 should be studied carefully prior to reporting. Reports required by these regulations are to be furnished in the formats shown in Appendices A and B below. A suggested form for the daily logs is found in Appendix C below. If requested, the Administrator will furnish forms. In special situations, such alterations to the forms as the circumstances thereto may render necessary may be made, provided they do not depart from the requirements of these rules or of Public Law 92–205.

APPENDIX A

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, OFFICE OF ENVIRONMENTAL MODIFICATION, REPORTING DIVISION, ROCKVILLE, MD. 20852

REPORT ON WEATHER MODIFICATION OPERATIONS

Public Law 205, 92d Congress

(See instructions below)

NOAA File No. ------

This report is:

☐ Initial report.
☐ Supplemental report.

1. Project or activity designation, if any: ----------.

2. Dates of project or contract:

(a) Date of contract or agreement: ----------.

(b) Date of first actual weather modification activity: ----------.

(c) Date of expected termination of weather modification activity: ----------.

(d) Contract termination date or (expected) project completion date ------.

3. Name and address of person for whom project or activity is performed: ----------

4. Purpose of project or activity: ------.

5. Target area: (see instructions) ------. Approximate size of target area: ------ square miles.

6. Description of equipment and seeding agents and the techniques employed: (see instructions) ----------

7. Where may log book information or records of activities be obtained? ----------

8. Optional remarks: ----------

CERTIFICATION: I certify that the above statements are true, complete, and correct to the best of my knowledge and belief.

(Name of operator) (Signature)

(Address of operator) (Official title)

(Date)

(Forms subject to approval of the Office of Management and Budget)

INSTRUCTIONS FOR REPORT ON WEATHER MODIFICATION OPERATIONS

One completed copy of this form is to be received 30 days[1] or more prior to actual modification operations and the box checked indicating "Initial Report." In case of any change in the information submitted in the "Initial Report," one copy, indicating only the changed information, is to be submitted and the box checked indicating "Supplemental Report." NOAA file number should be filled in for any project for which the Administrator has assigned a file number. On "Initial Report," leave this space blank and a file number will be assigned and you will be notified of the file number.

Item 1. Enter designation, if any, used by operator for the project or activity.

Item 2. Enter: (a) Date of signing contract or agreement, if any, to engage in weather modification;

(b) Date first actual attempt at weather modification was or is to be made;

(c) Date on which final modification activity occurs or is expected to occur;

(d) Either the contractual project completion date or the expected project completion date if a date is not specified in any pertinent contract.

Item 3. Enter name and address of company, organization, or individual for whom the project is being performed.

Item 4. Enter type and purpose of weather modification operations; i.e., rainfall increase, hail suppression, etc.

Item 5. A map should be attached showing target area, control area, coded number and location of each ground generator and coded number and location of key rain gages, radars, or other precipitation measuring devices. Also show location of airport for airborne operations.

Item 6. Describe type of ground or airborne generators used, type of seeding material dispensed, rate of dispensing material in grams-per-hour or other appropriate units, type of precipitation gages used in target and control area, and any other pertinent information such as type of radars, type of aircraft employed, techniques employed, etc.

Item 7. List name and address of responsible individual from whom logbook entries may be obtained or examined. Phone number should be included if possible.

Item 8. This item is to permit the reporting person to include any information not covered by Items 1 through 7, but which he feels is significant or of interest. It is also to be used to include any information not covered elsewhere that the Administrator may request.

[1] For exceptions, see secs. 908.4 (b) and (c), Part 908 of Title 15, Code of Federal Regulations.

APPENDIX B

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OFFICE OF ENVIRONMENTAL MODIFICATION, REPORTING DIVISION

ROCKVILLE, MARYLAND 20852

INTERIM ACTIVITY REPORTS AND FINAL REPORT

Reporting period: ---------- to ----------

☐ Interim report.
☐ Final report.

NOAA File No. ------

Month	(a) Number of operational days	(b) Number of phenomena			(c) Number of modification missions	(d) Hours of equipment (by type)		(e) Type and amount of agent used			
		Storms	Clouds	Other		Airborne	Ground	Silver Iodide	Carbon Dioxide	Urea	Other
October											
November											
December											
January											
February											
March											
April											
May											
June											
July											
August											
September											
Total											
Totals for final report											

For final report: Date of completion of project or activity _____.

CERTIFICATION

I certify that all statements in this report on this weather modification project are complete and correct to the best of my knowledge and are made in good faith.

_____ (Name of operator)	_____ (Signature)
_____ (Address of operator)	_____ (Official title)
	_____ (Date)

(Forms subject to approval of the Office of Management and Budget)

INSTRUCTIONS FOR INTERIM AND FINAL REPORTS

Any person engaged in any weather modification project or activity in the United States on October 1 in any year shall submit one copy of this form setting forth as of such date the information required with respect to each such continuing project or activity not previously furnished in a prior interim report. The box indicating "Interim Report" should be checked. The October 1 date shall not apply if other arrangements have previously been made with the written approval of the Administrator of NOAA. The report shall be received by NOAA not later than 90 days following the end of the reported period. Upon completion of a project or activity one copy of this report shall be submitted and the box checked indicating "Final Report." The final report shall be received by NOAA not later than 90 days after the completion of the project or activity. The NOAA file number should be filled in for any project for which the Administrator has assigned a file number.

Interim report. The information in Items (a) through (e) on the report form should be provided as prescribed below for the months to which the report pertains. If no data are applicable for any given item in any month, enter zero.

Item (a). Enter number of days on which field operations were conducted.

Item (b). Enter in the appropriate column number of storms, clouds, or other weather phenomena on which modification attempts were made.

Item (c). Enter number of seeding flights or generator seeding missions, or other appropriate modification missions that were carried out. If multiple flights, generators, or other techniques are used simultaneously in the same general area, they shall constitute a single mission.

Item (d). Enter in the appropriate column total number of hours of operation of each type of modification equipment (flight hours, generator hours, etc.). If the form does not contain sufficient space, report additional types on a separate sheet.

Item (e). Enter in the appropriate column total amount of agent used, by type. If the form does not contain sufficient space, report additional types on a separate sheet.

The totals for these items shall be provided for the period covered by the interim report.

Final report. The final report shall contain the information required for interim reports, to the extent not previously reported. In addition, the items designated as "Totals for Final Report" should be reported. This information should pertain to the entire project or activity period, rather than only the period since the last interim report. At the space at the end of the form, enter the last date of operation for the project or activity.

DAILY LOG DURING WEATHER MODIFICATION ACTIVITIES

APPENDIX C

During _____ _____ Season

Month _____ Name of operator _____ NOAA File No. _____

Date Month/day/year	Location	Local time			Modification agent		
		Start	Stop	Total	Type	Rate	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Page subtotal:				----------			----------
Monthly total:				----------			----------

(Form subject to approval of the Office of Management and Budget)

Sheet _____ of _____

INSTRUCTIONS FOR COMPLETING DAILY LOG FORM

Daily log of activities. This is a suggested form to be used in recording the information required to be kept by § 908.8, Part 908 of Title 15, Code of Federal Regulations. Other logs may be used, providing they contain the information required. A tabular form is provided on which to report a daily log of activities for each unit of modification equipment. The form is suitable for recording operation of individual items of ground equipment or aircraft. In the spaces provided above the columns, write the water year, month of daily record, name of operator, and NOAA file number. Explanation of columns follows:

Column (1)—State month, day, and calendar year of the cloud seeding or other activity.

Column (2)—Give each aircraft flight course or location of the generator to which the log applies. Maps may be used.

Columns (3) and (4)—State local time when cloud seeding or other activity began and ended. Use 24-hour clock time (e.g., 0100 signifies 1 a.m. and 2300 signifies 11 p.m.).

Column (5)—Give total time of each cloud seeding or other activity in hours and minutes. (Col. 5 = Col. 4 − Col. 3)

Column (6)—Describe types of nucleation or other modification agents used.

Column (7)—Give rate of use of each type of modification agent, by hour or other appropriate time period.

Column (8)—Give total amount of each modification agent used per day. On each sheet of the daily log of activities include subtotals for hours of cloud seeding or other modification activity and for amounts of modification agents used. On the daily log sheet for the last day of each month, also give monthly total for hours of cloud seeding or other modification activity and for amount of modification agents used.

[FR Doc.72-8608 Filed 6-9-72;8:45 am]

National Oceanic and Atmospheric Administration

[50 CFR Parts 261, 263, 266, 276, 277, 279]

SELECTED FISHERY PRODUCTS

Proposed Standards for Grades

JUNE 7, 1972.

The National Marine Fisheries Service, U.S. Department of Commerce, operates a voluntary inspection program relating to the standardization, inspection, grading, and certification of fishery products as authorized by the Agricultural Marketing Act of 1946, as amended and the Fish and Wildlife Act of 1956, as amended. Revised regulations (Part 260, Title 50 CFR) for the conduct of this program under the Department of Commerce became effective December 3, 1971. Section 260.21 expresses the basis on which product inspections are made, which is primarily the U.S. Standards for Grades of processed products developed by NMFS.

During the past several years as a result of technological innovations, mechanical equipment has been developed to separate fish flesh from the bone and skin. The fish flesh that is recovered from the mechanical equipment is a relatively formless mass of small pieces and particles which can be then processed into uniformly-shaped rectangular blocks. These blocks have a potential for being further processed into portion-controlled fish sticks and portions.

The term "frozen fish block," historically and traditionally through custom and use has been generally understood to refer to a fairly uniform rectangular

mass of cohering fish flesh composed predominately of whole fish fillets of a single species which has been frozen under pressure. The primary use of fish blocks is in the production of portion-controlled fish sticks and portions. The essential difference between the two types of blocks is characterized by the state of the fish flesh prior to processing into blocks, i.e., fillets vs. small pieces and particles.

With the assistance of the industry, NMFS developed and promulgated quality standards for frozen fish blocks, frozen raw breaded and fried fish sticks, and frozen raw, raw breaded, and fried fish portions during the period from 1954–70. The basic research and supporting data for the existing promulgated U.S. Standards for Grades of fish blocks was carried out on blocks of the historical type. In addition, research for the existing U.S. Standards for Grades of fish sticks and portions was carried out solely on products cut from blocks of the historical type. Thus, while the newer type blocks have a potential for use in the manufacture of fish sticks and portions, the NMFS as yet has not undertaken adequate studies to assess the hygienic aspects, quality criteria, nomenclature, and labeling concerning the newer type blocks and products made therefrom.

Significant interest has been expressed by various industry representatives regarding products made by utilizing fish flesh recovered by mechanical separator equipment. Further, NMFS believes that such products should have an opportunity to find an appropriate place in the U.S. market based upon their particular characteristics and merits.

NMFS intends to insure consideration of all the legitimate interests concerning these products by inviting all interested persons to express their views relative to the need for standardization of products manufactured by the application of current technology, and the manner in which this can best be done. Further, expressions are also invited concerning how such products might be appropriately defined and identified with a common or usual name in order to achieve appropriate consumer needs through labeling of such products.

Interested persons are provided 30 days in which to make their views known relative to this matter, to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-8798 Filed 6-9-72;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SO-38]

FEDERAL AIRWAY SEGMENTS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter segments of VOR Federal airways Nos. 7 and 35.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes the following airspace actions:

1. Redesignate V-7 segment to start at Miami, Fla., thence via the intersection of Miami 279° T. (279° M) and Fort Myers 121° T (120° M) radials; to Fort Myers, including an east alternate segment from Miami to Fort Myers via the intersection of Miami 316° T (316° M) and Fort Myers 096° T (095° M) radials.

2. Redesignate V-35 segment from the intersection of Bimini, Bahamas, 215°T (215° M) and Miami 147° T (147° M) radials via Miami; intersection of Miami 279° T (279° M) and Fort Myers 137° T (136° M) radials; to Fort Myers, including a west alternate from the intersection of Miami 147° T (147° M) and Biscayne Bay, Fla., 262° T (262° M) radials via the intersection of Biscayne Bay 262° T (262° M) and Fort Myers 137° T (136° M) radials; to the intersection of Miami 279° T (279° M) and Fort Myers 137° T (136° M) radials.

These redesignated airway segments would provide more precise routing of Miami terminal air traffic. The proposed alinements were necessitated due to operational restrictions placed on radials of the Biscayne Bay VORTAC in the northwest quadrant of the facility.

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

Issued in Washington, D.C., on June 2, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-8763 Filed 6-9-72;8:45 am]

Federal Highway Administration

[49 CFR Part 395]

[Docket No. MC-38; Notice No. 72-6]

ADVERSE DRIVING CONDITIONS

Notice of Proposed Rule Making

The Director of the Bureau of Motor Carrier Safety is considering revising § 395.10 of the Motor Carrier Safety Regulations which permits a driver to drive for up to 12 hours following 8 consecutive hours off duty when he encounters snow, sleet, fog, or other adverse weather conditions. Under the proposal, this exception to the 10-hour driving rule (49 CFR 395.3) would apply only when a driver encounters unforeseen adverse driving conditions.

The objective of the 10-hour rule is to safeguard the public against fatigued drivers. The original purpose of the exception found in § 395.10 was to provide carriers and drivers a measure of relief from the 10-hour rule in circumstances where they have no control over driving time. It does not seem desirable to create a blanket 2-hour extension of allowable driving time whenever adverse driving conditions arise during a trip, whether they might have been anticipated or not.

It seems axiomatic that snow, sleet, fog, and other similar conditions which make driving difficult impose much greater demands upon a driver's concentration and skill. Those conditions have correspondingly greater potential for building driver fatigue as compared to hours driven under favorable conditions.

The present rule, which makes no express distinction between anticipated and unanticipated adverse driving conditions, can result in certain anomalies. One is that a carrier may permit or require a driver to drive for 12 hours when any part of the trip is affected by adverse driving conditions, whether or not those conditions are sufficiently severe or extensive to warrant the additional 2 hours above the normal 10-hour limitation. Another is that a carrier, knowing in advance that highly arduous and fatiguing adverse driving conditions will be encountered during a trip, may nonetheless dispatch its drivers for 12-hour tours of driving duty through such conditions. Thus, the 12-hour adverse driving condition rule can be expanded well beyond its purpose, with attendant danger to the public.

Therefore, the Bureau is considering a revision of the 12-hour adverse driving condition rule so that it will apply only to unforeseen adverse driving conditions, and to conditions that actually require

driving over 10 hours to reach a place of safety for vehicle occupants and security for the vehicle and its cargo.

Interested persons are invited to give their views on this proposal. Communications should identify the docket and notice number, and should be submitted in triplicate to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. Communications received on or before September 8, 1972, will be considered before further action is taken on the proposal. All comments received will be available for examination in Room 4136, 400 Seventh Street SW., Washington, DC 20590, both before and after the closing date.

In consideration of the foregoing, the Director proposes to revise § 395.10 of the Motor Carrier Safety Regulations (Subchapter B of Chapter III in Title 49, CFR) to read as follows:

§ 395.10 Adverse driving conditions.

(a) Except as provided in paragraph (b) of this section, a driver who encounters adverse driving conditions as defined in paragraph (c) of this section and cannot, because of those conditions, safely complete the run within the maximum driving time permitted by § 395.3 (a) may drive and be permitted or required to drive a motor vehicle in order to reach the nearest place offering safety for vehicle occupants and security for the vehicle and its cargo. However, that driver may not drive or be required or permitted to drive—

(1) For more than 12 hours in the aggregate following 8 consecutive hours off duty; or

(2) After he has been on duty 15 hours following 8 consecutive hours off duty.

(b) A driver who is driving a motor vehicle in the State of Alaska and who encounters adverse driving conditions as defined in paragraph (c) of this section during a run may drive and be permitted or required to drive a motor vehicle for the period of time needed to complete the run. After he completes the run, that driver must be off duty for 8 consecutive hours before he drives again.

(c) "Adverse driving conditions" means snow, sleet, fog, other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were foreseen or could have been foreseen in the exercise of reasonable prudence when the run was begun.

Proposed effective date. It is proposed to make this revision effective on January 1, 1973.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority at 49 CFR 1.48 and 49 CFR 389.4.

Issued on May 18, 1972.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.72-8805 Filed 6-9-72;8:50 am]

Hazardous Materials Regulations Board

[49 CFR Part 171]

[Docket No. HM-22; Notice 72-6]

TRANSPORTATION OF HAZARDOUS MATERIALS

Matter Incorporated by Reference

The Hazardous Materials Regulations Board of the Department of Transportation is considering amending § 171.7(d)(1) of the Hazardous Materials Regulations to update the reference to the addenda to sections VIII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

The Compressed Gas Association, Inc., has petitioned the Board to effect this change.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 171 as follows:

In § 171.7, paragraph (d)(1) would be amended to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(1) ASME Code means sections VIII (Division I) and IX of the 1971 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through December 31, 1971.

* * * * *

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, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before July 11, 1972, 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, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)).

Issued in Washington, D.C., on June 7, 1972.

W. J. BURNS,
Chairman, Hazardous Material Regulations Board.

[FR Doc.72-8815 Filed 6-9-72;8:47 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Docket No. 24533; EDR-227]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Notice of Proposed Rule Making

JUNE 6, 1972.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 241 of its economic regulations (14 CFR Part 241), which would: (1) Make the timeliness of the filing of all CAB Form 41 schedules turn upon the date of receipt by the Board, rather than upon the postmark date; (2) prescribe a list of due dates, in place of the present list of time intervals, for such filings; and (3) require that requests for extensions of time for such filings be received not later than 10 days prior to the due date.

The principal features of the proposed amendments are described in the attached explanatory statement and the proposed amendments are set forth in the proposed rule. The amendments are proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before July 10, 1972, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

The Uniform System of Accounts and Reports for Certificated Air Carriers requires the carriers to periodically submit the various schedules which comprise the CAB Form 41 report. For Schedules T-1, T-2, T-3, and T-41, timeliness of filing is determined by the date on which the schedule is received by the Board, but all other schedules are presently required to be postmarked not more than a prescribed number of days after the end of the reporting period to which the particular schedule relates.

The rule being proposed herein would amend the instructions to Part 241 so as to eliminate references to postmarks, and require that all of the schedules are to be received by the Board on or before a particular date. Since the due date for each schedule would be, in most cases,

the same as the presently required postmark date,[1] the time allowed for filing each such schedule would be reduced by a few days. We are, however, of the tentative view that such a minimal burden upon the carriers would be outweighed by the benefits to be derived from the proposed amendment. By specifying a due date for each schedule, and by slightly shortening the period for filings, the Board would be able to compile and issue the Form 41 data with greater speed, thereby benefiting the carriers and other interested persons. Furthermore, since many carriers now use postage meters, the elimination of a postmark test to determine the timeliness of filing would preclude the need for questioning whether a particular schedule was actually mailed on the stamped date.

We are also proposing to adopt a list of specific due dates for the various schedules. This list is computed from, and would replace, the existing list of numbers of days between the end of a reporting period and the postmark deadline. The list would clearly indicate the filing due date of any particular Form 41 schedule. In order to make the list more convenient to use, we are proposing to make such due dates fall on either the first day of the month or a number of days which is divisible by 10; where adjustments of due dates have thus been necessary, we are proposing adjustment to the nearest suitable later date.

Furthermore, it is being proposed to amend the instructions with regard to requests for extensions of filing times. First, it is being proposed to require that such requests (except in case of emergency) be received at least 10 days in advance of the due date, rather than 24 hours in advance as is presently required. The Board's experience indicates that 24 hours is not always a sufficient length of time to properly evaluate such a request. Moreover, a request on 24 hours' notice raises the possibility that a carrier will be notified, mere hours before the report is due, that its request for an extension of time has been denied.

We are also taking this occasion to point out that, while requests for extension under the proposed rule would continue to be entertained on less than the prescribed notice in cases of emergency, as under the existing rule, the term "emergency" will henceforth be strictly construed. For example, an employee's illness or an incomplete audit will not necessarily be regarded as an emergency sufficient to justify the granting of an extension of time on less than 10 days' notice.

PROPOSED RULE

It is proposed to amend Part 241 of the economic regulations (14 CFR Part 241), as follows:

1. Amend Section 22—General Reporting Instructions, as follows:

A. Revise the text of paragraph (a) to read as follows:

(a) Four copies of each schedule in the CAB Form 41 report shall be filed with the Civil Aeronautics Board on or before the due date indicated in the list titled "Due Dates of Schedules in CAB Form 41 Report."

B. Revise the existing list of schedules in paragraph (a) by adding a title and deleting the column "Postmark interval (days)," the list as amended to read as follows:

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Schedule title	Filing frequency
* * *	* * *	* * *

C. Add a new list to paragraph (a), to read as follows:

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due date[1]	*Schedule No.*
Jan. 30	B-1, P-1(a), T-1, T-2, T-3, T-7, T-41.
Feb. 10[2]	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6, D-1.
Feb. 20[2]	Memorandum subclassifications of selected reported expenses and ground property investment.
Mar. 1	B-1, P-1(a), T-1, T-7.
Mar. 30	B-1, B-9, B-41, B-42, B-43, B-44, B-46, P-1(a), P-41, G-41, G-42, G-43, G-44, T-1, T-7.
Apr. 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
May 10	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6, D-1.
May 20	Memorandum subclassifications of selected reported expenses and ground property investment.
May 30	B-1, P-1(a), T-1, T-7.
June 30	B-1, P-1(a), T-1, T-7.
July 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
Aug. 10	A, A-1, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6, D-1.
Aug. 20	Memorandum subclassifications of selected reported expenses and ground property investment.
Aug. 30	B-1, P-1(a), T-1, T-7.
Sept. 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
Oct. 30	B-1, P-1(a), T-1, T-7, T-41.
Nov. 10	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6, D-1.
Nov. 20	Memorandum subclassifications of selected reported expenses and ground property investment.
Nov. 30	B-1, P-1(a), T-1, T-7.
Dec. 30	B-1, P-1(a), T-1, T-7.

[1] Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

[2] B, P, and memorandum subclassification reporting dates are extended to Mar. 30 if preliminary schedules are filed at the Board by Feb. 10.

D. Revise paragraph (c) to read as follows:

(c) If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be submitted ten (10) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not received by the Civil Aeronautics Board at least ten (10) days before the prescribed due date. If a request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

2. Amend Section 32—General Reporting Instructions, as follows:

A. Revise the text of paragraph (a) to read as follows:

(a) Four copies of each schedule in the CAB Form 41 report shall be filed with the Civil Aeronautics Board on or before the due date indicated in the following list titled "Due Dates of Schedules in CAB Form 41 Report."

B. Revise the existing list of schedules in paragraph (a) by adding a title and deleting the column "Postmark interval (days)," the list as amended to read as follows:

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Schedule title	Filing frequency
* * *	* * *	* * *

C. Add a new list to paragraph (a), to read as follows:

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due date[1]	*Schedule No.*
Jan. 30	B-11, T-3.1.
Feb. 10[2]	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.

[1] As will appear infra, certain of the due dates being proposed herein are slightly later than the presently required postmark dates.

Due date[1]	Schedule No.
Mar. 1	B-11, T-3.1.
Mar. 30	B-11, B-41, B-43, B-44, B-46, G-41, G-42, G-43, G-44, T-3.1.
Apr. 30	B-11, T-3.1.
May 10	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
May 30	B-11, T-3.1.
June 30	B-11, T-3.1.
July 30	B-11, T-3.1.
Aug. 10	A, A-1, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
Aug. 30	B-11, T-3.1.
Sept. 30	B-11, T-3.1.
Oct. 30	B-11, T-3.1.
Nov. 10	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
Nov. 30	B-11, T-3.1.
Dec. 30	B-11, T-3.1.

D. Revise paragraph (c) to read as follows:

[1] Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

[2] B and P schedule reporting dates are extended to Mar. 30 if preliminary schedules are filed at the Board by Feb. 10.

(c) If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be submitted ten (10) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not received by the Civil Aeronautics Board at least ten (10) days before the prescribed due date. If a request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

[FR Doc.72-8811 Filed 6-9-72;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release 34-9622]

CUSTOMERS' SECURITIES AND FUNDS

Obligation of Broker-Dealers To Maintain Physical Possession or Control and Certain Reserves

The Commission is releasing today for public comment a revision of proposed rules concerning the obligation of broker-dealers to maintain physical possession or control over securities left with the broker-dealer by a customer and to have basic reserves with respect to customers' cash and cash realized through the utilization of customers' securities. Proposed Rule 15c3-3 (17 CFR 240.15c3-3), which accompanies this Release, is the product of intensive examination of the method by which broker-dealers conduct their operations, hold customer funds and securities and finance their business.[1] It is the Commission's view that the proposed rule represents the most comprehensive protection of customers' funds and securities achievable under present conditions.

The proposed rule addresses itself to three primary areas of customer protection: First, it codifies the obligation of a broker-dealer to promptly take possession or control of all fully-paid securities and excess margin securities carried by a broker-dealer for the account of customers; second, it provides a formula for the determination of a cash reserve with respect to all customer funds which are not deployed in customer related transactions; and third, it is designed to accomplish separation of the brokerage operation of a firm's business from that of its other firm activities.

A number of positive benefits should flow from the approach sought through the adoption of this rule. The restrictions on the use of customers' funds and securities and the requirement that securities be promptly brought under physical possession or control are designed to protect customer assets in the event a firm requires liquidation. The rule should also act as a control over the unwarranted expansion of a broker-dealer's business. This is so since the rule prohibits the utilization of customers' funds and customer derived funds in areas of the firms business such as underwriting, trading and overhead. It was too often the case, particularly during the 1968–70 period, that broker-dealers expanded their trading activities and office facilities through the use of customers' funds. Unlike most businesses, which, when seeking to expand with outside funds, must convince a lender or equity investor of the wisdom of their expansion plans, these broker-dealers merely deployed customer funds for such purposes without a prior showing of justification. The proposed rule would prohibit this.

The rule offers further customer protection by requiring an increase in the amount of the cash reserve under the formula to the degree a firm fails to promptly obtain possession or control of customers fully-paid securities or loses control of its records. One of the consequences of faulty records is an increase, both with regard to quantity and aging, in such items as securities in transfer, security count differences and securities in suspense accounts. As these items increase the amount of the customer reserve also increases. Moreover, the proposed rule seeks to control the quality of margin indebtedness extended by firms to customers. The rule should facilitate settlements of securities on a timely basis and reduce fails. A number of other benefits derived from the rule are examined below.

[1] Proposed Rule 15c3-3 is designed to implement the provisions of section 15(c)(3) of the Securities Exchange Act of 1934 (the "Exchange Act") which were added by section 7(d) of the Securities Investor Protection Act of 1970 (84 Stat. 1653; Public Law 91-598 sec. 7(d)). The proposed rule would be adopted under sections 15(c)(2), 15(c)(3), 17(a), and 23(a) of the Exchange Act, as well as under sections 6(c)(2)(C)(iii) and 6(c)(2)(B) of the Securities Investor Protection Act of 1970 (the "SIPC Act").

Future Developments

Both the securities industry and the regulatory authorities have concluded that the locked-in trade, with a simultaneous debiting and crediting of accounts for cash and securities, is a desirable objective for the future. A national unified securities processing system is the announced purpose of the proposed "Securities Transaction Processing Act of 1972", a bill which the Commission recently recommended to Congress in connection with its Study of Unsafe and Unsound Practices of Brokers and Dealers.[2] These objectives, to the extent fulfilled, will obviate the necessity for the rule the Commission is proposing here. As the securities industry makes greater use of depositories and modern methods of clearance and settlement and achieves a more rapid settlement of trades, the quantity of cash and securities held by broker-dealers will diminish and the need for the protection afforded by this rule will likewise become less important. The Commission looks with favor upon these developments and intends to lend its cooperation and support to a modernized securities processing and settlement system.

Operational efficiency and prompt settlements with fewer securities in open transactions are of great concern to the Commission. The Commission is exploring the possibility of designating additional time frames and control locations for securities beyond those presently designated in the rule, such as where the customer has not delivered to his broker-dealer a security he has ordered sold. To the degree there can be accomplished greater flexibility through the designation of securities recorded in other areas as control locations, the best interest of the investor is served through prompt consummation of his securities transactions, and it will quicken the pace toward immobilization of the certificate and eventually eliminate it. The Commission seeks specific comments as to what additional control locations should be included in the rule. Any such comments should be accompanied by suggestive provisions for customer protection in designating additional control locations and a statement of the benefits which would flow to the operational cycle from such further designations.

History of Proposed Rule 15c3-3

Before examining the details of proposed Rule 15c3-3, it is necessary to review the events which caused this rule to be proposed. During the 1967–70 period, there occurred the most prolonged and severe crisis in the securities industry in 40 years. During this critical period many firms failed. In the face of these losses public confidence dwindled

[2] House Doc. No. 92-231, 92d Cong., First session (1971).

rapidly. It became imperative that something be done to restore public confidence, and it was in this context that the Securities Investor Protection Act of 1970 developed. This Act protects customer funds and securities left with broker-dealers up to $50,000 for each customer, and Congress placed $1 billion behind SIPC to accomplish this objective.

With a potential exposure of $1 billion of public funds and the possibility of still another crisis, Congress determined to grant to the Commission the authority to prescribe rules for the protection of investors to provide safeguards regarding the "* * * acceptance of custody and use of customers securities, and the carrying and use of customers' deposits or credit balances * * *." It further called upon the Commission to establish rules requiring "* * * the maintenance of reserves with respect to customers' deposits or credit balances * * *." Until the SIPC legislation was adopted in December 1970 there was a question as to the Commission's authority to adopt rules with respect to customers' funds and securities left with a broker or dealer. Rules concerning the custody of customers' securities were those of the self-regulatory organizations.

Acting upon the authority conferred upon it by section 7(d) of the SIPC Act, the Commission, on November 8, 1971, promulgated for comment proposed Rules 15c3–3 (17 CFR 240.15c3–3) and 15c3–4 (17 CFR 240.15c3–4) under the Securities Exchange Act of 1934 concerning reserves and related measures respecting the financial responsibility of brokers and dealers for the protection of investors.[3] The program embodied in the reserve and segregation rules as initially proposed for safeguarding the handling of customer property was devised only after an evaluation of various methods suggested by the staff of the Commission and by other sources. Each approach was weighed in terms of the extent to which it maximized investor protection. With the benefit of the knowledge obtained from the public comment process and further consultation and examination over the last several months by the Commission and its staff, the Commission has arrived at the view that the basic statutory objectives of customer protection are obtainable through a broad-based formula for reserves which covers not only free credit and other credit balances of customers left on deposit with a broker-dealer but also any cash realized by broker-dealers through the various methods of utilizing customer's securities.

PROPOSED RULE 15c3–3

The proposed rule has two focal points: the all-inclusive formula for a cash reserve for the benefit of customers and the requirement that a broker or dealer promptly obtain and maintain physical possession or control of all fully-paid and excess margin securities.

a. *The all-inclusive reserve formula.* The rule prohibits a broker or dealer from using customer funds and funds which may be generated from the lending, hypothecation or other use of customers' securities in any manner other than as specified in the formula attached to the rule as Exhibit A (17 CFR 240.15c3–3a). For example, under the formula approach a broker would have to ascertain on a daily basis customers' free credit balances, funds which might be realized by a broker or dealer as a result of hypothecation or lending of customers' margin securities, funds arising from the failure to receive securities of customers on settlement date from another broker and funds which might be derived from the other items referred to in the formula. The broker would then determine whether these customer funds had been committed to certain permissible areas of his brokerage business as provided by the formula such as secured margin lending or fails to deliver aged not more than 30 days. To the extent customer funds have not been committed to these permissible areas, they must be deposited in the Reserve Bank Account. The formula places customer cash and cash generated by the broker-dealer from customer securities on one side of the equation and permits such assets to be offset by secured assets of the broker-dealer such as margin indebtedness, relatively safe customer debits and securities borrowed for customers.

The formula approach has several desirable effects. It is designed to achieve an effective prohibition against a broker-dealer's use of customer funds and securities to finance activities for its own account. It motivates a firm to resolve aged stock dividend receivables, security differences, and suspense account items and to avoid the accumulation of fails to receive. It seeks to control the quality of margin indebtedness extended by firms to customers. It also provides an incentive to a firm to reduce to possession or control customer fully paid securities as soon as possible. The formula provides other distinct advantages as well.

The reserve is to consist of deposits of cash, cash equivalents or U.S. Government securities. The deposits in this reserve account are deemed to be specifically identifiable property of those customers who are entitled to the immediate withdrawal of cash, and assuming there are excess deposits beyond those claims, then of customers who have not had returned to them their fully paid or excess margin securities.

In addition to isolating customers' deposits and cash generated from customers' securities to relatively safe areas of the broker-dealer's business, the formula is consistent with the present method of operation of most broker-dealers and gives maximum recognition to increasing the utilization of central depositories and clearing facilities and to attaining the ultimate objective of the locked-in trade and immobilization of the stock certificate. The formula is computed from broker-dealer source data which currently can be obtained without significant difficulty, as the major components of the formula are required to be reported by Rule 17a–5 (17 CFR 240.17a–5). The formula offers the further advantage over the earlier proposal of being more readily subject to independent verification by the Commission and by self-regulatory bodies and outside auditors.

b. *Obligation to maintain physical possession or control of all securities.* The second focal point of Rule 15c3–3 is the requirement that a broker-dealer promptly obtain and maintain physical possession or control of all fully paid securities and excess margin securities carried for the account of customers. Proposed Rule 15c3–3 preserves the fundamental principle that fully paid securities and excess margin securities left with a broker-dealer must be placed and maintained in physical possession or control within specified time frames. A principal reason for this is that the law, as presently in effect, requires such securities to be held by the broker-dealer, either by recordkeeping or otherwise, in a manner which identifies a particular customer's interest in order for that customer to obtain maximum protection. Moreover, under present practice, customers expect their fully paid securities to be held in safekeeping pending their use whenever they leave them with a broker-dealer, and it can be said that to the extent this is feasible, it does in fact result in greater customer protection.

Rule 15c3–3 does, however, give recognition to the fact that, for reasons beyond its control or as a result of normal business operations, a broker-dealer may not always be able to take possession or control of a customer's fully paid security on settlement date. Fails to receive and items in transfer are examples of this. In such instances, Rule 15c3–3 has flexible time frames in which a broker-dealer must reduce the security to possession or control. In addition, Rule 15c3–3 declares that securities in the custody of a clearing corporation or depository subject to the supervision of the Commission shall be deemed to be under the control of a broker-dealer. The rule permits the "one-box" concept of holding customers' securities but in so doing requires that the broker-dealer, using such a system, reduce customers' securities to possession or control as soon as possible and maintain such possession or control of all fully paid and excess margin securities.

A vital feature of the rule regarding custody of customers' securities by a broker-dealer are the time frames within which a broker-dealer must act to acquire possession or control of a customers' securities if such securities have not come into the possession or control of the broker-dealer in the normal course of events. If a customer's fully-paid or excess margin security has not been reduced to possession or control of the broker-dealer and a security of the same class—

(i) Is subject to hypothecation, it must be released from the lien within 2 business days;

[3] Securities Exchange Act Release No. 9388 and FEDERAL REGISTER for Nov. 24, 1971, at 36. F.R. 22314.

(ii) Has been loaned to another broker-dealer, it must be returned within 5 business days;

(iii) Is in fail to receive over 25 days, prompt steps must be taken to buy-in or otherwise acquire the security;

(iv) Is a stock dividend receivable for more than 45 days, prompt steps must be taken to buy-in or otherwise acquire the security;

(v) Is in transfer for more than 30 days and has not been confirmed to be in transfer by the transfer agent or issuer during the most recent 30-day period, the market value thereof must be included in the formula for the computation of the reserve required for customers; or

(vi) Is represented by an unresolved short security difference, it must be bought-in by the broker-dealer within 45 days of the date of the counting or vertifying of securities pursuant to Rule 17a–13 (17 CFR 240.17a–13) under the Securities Exchange Act of 1934.

The foregoing items represent the principal areas which in the past have caused broker-dealers to be unable to effectuate timely possession or control of customers' securities. Related to these steps required to be taken by broker-dealers is a further provision of Rule 15c3–3 which is designed to encourage prompt delivery of securities by settlement date by customers who have sold such securities. The provision will require a broker-dealer who has not received the security from the selling customer within 10 days after settlement date to close out the transaction with the customer by purchasing securities of like kind and quantity. Again, the thrust of this provision is to facilitate timely settlements and prompt possession or control of customers' securities.

The time frames within which a broker-dealer must act and the provision of the proposed rule regarding the obligation of a broker-dealer to promptly reduce customers' securities to possession or control have been devised after careful review and analysis of the manner in which security transactions are processed by broker-dealers, depositories, clearing agencies, and transfer agents. These time frames will undoubtedly require adjustment as experience is acquired with the operation of this rule and as the industry adopts new techniques for processing securities. The approach is keyed to the total records of a broker-dealer and is consistent with the fungible bulk method of handling securities and modern clearance settlement and custody procedures.

Notice to Customers

A final protective feature of Rule 15c3–3 is the requirement that broker-dealers disclose to their customers on periodic statements the fact that their securities may be part of a fungible bulk, that ownership is determinable from the books and records and related documents, that certain limited risks are involved in leaving securities with a broker-dealer, and that, accordingly, a customer may obtain delivery of securities or cash upon request. The required disclosure would be adopted as Exhibit B (17 CFR 240.15c3–3b) to the rule. In the absence of a guarantee against all loss resulting from leaving securities or cash with a broker-dealer, it is appropriate to require that a customer be advised of the risk he runs in leaving his property in the care of a broker-dealer so that the customer can make a knowledgeable decision on leaving his securities and cash with a broker-dealer.

Exemptive Provision

While Rule 15c3–3 is believed to be compatible with the operations of the great majority of broker-dealers, the diversity within the securities industry in terms of size of firms, services provided and method of operations may make it necessary for certain broker-dealers to seek alternative programs of investor protection with regard to the funds and securities which such broker-dealers hold for their customers. Rule 15c3–3 contains a provision for the granting of an exemption by the Commission from a portion or all of the rule upon application of a broker-dealer who can demonstrate to the satisfaction of the Commission that it has a plan and procedures for the safeguarding of funds and securities of customers comparable with those provided by this rule.

Specifically Identifiable Property of Cash Customers

Proposed Rule 15c3–3 contains provisions to the effect that the deposits in the Reserve Bank Account shall constitute specifically identifiable property of the customers of the broker-dealer to the extent that such customers have free credit balances. Securities carried for the account of customers which are in the possession or control of the broker-dealer or are in transfer or dividend receivable are similarly designated as specically identifiable property of customers having claims for fully-paid and excess margin securities as their interests may appear from the books or records of the broker-dealer or as is otherwise established by a preponderance of the evidence. These provisions would be adopted under sections 6(c)(2)(C)(iii) and 6(c)(2)(B) of the SIPC Act.

Program for Investor Protection

The protection afforded investors by this proposed rule must be viewed as part of a total program which the Commission has been developing as a result of the financial crisis experienced by the securities industry during the 1968–70 period. In November 1971, the Commission directed its attention to the stock record difference problem by adopting Rule 17a–13 under the Securities Exchange Act of 1934 which requires quarterly box counts by broker-dealers, the certification of all securities not in a broker-dealer's possession, and the recording of the results in their records with such information to be included in their annual reports of financial condition.[4] To help solve problems in the dividend area, the Commission adopted Rule 10b–17 (17 CFR 240.10b–17) to require the timely announcement of record dates.[5] In December 1970, Rule 17a–5(j)) (17 CFR 240.17a–5(j) was adopted to require immediate report of financial condition from brokers-dealers ceasing to be members in good standing of a national securities exchange.[6] In July 1971, Rule 17a–11 (17 CFR 240.17a–11) was adopted which requires broker-dealers to report immediately to the Commission and all appropriate self-regulatory agencies if it violates any net capital rule or if its books and records are not current; a financial report must be filed within 24 hours after the net capital deficiency occurs. Additionally, a broker-dealer must report its financial and operational condition within 15 days after the end of any month in which its net capital ratio is in excess of 1,200 percent.[7]

An amendment to Rule 17a–5 which would require broker-dealers to furnish certain financial information to their customers has been proposed.[8] The rule will require sending directly to the customer financial statements in order that the customer may be able to determine the financial soundness of the broker-dealer with whom he deals. Additionally, the Commission has proposed an amendment to Rule 15c3–1 (17 CFR 240.15c3–1) to increase minimum capital requirements for entrants into the brokerage business.[9] An amendment to Rule 15b1–2 (17 CFR 240.15b1–2) has been adopted which is designed to insure conservative and proper operation at the outset by new entrants.[10]

The Commission has established an Office of Chief Examiner to intensify its oversight of the self-regulatory process and to make more frequent and intensive independent inspections of broker-dealers who are inspected by the self-regulatory agencies and to inspect annually all broker-dealers which are not members of a self-regulatory organization. In addition, the Commission has established the position of securities industry operations officer to provide oversight and coordination in dealing with proposals concerning processing of securities transactions and the development of the locked-in trade.

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[4] Securities Exchange Act Release No. 9376, Nov. 8, 1971, and Federal Register for Nov. 4, 1971, at 36 F.R. 21179.

[5] Securities Exchange Act Release No. 9192, June 7, 1971, and Federal Register for June 15, 1971, at 36 F.R. 11514.

[6] Securities Exchange Act Release No. 9033, Dec. 1, 1970, and Federal Register for Dec. 5, 1970, at 35 F.R. 18511.

[7] Securities Exchange Act Release No. 9268, July 30, 1971, and Federal Register for Aug. 11, 1971, at 36 F.R. 14726.

[8] Securities Exchange Act Release No. 9404, Dec. 3, 1971, and Federal Register for Dec. 30, 1971 at 36 F.R. 25237.

[9] Securities Exchange Act Release No. 9288, Aug. 13, 1971, and Federal Register for Aug. 25, 1971, at 36 F.R. 16696.

[10] Securities Exchange Act Release No. 9594, May 12, 1972, and Federal Register for May 16, 1972, at 37 F.R. 9668.

IMPLEMENTATION AND COMMENTS

The Commission appreciates the many comments it has received over the past few months from the securities industry and other interested parties concerning our initial proposal for rules regarding reserves. They have been helpful to us in our present efforts. We believe the proposed rule accompanying this release meets the intent of the Congress for a program of fiscal protection regarding broker-dealers. In developing the reserve and custody rules we have sought to avoid freezing the liquid resources of the securities industry or depriving it of business opportunities in areas, such as margin lending, where it has traditionally played a significant and constructive role. Careful consideration has been given to the operational feasibility of both the reserve and custody rule. It is the Commission's judgment that the implementation of this program will not significantly impact the operational level of broker-dealers' businesses.

TEXT OF PROPOSED RULE AND EXHIBITS

The Commission proposes to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adopting new §§ 240.15c3–3, 240.15c3–3a, and 240.15c3–3b as follows:

§ 240.15c3–3 Customer protection—reserves and custody of securities.

(a) *Definitions.* For the purpose of this section:

(1) The term "customer" shall mean any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for account of such person, but shall not include a broker or dealer, or a general, special or limited partner or director or officer of the broker or dealer, or any participant in any joint, group or any syndicate account with a broker or dealer or any general, special or limited partner, or officer, or director of such broker or dealer, or any person to the extent that such person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer: *Provided, however,* That the term "customer" shall also include a broker or dealer but only insofar as such broker or dealer maintains with a member firm of a national securities exchange a special omnibus account carried by such member in the name of such other broker or dealer in compliance with § 220.4(b) of Regulation T of this chapter under the Securities Exchange Act of 1934.

(2) The term "securities carried for the account of a customer" (hereinafter also "customer securities") shall mean:

(i) Securities received by or on behalf of a broker or dealer for the account of any customer, and securities carried long by a broker or dealer for the account of any customer; and

(ii) Securities sold to, or bought for, a customer by a broker or dealer.

(3) The term "fully paid securities" shall include all securities carried for the account of a customer in a special cash account as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System or in a custodial or similar account, as well as margin equity securities within the meaning of Regulation T which are carried for the account of a customer in a general account or any special account under Regulation T during any period when § 220.8 of Regulation T of this chapter specifies that margin equity securities shall have no loan value in a general account or special convertible debt security account, and all such margin equity securities in such account, if they are fully paid: *Provided, however,* That the term "fully paid securities" shall not apply to any securities which are purchased in transactions for which the customer has not made full payment.

(4) The term "margin securities" shall mean those securities carried for the account of a customer in a general account as defined in Regulation T, as well as securities carried in any special account other than the securities referred to in subparagraph (3) of this paragraph.

(5) The term "excess-margin securities" shall mean those margin securities carried for the account of a customer, the market value of which exceeds 140 percent of the debit balance in the general, special arbitrage, special subscription, special bond, special convertible debt security, and special equity funding account.

(6) The term "qualified security" shall mean a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States.

(7) The term "bank" shall mean a bank as defined in section 3(a)(6) of the Act and shall also mean any building and loan, savings and loan or similar banking institution subject to supervision by a Federal banking authority.

(8) The term "free credit balances" shall mean liabilities of a broker or dealer to customers which are subject to immediate cash payment to customers on demand, whether resulting from sales of securities, dividends, interest, deposits or otherwise.

(9) The term "other credit balances" shall mean cash liabilities of a broker or dealer to customers other than free credit balances and amounts segregated in accordance with the Commodity Exchange Act and rules and regulations thereunder.

(10) The term "funds carried for the account of any customer" (hereinafter also "customer funds") shall mean all free credit and other credit balances carried for the account of the customer.

(b) *Physical possession or control of securities.* (1) A broker or dealer shall promptly obtain and shall thereafter maintain the physical possession or control of all fully paid securities and excess margin securities carried by a broker or dealer for the account of customers.

(2) A broker or dealer shall not be deemed to be in violation of the provisions of subparagraph (1) of this paragraph regarding physical possession or control of customers' securities if, solely as the result of normal business operations, temporary lags occur between the time when a security is required to be in the possession or control of the broker or dealer and the time that it is placed in his physical possession or under his control: *Provided,* That the broker or dealer takes timely steps in good faith to establish prompt physical possession or control. The burden of proof shall be on the broker or dealer to establish that the failure to obtain physical possession or control of securities carried for the account of customers as required by subparagraph (1) of this paragraph is merely temporary and solely as the result of normal business operations, and to establish that he has taken timely steps in good faith to place them in his physical possession or control.

(c) *Control of securities.* Securities under the control of a broker or dealer shall be deemed to include securities which:

(1) Are represented by one or more certificates in the custody of a clearing corporation or other subsidiary organization of either a national securities exchange or of a registered national securities association, or of a custodian bank in accordance with a system for the central handling of securities complying with the provisions of §§ 240.8c–1(g) and 240.15c2–1(g), the delivery of which certificates to the broker or dealer do not require the payment of money, and if the books or records of the broker or dealer identify the customers entitled to receive specified numbers or units of the securities so held for such customers collectively;

(2) Are carried for the account of any customer by a broker or dealer registered with the Commission under section 15 of the Act and are carried in a special omnibus account in the name of such registered broker or dealer by a member of a national securities exchange in compliance with the requirements of § 220.4(b) of Regulation T of this chapter under the Act, such securities being deemed to be under the control of such registered broker or dealer to the extent that he has instructed such member to maintain physical possession or control of them free of any charge, lien, or claim of any kind in favor of such member or any persons claiming through such member; or

(3) Are the subject of bona fide items of transfer: *Provided,* That securities shall be deemed not to be the subject of bona fide items of transfer if, within 30 days after they have been transmitted for transfer by the broker or dealer to the issuer or its transfer agent, new certificates conforming to the instructions of the broker or dealer have not been received by him or he has not received a written statement by the issuer or its transfer agent acknowledging the transfer instructions and the possession of the securities.

(d) *Requirement to reduce securities to possession or control.* Not later than the next business day, a broker or dealer, as of the close of the preceding business day, shall determine from his books or records the quantity of fully paid securities and excess margin securities in his possession or control. Inactive margin accounts shall be computed not less than once a week. If such books or records indicate, as of such close of the business day, that such broker or dealer has not obtained physical possession or control of all fully paid and excess margin securities as required by this section and there are securities of like kind in any of the following noncontrol locations:

(1) Securities subject to a lien securing moneys borrowed by the broker or dealer or securities loaned to another broker or dealer, then the broker or dealer shall, not later than the business day following the day as of which such determination is made, issue instructions for the release of such securities from the lien or return of such loaned securities and shall obtain physical possession or control of such securities within 2 days following the date of issuance of the instructions in the case of securities subject to lien securing borrowed moneys and within 5 days following the date of issuance of instructions in the case of securities loaned; or

(2) Securities included on his books or records as failed to receive more than 25 days, then the broker or dealer shall, not later than the business day following the day as of which such determination is made, take prompt steps to obtain physical possession or control of securities so failed to receive through a buy-in procedure or otherwise; or

(3) Securities receivable by the broker or dealer as a stock dividend receivable for more than 45 days, then the broker or dealer shall, not later than the business day following the day as of which such determination is made, take prompt steps to obtain physical possession or control of securities so receivable through a buy-in procedure or otherwise.

(e) *Special reserve bank account for the exclusive benefit of customers.* (1) Every broker or dealer shall at all times have and maintain a "Special Reserve Bank Account for the Exclusive Benefit of Customers" (hereinafter referred to as the "Reserve Bank Account"). The Reserve Bank Account shall be maintained with a bank or banks having a banking office where the broker or dealer has a place of business and shall be separate from any other bank account of the broker or dealer, and he shall at all times maintain in such Reserve Bank Account, through deposits made therein, cash and qualified securities in amounts computed in accordance with the formula set forth in § 240.15c3–3a.

(2) It shall be unlawful for any broker or dealer to accept or use any of the amounts under items comprising total credits under the formula referred to in subparagraph (1) of this paragraph except for the specified purposes indicated under items comprising total debits under the formula, and to the extent total credits exceed total debits the net amount thereof shall be maintained in the Reserve Bank Account pursuant to subparagraph (1) of this paragraph.

(3) Computations required for the making of the deposit specified in subparagraph (1) of this paragraph shall be made daily as of the close of the preceding business day, and the deposits so computed shall be made in full by the broker or dealer no later than the next banking day. The broker or dealer shall maintain a record of each such computation and preserve each such record in accordance with § 240.17a–4.

(f) *Notification of banks.* A broker or dealer required to maintain the Reserve Bank Account prescribed by this section shall obtain and preserve in accordance with § 240.17a–4 a written notification from each bank in which he has his Reserve Bank Account that the bank was informed that all cash and qualified securities deposited therein are being held by the bank for the exclusive benefit of customers of the broker or dealer in accordance with the regulations of the Commission, and are being kept separate from any other accounts maintained by the broker or dealer with the bank, and the broker or dealer shall have a written contract with the bank which provides that the cash and qualified securities shall at no time be used directly or indirectly as security for a loan to the broker or dealer by the bank and, shall be subject to no right, charge, or lien, or claim of any kind in favor of the bank or any person claiming through the bank.

(g) *Withdrawals from the Reserve Bank Account.* A broker or dealer may make withdrawals from his Reserve Bank Account if and to the extent that at the time of the withdrawal the amount remaining in the Reserve Bank Account is not less than the amount then required by paragraph (e) of this paragraph. A bank may presume that any request for withdrawal from a Reserve Bank Account is in conformity and compliance with this paragraph (g). On any business day on which a withdrawal is made, the broker or dealer shall make a record of the computation on the basis of which he makes such withdrawal, and he shall preserve such computation in accordance with § 240.17a–4.

(h) *Buy-in of short security differences.* A broker or dealer shall within 45 days after the date of the examination, count, verification and comparison of securities pursuant to § 240.17a–13 or otherwise or to the annual report of financial condition in accordance with § 240.17a–5, buy-in all short security differences which are not resolved during the 45-day period.

(i) *Notification in the event of failure to make a required deposit.* If a broker or dealer shall fail to make on any day a deposit required by this section in his Reserve Bank Account, the broker or dealer shall immediately notify the Commission, the Securities Investor Protection Corporation, and the examining authority for the broker or dealer designated by the Securities Investor Protection Corporation and shall promptly thereafter confirm such notification in writing.

(j) *Specifically identifiable property.* For the purpose of section 6(c)(2)(C)(iii) of the Securities Investor Protection Act of 1970 the following are hereby determined to be allocated to and shall constitute the specifically identifiable property of consumers:

(1) All fully paid and excess margin securities in the physical possession or control of the broker or dealer or in transfer or stock dividend receivable shall constitute the specifically identifiable property of customers having claims for fully paid and excess margin securities as their interests may appear from the books or records of the broker or dealer or as is otherwise established by a preponderance of the evidence or to the satisfaction of a trustee appointed pursuant to section 5(b) of that Act.

(2) The cash and qualified securities on deposit in the Reserve Bank Account of a broker or dealer shall be deemed to be the specifically identifiable property of those customers of the broker or dealer who have free credit balances.

(3) If specifically identifiable property allocable to customers pursuant to subparagraphs (1) or (2) of this paragraph is insufficient to satisfy the respective claims of such customers, such specifically identifiable property shall be prorated among such customers.

(4) If the specifically identifiable property allocable to either of the specified classes of customers referred to in subparagraphs (1) or (2) of this paragraph exceeds their aggregate claims against such property, such excess shall constitute the specifically identifiable property of the other specified class of customers to the extent the latter class of customers have unsatisfied claims, and any excess thereafter shall constitute part of the "Single and Separate Fund" provided for in section 6(c)(2)(B) of that Act.

(k) *Exemptions.* (1) The provisions of this section shall not be applicable to a broker or dealer meeting all of the following conditions:

(i) His dealer transactions (as principal for his own account) are limited to the purchase, sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; except that a broker or dealer transacting business as a sole proprietor may also effect occassional transactions in other securities for his own account with or through another registered broker or dealer;

(ii) His transactions as broker (agent) are limited to: (*a*) The sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; (*b*) the solicitation of share accounts for savings and loan associations insured by an instrumentality of the United States;

and (c) the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies; and

(iii) He promptly transmits all funds and delivers all securities received in connection with his activities as a broker or dealer, and does not otherwise hold funds or securities for, or owe money or securities to, customers.

Notwithstanding the foregoing, this section shall not apply to any insurance company which is a registered broker-dealer, and which otherwise meets all of the conditions in subdivisions (i), (ii), and (iii) of this subparagraph, solely by reason of its participation in transactions that are a part of the business of insurance, including the purchasing, selling or holding of securities for or on behalf of such company's general and separate accounts.

(2) Upon written application by a broker or dealer, the Commission may exempt such broker or dealer from the provisions of this section, either unconditionally or on specified terms and conditions, if the Commission finds that the broker or dealer has established safeguards for the protection of funds and securities of customers comparable with those provided for by this section and that it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this section.

(l) *Delivery of securities.* Nothing stated in this section shall be construed as affecting the absolute right of the customers of a broker or dealer from receiving in the course of normal business operations following demand made on the broker or dealer, the physical delivery of certificates for:

(1) The fully paid and excess margin securities required to be in the physical possession or control of the broker or dealer, and

(2) Margin securities for any customer upon full payment by such customer to the broker or dealer of his indebtedness to the broker or dealer.

(m) *Completion of sell orders on behalf of customers.* If a broker or dealer executes a sell order of a customer (other than an order to execute a short sale in conformity with Regulation T) and if for any reason whatever the broker or dealer has not obtained possession of the securities from the customer within 10 days after the settlement date, the broker or dealer shall immediately thereafter close the transaction with the customer by purchasing securities of like kind and quantity.

(n) *Notice to customers.* Every broker or dealer, unless exempted from the provisions of this section, shall give or send to each of its customers, together with or as a part of the customer's statement of account, whenever sent but not less frequently than once every 3 months, the written statement set forth in § 240.15c3-3(b).

§ 240.15c3-3a Exhibit A—Formula for determination of reserve requirement for brokers and dealers under § 240.15c3-3.

1. Customers' free credit balances (Question 6F of § 240.617 (Form X-17A-5))	$XXX
2. Customers' other credit balances (Items A2, B2 and E of Question 6 and Item B1b of Question 2 of § 240.617 (Form X-17A-5))	XXX
3. Monies borrowed collateralized by securities carried for the accounts of customers (Item A of Question 2 of § 240.617 (Form X-17A-5))	XXX
4. Drafts payable and bank overdrafts (Questions 1 and 13 of § 240.617 (Form X-17A-5))	XXX
5. Securities loaned (Item C of Question 4 of § 240.617 (Form X-17A-5)). See Note B	XXX
6. Securities failed to receive (Item D of Question 4 of § 240.617 (Form X-17A-5)). See Note B	XXX
7. Credit balances in proprietary accounts and in accounts of officers, directors, general, special or limited partners, containing short positions (Question 8, 9, 10A, 10C, 11, and 12 of § 240.617 (Form X-17A-5)). See Note B	XXX
8. Market value of stock dividends receivable over 30 days old (Question 13 of § 240.617 (Form X-17A-5))	XXX
9. Market value of short security count differences and/or stock record breaks over 30 days—(In addition, one year from the effective date of this rule, 50 percent of the market value of security count differences and/or stock record breaks aged more than 15 days shall be included and 100 percent of the value of thereof aged over 30 days shall be included (Question 13 of § 240.617 (Form X-17A-5))	XXX
10. Market value of short securities and credits in suspense accounts over 30 days (Question 13 of § 240.617 (Form X-17A-5))	XXX
11. Market value of securities, other than proprietary long positions or long positions in securities of officers, directors, general, special or limited partners, which are used to collateralized firm bank loans	XXX
12. Market value of securities which are in transfer in excess of 30 days and have not been confirmed to be in transfer by the transfer agent or the issuer during the most recent 30 days	XXX
13. Total credits (sum of Items 1 and 12)	XXX
14. Net debit balances in customers' fully secured accounts[1] (Item B1 of Question 6 of § 240.617 (Form X-17A-5)), adjusted in accordance with Note A hereof	XXX
15. Debit balances in bonafied cash accounts of customers and in omnibus accounts carried by other brokers or dealers (Item A1 of Question 6 and Item B1a of Question 2 of § 240.617 (Form X-17A-5)).[1] See Note C	XXX
16. Drafts receivable not more than 15 days old deliveries based upon customers' Securities	$XXX
17. Securities borrowed (Item A of Question 4 of § 240.617 (Form X-17A-5)). See Note B	XXX
18. Securities failed to deliver (not older than 30 days) (Item B of Question 4 of § 240.617 (Form X-17A-5)). See Note B	XXX
19. Total debits (sum of Items 14-18)	XXX
20. Excess of total credits over total debits (line 13 minus line 19) required to be on deposit in the "Reserve Bank Account" (§ 240.15c3-3 (e))	XXX

NOTE A: Margin accounts receivable shall be reduced by:

(1) The amount by which a specific security which is collateral for margin accounts exceeds in aggregate value 10 percent of the aggregate value of all securities which collateralize all margin accounts receivable; and

(2) The amount by which margin debt arising from transactions with any directors, officers, general, special or limited partners, subordinated lenders, or others who are either the beneficial owners of 5 per centum or more of the voting stock of the broker or dealer or have the right to a participation of 5 per centum or more in the net assets or net profits of the broker or dealer exceeds 10 percent of all margin accounts receivable.

The calculations called for by this Note A may be made on a monthly basis; however, such monthly calculation should be adjusted daily whenever necessary to reflect material changes in the foregoing items.

NOTE B: A broker or dealer to the extent possible shall eliminate, on a prudent conservative basis, amounts included in items 5, 6, 17, and 18 of the formula which are noncustomer items and then may make a reduction in item 7, but only to the extent short positions in proprietary accounts are attributable to the noncustomer items which have been so eliminated. If a broker or dealer eliminates noncustomer items from any of the items 5, 6, 17, or 18, he must eliminate noncustomer items from all such items.

NOTE C: Customers' cash account debits should be reduced by:

(1) The amount by which the receivable of one customer and his affiliates exceeds 10 percent of all accounts receivable;

(2) The amount of receivables arising from transactions with directors, officers general, special or limited partners, subordinated lenders, or others who are either the beneficial owners of 5 per centum or more of the voting stock of the broker or dealer or have the right to a participation of 5 per centum or more in the net assets or net profits of the broker or dealer; and

(3) An amount equal to 1 percent of aggregate cash account debits, reduced by items (1) and (2) above.

The calculations called for by this Note C may be made on a monthly basis; however, such monthly calculation should be adjusted daily whenever necessary to reflect material changes in the foregoing items.

§ 240.15c3-3b Exhibit B—Notice required by brokers and dealers to customers.

All securities credited to your account and not delivered to you will be held by the firm together with securities credited to the accounts of other customers, or such securities may be deposited with a depository or clearing agency subject to the jurisdiction of the Securities and Exchange Commission. The securities owned by you will be determined from

[1] This item shall not include customers' unsecured accounts (Item D of Question 6 of § 240.617 (Form X-17A-5)), deficits in customers' partly secured accounts (Item C of Question 6 of § 240.617 (Form X-17A-5)), cash accounts which are not bonafide cash accounts (Note 1 of Question 6 referring to Items B, C, or D of § 240.617 (Form X-17A-5)), or the short market value of securities in customers' unsecured accounts.

the books and records, confirmations, customer statements, and related documents of the firm. We are required by law to obtain possession or control of the securities credited to your account as soon as possible and maintain such possession or control in a manner described above or in some other manner which clearly defines your securities pending your instructions or our delivery thereof to you. As a result of normal business operations and temporary lags certain of your securities may not have been reduced to our possession or control as of the date of this statement. You may obtain delivery of securities credited to your account upon request and, if applicable, upon payment of any outstanding debit balance and/or delivery of securities owed by you to the firm.

In view of the complexity of this program, the Commission again requests the assistance of those affected thereby through the public comment process. It realizes that in such an important and complex program certain facets may require adjustment before final adoption. Nevertheless, the Commission seeks the adoption of this program at the earliest possible time. It is therefore contemplated that the program embodied in this rule will become effective approximately 45 days after the Commission announces the final form of the rule.

All interested persons are invited to submit their views and comments on these proposals in writing to Lee A. Pickard, Special Counsel to the Chairman, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549, on or before July 17, 1972. All such communications will be available for public inspection.

(Secs. 15(c)(2), 15(c)(3), 17(a), 23(a), 6(c)(2)(B), 6(c)(2)(C)–(iii); 48 Stat. 895, 897, 901; secs. 4, 8, 49 Stat. 1379; sec. 5, 52 Stat. 1075, 1076; 84 Stat. 1636, 1653; 15 U.S.C. 78o(c)(2), 78o(c)(3), 78q, 78w, 78aaa)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

MAY 31, 1972.

[FR Doc.72-8802 Filed 6-9-72;8:49 am]

Notices

DEPARTMENT OF STATE

Agency for International Development

DEPUTY ASSISTANT ADMINISTRATOR FOR POPULATION AND HUMANITARIAN ASSISTANCE

Delegation of Authority

Correction

In F.R. Doc. 72-8121, appearing at page 10812, in the issue of Wednesday, May 31, 1972, the ninth and 12th lines of the first paragraph, should be transferred, respectively.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Cost of Living Council Ruling 1972-53]

DEALER IN EXEMPT COMMODITY

Cost of Living Council Ruling

Facts. A is a broker specializing in sales and purchases, for clients, of goods, products, or real estate which are exempt from controls under the applicable provisions of Subpart D of Part 101, Chapter I, Title 6 of the Economic Stabilization Regulations, 6 CFR 101.31 et seq. A receives a fee for his services.

B owns a trucking firm and transports live cattle from ranches to railheads for loading into cattle cars and to selling markets.

Issue. Are fees for services which are related to otherwise exempt commodities themselves exempt from economic controls?

Ruling. No. Those who render services related to an exempt commodity are subject to economic controls even though that service, if performed by the owner of the exempt commodity on his own behalf, would be exempt. If the owner of an otherwise exempt commodity sells it on his own behalf, that sale is exempt from economic controls, Economic Stabilization Regulation § 101.31 et seq., 6 CFR 101.31 et seq. However, a broker who performs this act for the owner is regarded as performing a "service" as that term is defined by Economic Stabilization Regulation § 300.5, 6 CFR 300.5 (December 16, 1971), and there fore is a "service organization" under that regulation. As such Economic Stabilization Regulation § 300.14, 6 CFR 300.14 (January 19, 1972), is applicable in determining what price in excess of the base price, if any, may be charged.

The fact that the service performed is related to an exempt commodity does not render the service exempt from economic controls unless performed by the owner of the commodity for himself.

Carrying this principle to B, who provides a "service" and is a "service organization" under Economic Stabilization Regulation § 300.5 above, the prices he charges for transporting live cattle are subject to Economic Stabilization controls even though the sale of the commodity, the live cattle, itself is exempt.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: June 5, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 5, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8780 Filed 6-9-72;8:47 am]

[Cost of Living Council Ruling 1972-55]

SMALL BUSINESS EXEMPTION—FIRM—BROTHER-SISTER CORPORATION

Cost of Living Council Ruling

Facts. An individual H controls two wholly owned manufacturing corporations A and B. A and B are price category III firms which have an average of 55 and 45 employees respectively, as calculated under § 101.51(a)(3) of the Economic Stabilization Regulations, 6 CFR 101.51(a)(3), 37 F.R. 8939 (May 3, 1972). The pay adjustments of the employees of A and B have never been set by a master employment or other employment contract of the type described in § 101.51 (a)(2)(iv).

Issue. Whether A or B qualifies for the exemption contained in § 101.51 of the Economic Stabilization Regulations?

Ruling. No. Section 101.51(a)(1) states in part that the price and pay adjustments of any firm existing on or before December 31, 1971, with an average of 60 or fewer employees are exempt from the Economic Stabilization Regulations, 6 CFR 101.51(a)(1), 37 F.R. 8939 (May 3, 1972). Section 101.2 which defines firm provides as follows:

> "Firm" means any person, corporation, association, estate, partnership, trust, joint-venture, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal and State and local governments. For purposes of this definition, a firm includes any entity listed in the preceding sentence that is part of or is directly or indirectly controlled by the firm. A person will be deemed to control any firm which is controlled directly or indirectly by such person, his spouse, children, grandchildren, or parents. 6 CFR 101.2, 37 F.R. 9457 (May 11, 1972).

The second sentence of the definition indicates that firm includes any of the entities listed in the first sentence of the definition which are directly or indirectly controlled by the firm. The first sentence indicates that a firm includes a person. As applied to the present case, the firm is considered to be H and the two entities A and B, which he controls. For the purposes of the exemption provided in § 101.51 the firm would be considered to employ an average of more than 60 employees. Thus, neither of the entities within the firm would qualify for the exemption.

This ruling has been approved by the General Counsel of the Cost of Living Council.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 6, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8781 Filed 6-9-72;8:47 am]

[Cost of Living Council Ruling 1972-56]

SMALL BUSINESS EXEMPTION—AVERAGE OF 60 OR FEWER EMPLOYEES

Cost of Living Council Ruling

Facts. X is a firm that has an average of 60 or less employees as calculated by Economic Stabilization Regulation, 6 CFR 101.51(a)(3), 37 F.R. 8939 (May 3, 1972), and is considered exempt. X now has expanded his operation and has hired 10 more employees to increase his average total employees to more than 60.

Y is a firm that had an average of more than 60 employees as calculated by § 101.51(a)(3) and is considered nonexempt. Y now has reduced his operation due to adverse market conditions. He now has reduced his employment so that his average total employment is less than 60.

Issue. Does X lose his exempt status and does Y gain exempt status?

Ruling. X does not lose his exempt status. To be considered exempt for purposes of the small business exemption, a firm existing on or before December 31, 1971, must meet the calculation of average number of employees as determined by § 101.51(a)(3). This section looks to the average number of employees employed on the pay periods which included June 30, September 30, and December 31, 1971, and March 31, 1972. Since X qualified during the period and his exempt status has now been determined, X may hire as many new employees as he wants.

Y does not gain exempt status, since Y did not qualify during the period prescribed in § 101.51(a)(3). He could discharge any number of employees and still not gain exempt status.

This ruling has been approved by General Counsel of the Cost of Living Council.

Dated: June 6, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 6, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8782 Filed 6-9-72;8:48 am]

[Cost of Living Council Ruling 1972-57]

SMALL BUSINESS EXEMPTION—INSTITUTIONAL OR NONINSTITUTIONAL PROVIDER OF HEALTH SERVICES

Cost of Living Council Ruling

Facts. X, a physician and owner of a small medical clinic, employs 10 employees to perform various medical tasks. None of the employees belongs to a union.

Issue. Are the price and pay adjustments of the physician and medical clinic exempt under Economic Stabilization Regulation, 6 CFR 101.51(a), 37 F.R. 8939 (May 3, 1972)?

Ruling. No. Section 101.51(a)(2) states, "the exemption provided in subparagraph (1) * * * shall not be applicable to * * *(ii) a firm which on the effective date of this regulation was an institutional or noninstitutional provider of health services * * *". Since the clinic and the physician are within the Price Commission definitions of institutional and noninstitutional providers of health services, the exemption for small businesses is not applicable and their pay and price adjustments continue to be subject to stabilization regulations.

This ruling has been approved by General Counsel of the Cost of Living Council.

Dated: June 6, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 6, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8783 Filed 6-9-72;8:48 am]

[Cost of Living Council Ruling 1972-58]

SMALL BUSINESS EXEMPTION—RENT VS. SERVICE

Cost of Living Council Ruling

Facts. L "rents" beach cottages during the summer on a weekly basis to transient occupants. L has never had more than 10 employees. The pay adjustments of the employees of L have never been set by a master employment or other employment contract of the type described in § 101.51(a)(2)(iv).

Issue. Whether a service organization which rents to transients may qualify for the small business exemption?

Ruling. Yes. Section 101.51(a)(1) provides in part that price and pay adjustments (but not rent increases or adjustments) of any firm, existing on or before December 31, 1971, with an average of 60 or fewer employees are exempt from and not included in the coverage of this title. 37 F.R. 8939 (May 3, 1972). The parenthentical language of this section clearly indicates that rent increases are not exempt under the section. However, the provisions of § 101.51 do not modify the distinctions which were previously drawn from the regulations between the rental of real property (Part 301) and the sale of services (e.g. the lease of personal property or charge for hotel or motel rooms). This distinction was discussed in Price Commission Ruling 1972-57, 37 F.R. 2453 (February 16, 1972). It is clear that the parenthentical exception of rent increases or adjustments from the exemption provided in § 101.51 only applies to "rents" as defined in Part 301. Consequently, since L in the present case would be classified as a service organization, L is eligible for the exemption if it meets all the requirements of § 101.51.

This ruling has been approved by the General Counsel of the Cost of Living Council.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 6, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8784 Filed 6-9-72;8:48 am]

[Cost of Living Council Ruling 1972-59]

SINGLE-FAMILY DWELLING UNITS

Cost of Living Council Ruling

Facts. Lessor L owns a building containing several commercial rental units and one residential rental unit which was leased for a term longer than month-to-month on January 19, 1972. Neither L nor members of his family owns or has an interest in other rental units.

Issue. Does the building qualify for an exemption as a single family dwelling unit under the provisions of 6 CFR 101.33(a)(2)(iv)?

Ruling. Section 101.33(a)(2)(iv), as originally enacted, exempted single family dwelling units and rental units in owner-occupied multifamily dwellings which were rented for a term longer than month-to-month on January 19, 1972, from coverage of the Economic Stabilization Regulations, provided the owner or members of his family do not own or have an interest in more than an aggregate of four such units. 6 CFR 101.33(a)(2)(iv)(1972). By amendment effective May 24, 1972, the owner-occupancy and longer than month-to-month requirements were removed from § 101.33(a)(2)(iv), 37 F.R. 10493 (1972). In any case, the term "dwelling unit" means a building used in whole or in part for residential purposes. Thus, where it contains only a single rental unit used for residential purposes, the building may qualify for exemption as a single family dwelling unit under § 101.33(a)(2)(iv).

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: June 6, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 6, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8785 Filed 6-9-72;8:48 am]

[Price Commission Ruling 1972-182]

APPLICATION OF REGULATIONS GOVERNING INSTITUTIONAL PROVIDERS OF HEALTH SERVICES TO INDIVIDUAL HOSPITALS

Price Commission Ruling

Facts. Corporation X owns two hospitals (A and B) in city Y and also manufactures plastic products. The corporation as a whole has aggregate annual revenues of $40 million, consisting of $1.5 million from hospital A, $1 million from hospital B and $37.5 million from its manufacturing business. The corporation's overall profit margin, as defined in Economic Stabilization Regulations, 6 CFR 300.5, 36 F.R. 23974 (December 16, 1971), as amended 37 F.R. 3913 (February 24, 1972), during its base period was 6 percent. Considered separately, hospital A had a profit margin of 3 percent during its base period and hospital B's profit margin was 2 percent during its base period. Hospital A has incurred allowable cost increases and wishes to raise its prices to reflect these costs. An institutional provider of health services cannot increase a price over its base price that will increase its profit margin over that which prevailed during its base period. Economic Stabilization Regulations, 6 CFR 300.18(b), 36 F.R. 23584 (December 30, 1971), as amended 37 F.R. 775 (January 19, 1972). Also if a hospital's price increases increase its aggregate annual revenues more than 2.5 percent over the amount those revenues would have been had the provider charged its base prices, the hospital is required to file a price schedule and statement with the Internal Revenue Service and a price schedule with its Medicare intermediary. If the effect of the price increase is to increase aggregate annual revenues more than 6 percent the hospital must request an exception from the Price Commission. Economic Stabilization Regulations, 6 CFR 300.18(c), 36 F.R. 23584 (December 30, 1972).

Issue. Whose profit margin and aggregate annual revenues should hospital A consider in determining if it can increase its prices?

Ruling. Institutional providers of health services include any hospital owned or operated by any person. Economic Stabilization Regulations, 6 CFR Part 300, Appendix I, 36 F.R. 23584 (December 30, 1971). In applying the regulations of the Economic Stabilization Program, each separate and distinct institutional health care provider in a community is considered on an individual basis. Therefore each individual hospital that wishes to charge a price in excess of its base price must individually meet the requirements of Economic Stabilization Regulations, 6 CFR 300.18, 36 F.R. 23584 (December 30, 1971), as amended, 37 F.R. 775 (January 19, 1972) and 37 F.R. 7621 (April 18, 1972). Each hospital must use its own allowable cost increases to justify a price increase and use its own profit margin, not the profit margin of a larger entity (such as corporation X in this example) that operates the hospital. Also, the aggregate annual revenue requirements of § 300.18(c) of the regulations apply to each individual hospital.

Therefore hospital A must consider its own profit margin (3 percent) and its own aggregate annual revenues ($1.5 million) in determining if its proposed price increase is allowable.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: June 5, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 5, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8786 Filed 6-9-72;8:48 am]

[Price Commission Ruling 1972-183]

PROFIT MARGIN DETERMINATIONS

Price Commission Ruling

Facts. Company A, a manufacturing firm which uses a cost method of accounting in preparing its financial statements, generally writes down its inventory valuation each year by approximately $100,000. This write down reflects losses due to spoilage, obsolescence and other acceptable reasons. This year, however, A proposes to write down its inventory $400,000 due to extraordinary reasons.

Issue. Is an inventory write down considered a general and recurring cost of business operations which may be used in determining A's profit margin?

Ruling. Economic Stabilization Regulation § 300.5, 6 CFR 300.5 (February 24, 1972), defines the term "Profit Margin" as "the ratio that operating income (net sales less cost of sales and less normal and generally recurring costs of business operations, determined before nonoperating items; extraordinary items, and income taxes) bears to net sales as reported on the person's financial statement prepared in accordance with generally accepted accounting principles consistently applied." In accordance with this regulation general accounting theory is used instead of income tax accounting, and each expense in order to be allowable in calculating the profit margin, must be general, recurring, operational in nature and not extraordinary. Further, its use in financial statements in determining profit and loss, must be consistent with general accounting principles applied consistently.

On the above facts, an inventory write down would comply with all the requirements, except that this year the excessive amount would make it extraordinary. As such it cannot be used, this year, in determining A's profit margin in accordance with the regulations.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: June 5, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 5, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8787 Filed 6-9-72;8:48 am]

[Price Commission Ruling 1972-184; Cost of Living Council Ruling 1972-54]

RETROACTIVE PAYMENTS

Price Commission Ruling and Cost of Living Council Ruling

Facts. The Postal Service has a procedure for adjusting the payments it makes to contractors who carry mail in order to compensate them for unexpected cost increases. X, a contractor, applied and filed for such an increase in May 1971, for its various routes. The requests were neither granted nor denied due to the transition problems occurring within the Post Office.

Issue. If the Post Office approves such requests after August 15, 1971, will such payments to X violate the Economic Stabilization Act?

Ruling. X has performed services for the Post Office during the period prior to August 15, 1971. It is clear that the subsequent freeze did not give an obligor the right to renege on its past obligations due for services rendered prior to August 15, 1971. X can collect increased payments from the Post Office for services performed during this period even though such approval occurred after August 15, 1971.

As for compensation for services rendered by X during the August 15 to November 13, 1971, period, X can also collect the increased payments for this period. Under Phase I, the ceiling price for a service is the highest price at which a seller furnished the service in a substantial number of transactions during the base period. Economic Stabilization Regulation No. 1, section 3a(1), 36 F.R. 16515 (August 21, 1971). A "transaction" under Phase I takes place when the seller performs the service. Economic Stabilization Circular No. 101.302(1). Since X has performed services during the pre-August 15, 1971, period at a higher price, the ceiling price during the freeze will be the higher price subsequently granted by the Post Office.

This ruling has been approved by the General Counsels of the Price Commission and Cost of Living Council.

Dated: June 6, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: June 6, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-8788 Filed 6-9-72;8:48 am]

Office of the Secretary

[Treasury Department Order 221]

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Establishment, Organization, and Functions

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, it is ordered that:

1. The purpose of this order is to transfer, as specified herein, the functions, powers, and duties of the Internal Revenue Service arising under laws relating to alcohol, tobacco, firearms, and explosives (including the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service), to the Bureau of Alcohol, Tobacco, and Firearms (hereinafter referred to as the Bureau) which is hereby established. The Bureau shall be headed by the Director, Bureau of Alcohol, Tobacco, and Firearms (hereinafter referred to as the Director). The Director shall perform his duties under the general direction of the Secretary of the Treasury (hereinafter referred to as the Secretary) and under the supervision of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) (hereinafter referred to as the Assistant Secretary).

2. The Director shall perform the functions, exercise the powers, and carry out the duties of the Secretary in the administration and enforcement of the following provisions of law:

(a) Chapters 51, 52, and 53 of the Internal Revenue Code of 1954 and sections 7652 and 7653 of such Code insofar as they relate to the commodities subject to tax under such chapters;

(b) Chapters 61 to 80, inclusive, of the Internal Revenue Code of 1954, insofar as they relate to activities administered and enforced with respect to chapters 51, 52, and 53;

(c) The Federal Alcohol Administration Act (27 U.S.C. Chapter 8);

(d) 18 U.S.C. Chapter 44 (relating to firearms);

(e) Title VII, Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Appendix, sections 1201–1203);

(f) 18 U.S.C. 1262–1265; 1952; 3615 (relating to liquor traffic);

(g) Act of August 9, 1939 (49 U.S.C. Chapter 11); insofar as it involves matters relating to violations of the National Firearms Act;

(h) 18 U.S.C. Chapter 40 (relating to explosives); and

(i) Section 414 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934) relating to the control of the importation of arms, ammunition, and implements of war.

3. All functions, powers, and duties of the Secretary which relate to the administration and enforcement of the laws specified in paragraph 2 hereof are delegated to the Director. Regulations for the purposes of carrying out the functions, powers, and duties delegated to the Director may be issued by him with the approval of the Secretary.

4. (a) All regulations prescribed, all rules and instructions issued, and all forms adopted for the administration and enforcement of the laws specified in paragraph 2 hereof, which are in effect or in use on the effective date of this order, shall continue in effect as regulations, rules, instructions, and forms of the Bureau until superseded or revised;

(b) All existing activities relating to the collection, processing, depositing, or accounting for taxes (including penalties and interest), fees, or other moneys under the laws specified in paragraph 2 hereof, shall continue to be performed by the Commissioner of Internal Revenue to the extent not now performed by the Alcohol, Tobacco, and Firearms Division or the Assistant Regional Commissioners (Alcohol, Tobacco, and Firearms), until the Director shall otherwise provide with the approval of the Secretary;

(c) All existing activities relating to the laws specified in paragraph 2 hereof which are now performed by the Bureau of Customs, shall continue to be performed by such Bureau until the Director shall otherwise provide with the approval of the Secretary.

5. (a) The terms "Director, Alcohol, Tobacco, and Firearms Division" and "Commissioner of Internal Revenue" wherever used in regulations, rules, instructions, and forms, issued or adopted for the administration and enforcement of the laws specified in paragraph 2 hereof, which are in effect or in use on the effective date of this order, shall be held to mean the Director.

(b) The terms "Assistant Regional Commissioner" wherever used in such regulations, rules, instructions, and forms, shall be held to mean Regional Director.

(c) The terms "internal revenue officer" and "officer, employee, or agent of the internal revenue" wherever used in such regulations, rules, instructions, and forms, in any law specified in paragraph 2 above, and in 18 U.S.C. 1114, shall include all officers and employees of the United States engaged in the administration and enforcement of the laws administered by the Bureau, who are appointed or employed by, or pursuant to the authority of, or who are subject to the directions, instructions, or orders of, the Secretary.

(d) The above terms, when used in regulations, rules, instructions, and forms of Government agencies other than the Internal Revenue Service, which relate to the administration and enforcement of the laws specified in paragraph 2 hereof, shall be held to have the same meaning as if used in regulations, rules, instructions, and forms of the Bureau.

6. (a) There shall be transferred to the Bureau all positions, personnel, records, property, and unexpended balances of appropriations, allocations, and other funds of the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service, including those of the Assistant Regional Commissioners (Alcohol, Tobacco and Firearms), Internal Revenue Service.

(b) In addition, there shall be transferred to the Bureau such other positions, personnel, records, property, and unexpended balances of appropriations, allocations, and other funds, as are determined by the Assistant Secretary for Administration, in consultation with the Assistant Secretary, the Director, and the Commissioner of Internal Revenue, to be necessary or appropriate to be transferred to carry out the purposes of this order.

(c) There shall be transferred to the Chief Counsel of the Bureau such functions, powers, and duties, and such positions, personnel, records, property, and unexpended balances of appropriations, allocations, and other funds, of the Chief Counsel of the Internal Revenue Service as the General Counsel of the Department shall direct.

7. All delegations inconsistent with this order are revoked.

8. This order shall become effective July 1, 1972.

Dated: June 6, 1972.

[SEAL] CHARLS E. WALKER,
Acting Secretary of the Treasury.

[FR Doc.72-8818 Filed 6-9-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Agreement 146]

DOMESTICALLY PRODUCED PEANUTS

Budget of Expenses of Administrative Committee and Rate of Assessment for 1972 Crop Year

Pursuant to Marketing Agreement 146, regulating the quality of domestically produced peanuts (30 F.R. 9402), and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found and determined that the expenses of said Committee and the rate of assessment applicable to peanuts produced in 1972 and for the crop year beginning July 1, 1972, shall be as follows:

(a) *Administrative expenses.* The budget of expenses for the Committee for the crop year beginning July 1, 1972, shall be in the total amount of $285,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the Committee, and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the Committee for indemnification payments, pursuant to the terms and conditions of indemnification applicable to 1972 crop peanuts, effective July 1, 1972, are estimated at, but may exceed $3.5 million, such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the Peanut Administrative Committee, in accordance with section 48 of the marketing agreement, an assessment at the rate of $2.55 per net ton of farmers stock peanuts received or acquired other than those described in section 31 (c) and (d) ($0.30 for administrative expenses and $2.25 for indemnification expenses).

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to section 48 of the marketing agreement, shall continue. That portion of the total assessment funds accrued from the $2.25 rate and not expended in providing indemnification on 1972 crop peanuts shall be placed in such reserve and shall be available to pay indemnification expenses on subsequent crops.

The expenses and rate of assessment are, under the agreement, on a crop year basis and will automatically be applicable to all assessable peanuts from the beginning of such crop year. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing approval of expenses that may be incurred and the imposition of assessments, they are represented on the Committee which has submitted the recommendation with respect to such expenses and assessment for approval; and handlers have had knowledge of the foregoing in their recent industrywide discussions and will be afforded maximum time to plan their operations accordingly.

Dated: June 7, 1972.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[FR Doc.72-8790 Filed 6-9-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 10423]

LEVALLORPHAN TARTRATE INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

In a notice published in the FEDERAL REGISTER of April 9, 1971 (36 F.R. 6844), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on levallorphan tartrate injection, marketed as Lorfan Injection by Roche Laboratories, Division of Hoffman-LaRoche, Inc., 340 Kingsland Street, Nutley, N.J. 07110 (NDA 10-423).

The notice stated that the drug was regarded as effective, probably effective, and possibly effective for its various labeled indications. The indications classified as probably effective (treatment of narcotic overdosage) and possibly effective (for use in the prevention of narcotic-induced respiratory depression) have been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness of the drug has been submitted pursuant to the notice of April 9, 1971. Roche Laboratories, holder of the only new-drug application for levallorphan tartrate injection supplemented the application to delete from labeling all indications other than those regarded as effective, and the supplement has been approved.

Any such preparation, for human use, introduced into interstate commerce after 60 days following publication of this notice in the FEDERAL REGISTER with labeling bearing indications for which the drug lacks substantial evidence of effectiveness, may be subject to regulatory proceedings.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: June 5, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-8773 Filed 6-9-72;8:46 am]

[DESI 8312]

OXYTETRACYCLINE HYDROCHLORIDE TOPICAL POWDER

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

In a notice (DESI 8312) published in the FEDERAL REGISTER of July 3, 1971 (36 F.R. 12706), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on the following preparation:

Terramycin Topical Powder containing oxytetracycline hydrochloride; Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017 (NDA 8-312).

The notice stated that the drug was regarded as possibly effective for its labeled indications relating to the treatment of superficial infections of the skin and infected dermatoses. The possibly effective indications have been reclassified as lacking substantial evidence of effectiveness in that such evidence has not been submitted pursuant to the notice of July 3, 1971.

Batches of such drugs with labeling bearing indications for which substantial evidence of effectiveness is lacking are no longer acceptable for release. There is no antibiotic drug regulation which provides for certification of this preparation.

Any person who will be adversely affected by this action may, within 30 days after the date of publication of this notice in the FEDERAL REGISTER, petition for the issuance of a regulation providing for certification of the drug for such indications. The petition must be supported by a full factual and well documented medical analysis which shows reasonable grounds for the issuance of such regulation.

A petition for issuance of said regulation should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852:

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: June 5, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-8772 Filed 6-9-72;8:46 am]

SYRACUSE UNIVERSITY RESEARCH CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2760) has been filed by Syracuse University Research Corp., Merrill Lane, Syracuse, N.Y. 13210, proposing that § 121.2505 *Slimicides* (21 CFR 121.2505) be amended to provide for the safe use of benzyl bromoacetate as a slimicide in the production of paper and paperboard intended to contact food.

Dated: June 1, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-8768 Filed 6-9-72;8:45 am]

[Docket No. FDC-D-481; NADA 6-648V, 7-806V]

VINELAND LABORATORIES, INC.

Certain Drug Products Containing Sulfaquinoxaline; Notice of Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of July 9, 1970 (35 F.R. 11069, DESI 6391V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Vineland Sulfaquinoxaline Feedmix 25 percent, NADA (new animal drug application) No. 6-648V and Vineland Aqua-Noxaline, NADA No. 7-806V; manufactured by Vineland Laboratories, Inc., 2285 East Landis Avenue, Vineland, N.J. 08360.

Vineland Laboratories, Inc., responded by advising the Commissioner that the sale of said drugs has been discontinued.

Based on the grounds set forth in said announcement and the firm's response, the Commissioner concludes that the new animal drug applications for the above-named products should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 6-648V and NADA No. 7-806V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: June 5, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-8767 Filed 6-9-72;8:45 am]

Social and Rehabilitation Service

OFFICE OF PROGRAM PLANNING AND EVALUATION

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (35 F.R. 8712, June 4, 1970), is hereby amended with regard to section 5-B, Organization and Functions, for the purpose of reorganizing the Office of the Assistant Administrator for Program Planning and Evaluation. Section 5-B of the statement is hereby amended, by superseding the

Office of the Assistant Administrator for Program Planning and Evaluation with the following:

OFFICE OF PROGRAM PLANNING AND EVALUATION

This Office, headed by an Assistant Administrator, has primary responsibility for advising the Administrator and Associate Administrator for Planning, Research, and Training in matters concerning the planning and evaluation of SRS programs and their alternatives. Provides leadership, technical assistance, guidance, and coordination to program units in matters pertaining to planning and evaluation. Serves as a contact point for the Office of the Administrator with the Office of the Assistant Secretary for Planning and Evaluation. Within this framework, the Office provides agencywide policy direction and coordination in the development and implementation of the SRS multiyear program and financial plan, insuring its adequacy as a basis for deriving annual budget submissions and annual operating plans. In this regard, the Office initiates and directs studies and analyses of program objectives and accomplishments, compares benefits and costs of alternative programs, and explores future needs in relation to planning programs. To support these activities, the Office provides leadership and direction in: (a) The development of study methodologies, measures of program performance, and data to support their implementation; and (b) the design and implementation of agencywide planning systems and procedures for insuring the optimal participation of SRS organizational units in the development and update of the SRS long-range plan and its linkage to operational plans and budgets.

Dated: June 6, 1972.

S. D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-8813 Filed 6-9-72;8:47 am]

Social Security Administration

LIECHTENSTEIN

Notice of Finding Regarding Foreign Social Insurance or Pension System

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health, Education, and Welfare finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in the Commissioner of Social Security by the Secretary of Health, Education, and Welfare, and redelegated to him, the Director of the Bureau of Retirement and Survivors Insurance has approved a finding that Liechtenstein beginning July 1, 1968, has a social insurance system of general application which pays periodic benefits on account of old age, retirement, or death, and under which citizens of the United States, not citizens of Liechtenstein, who leave Liechtenstein, are permitted to receive such benefits or their actuarial equivalent at the full rate without qualification or restriction while outside that country.

Accordingly, it is hereby determined and found that Liechtenstein has in effect beginning July 1, 1968, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

This revises the finding with respect to Liechtenstein published in the FEDERAL REGISTER of February 13, 1963 (28 F.R. 1377).

Dated: June 2, 1972.

HUGH F. MCKENNA,
Director, Bureau of Retirement and Survivors Insurance.

[FR Doc.72-8810 Filed 6-9-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-95PH]

PROPOSED OHIO RIVER BRIDGE AT HUNTINGTON, W. VA.

Notice of Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Second Coast Guard District at 9:30 a.m., July 13, 1972, in the City Hall Auditorium, Huntington, W. Va.

The purpose of the hearing is to consider the application dated October 21, 1971, from the West Virginia Department of Highways for approval of the location and plans of a bridge proposed to be constructed across the Ohio River, mile 305.12. The continuation of the overhead structure from the Ohio River bridge would cross the Guyandot River. Interested parties were given an opportunity to submit written comment on the application to the Commander, Second Coast Guard District by public notice No. 2-106 dated December 6, 1971. By notice No. 2-112 dated January 4, 1972, the limit for reply was extended to January 31, 1972. A draft environmental impact statement has been prepared by the Coast Guard and circulated for comment in accordance with the intent and provisions of section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 853).

In response to the notices and draft environmental statement, controversy has been generated with a number of persons submitting objections to the project on the basis of its effect on navigation and the environment. The applicant agreed to revise the permit drawings to be more fully in compliance with the reasonable needs of navigation. The revised drawings are under consideration at this time. This hearing is being held essentially to hear views and to gather any additional information that may be available from the general public concerning the impact of the proposed bridge project on the quality of the human environment. However, all interested persons may present data, views, and comments orally, or in writing at the public hearing concerning the impact of the proposed bridge project on navigation, potential commercial development and as the project relates to public recreational areas, wildlife and waterfowl refuges, public parks and historical sites which are of National, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof.

The hearing will be informal and will be conducted by a representative of the Commander, Second Coast Guard District, who will make an opening statement presenting a brief summary of the proposed bridge project and who will announce the procedures for conduct of the hearing. A transcript of the hearing will be made and anyone may purchase a copy of the transcript from the reporting service. Interested persons who are unable to attend the hearing may also participate in this procedure by submitting written comments, data, views, or arguments as they may desire on or before July 27, 1972. All submissions should be directed to the Commander, Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, MO 63103. Each communication received within the time specified will be fully considered and evaluated before final action is taken.

After the time established for the submission of comments by the interested parties, the Commander, Second Coast Guard District will forward the record, including all written submissions and his recommendations with respect to the

proposed bridge project, to the Chief, Office of Marine Environment and Systems, Coast Guard, Washington, D.C. The Chief, Office of Marine Environment and Systems, will thereafter make a final determination with respect to the proposed project.

(Sec. 502, 60 Stat. 847, as amended, sec. 4(f), as amended and sec. 6 (c), (g), 80 Stat. 934 and 941; 33 U.S.C. 525, 49 U.S.C. 1653(f) and 1655(g)(6)(c); and 49 CFR 1.46(c)(10))

Dated: June 7, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-8822 Filed 6-9-72;8:47 am]

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED OR DENIED

JUNE 5, 1972.

Pursuant to Docket No. HM-1, rule making procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277), 49 CFR Part 170, following is a list of new DOT special permits upon which Board action was completed during May 1972:

Special permit No.	Issued to—Subject	Mode or modes of transportation
6616	Shippers registered with this Board to ship bromotrifluoromethane pressurized with nitrogen in non-DOT spherical, steel pressure vessels manufactured in compliance with DOT Specification 4BA with certain exceptions.	Highway, Passenger carrying aircraft, Cargo-only aircraft.
6617	Shippers registered with this Board to ship nonflammable, nonpoisonous aerosol formulations as prescribed in §173.306 (a)(3) except inside metal cans may have capacity not exceeding 65 cubic inches and, in addition to other requisites, must have safety relief devices and must be packaged in DOT-12B fiberboard boxes.	Highway, Rail, Passenger-carrying aircraft, cargo-only aircraft, Water.
6619	Shippers registered with this Board to ship propyl phosphonic dichloride and propyl phosphonous dichloride in DOT Specification 51 portable tanks and MC-312 cargo tanks constructed of 316 stainless steel; and 103C-W and 111A60W7 tank cars.	Highway, Rail.
6621	Shippers registered with this Board to ship methyl bromide, liquid; and methyl bromide and chlorpicrin, mixture, liquid in inside metal cans not exceeding 24 ounces net weight each.	Highway, Rail, Water.
6622	Shippers registered with this Board to ship sodium nitrite as specified in § 173.234(a)(2) in less-than-carload and less-than-truckload quantities.	Highway, Rail.
6623	Chemtech Corporation, St. Louis, Missouri to ship hydrofluosilicic acid not exceeding 40 percent strength in DOT Specification 103AW and 111A100W2 tank cars.	Rail.
6624	Shippers registered with this Board to ship magnesium nitrate, nickel nitrate, and zinc nitrate in multi-wall paper bags not exceeding 50 pounds net weight.	Highway, Rail, Water.
6625	Shippers registered with this Board to ship sodium picramate, wet, with not less than 20 percent of water by weight in DOT specification 21P/2U package.	Highway.
6628	Shippers registered with this Board to ship high quality, 100 percent sulfuric acid in DOT specification 103CW tank cars constructed of type 304-L stainless steel.	Rail.
6629	Shippers registered with this Board to ship monoammonium phosphate pressurized with air in non-DOT spherical, steel pressure vessels manufactured in compliance with DOT Specification 4B with certain exceptions.	Highway.
6631	Shippers registered with this Board to ship large quantities of radioactive materials, n.o.s., in an inner lead-filled, steel containment vessel (design No. 1200).	Highway, Water.

Following is a list of requests for special permits which were denied during May 1972:

Denied—Subject

1. Request by Helena Chemical Co., Memphis, Tenn., for a special permit to transport methyl parathion in a MC-304 tank motor vehicle.

ALAN I. ROBERTS,
Secretary.

[FR Doc.72-8775 Filed 6-9-72;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24530]

IBERIA AIR LINES OF SPAIN

Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit; Madrid-San Juan-Miami

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 15, 1972, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Associate Chief Examiner Robert L. Park.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before June 13, 1972.

Dated at Washington, D.C., June 7, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72-8812 Filed 6-9-72;8:47 am]

FEDERAL POWER COMMISSION

[Docket No. CI72-766]

JAMES M. FORGOTSON, SR.

Further Notice of Application

JUNE 7, 1972.

Take notice that on June 2, 1972, James M. Forgotson, Sr. (applicant), 409 Beck Building, Shreveport, La. 71101, filed in Docket No. CI72-766 a supplement to his application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. from the Southwest Tatum, Hosston-Cotton Valley Field, Rusk County, Tex., which supplement describes the source of the gas proposed to be sold, all as more fully set forth in the supplement to the application which is on file with the Commission and open to public inspection. The application in the instant docket is filed within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Applicant states that the application in the instant docket is not a request for a 1-year extension of the authorization granted in Docket No. CI71-783. He states further that during the year in which the Pepper and Thornton wells produced under the contract under which sales authorized in Docket No. CI71-783 were made, the Pepper well was recompleted and a new sand lens was added to production in the well and that operation of these wells during this period has resulted in improved techniques and the development of a probable deeper horizon.

Applicant states that the No. 1 Williamson well has been drilled through the Smackover formation into the Salt and that attempts will be made to produce from the Smackover formation and also to produce from the Cotton Valley and Hosston formations, which are productive in the No. Thornton and No. 1 Pepper wells. He states further that the techniques which he has developed in this area through the drilling and producing of these wells has resulted in what apto be a successful reentry in Upshur County and two new deep tests to be drilled in Harrison County.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application, as supplemented, should on or before June 19, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have already filed protests and interventions need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8777 Filed 6-9-72;8:46 am]

[Docket No. E-7718]

PENNSYLVANIA ELECTRIC CO.

Order Accepting Proposed Increased Rate Without Suspension and Granting Request for Rate Investigation and Hearing

JUNE 1, 1972.

Pennsylvania Electric Co. (Pennsylvania), on March 20, 1972, filed rate schedule changes for wholesale service to municipal utilities and investor-owned utilities to be effective on June 1, 1972.

The new schedule designated FPC Electric Tariff, Original Volume No. 1, Rate RP, will supersede FPC Schedules Nos. 50, 51, 34, 52, 12, 53, 36, 54, and 55. Concurrently with the new rate schedules, Pennsylvania also requests investigation of its contract rate for supplemental service to Allegheny Electric Cooperative, Inc., and filed cost of service materials to provide information as to whether the present rate for supplemental power service to Allegheny should be terminated. Copies of a proposed rate schedule for service to Allegheny and supporting testimony were also filed. Pennsylvania further requests that the Commission permit the proposed tariff to become effective without suspension, or, in the event of suspension, that the Commission select a suspension period of, at most, 30 days.

Pennsylvania states that the proposed FPC Electric Tariff, Original Volume No. 1 and Rate RP will increase revenues by $383,838 on a 1970 test year basis. The proposed tariff changes add a fuel cost adjustment clause and standardize the proposed general terms and conditions of service. Pennsylvania further states that its proposed rates produce a rate of return of 7.77 percent on sales to the municipal customers and 7.46 percent on sales to the investor-owned companies.

Notice of the filing was issued on April 5, 1972, with comments, protests, or petitions to intervene due on or before April 17, 1972. No comments, protests, or interventions have been filed except a petition to intervene and request for rejection was timely filed by Allegheny Electric Cooperative (Allegheny) with regard to the proposed section 206 investigation.

In support of the proposed rate increase, Pennsylvania submitted a cost of service study for the test year 1970 using a rate of return of 8.54 percent in its study, but proposed rates yielding a lower return of 7.52 percent.

On the basis of the foregoing we are unable to conclude that suspension of the proposed rate schedule changes for wholesale service proposed herein would be in the public interest or that a hearing is necessary or required under the provisions of section 205 of the Federal Power Act. Accordingly, Pennsylvania's proposed rate schedule changes should be accepted for filing, effective June 1, 1972, with the requirement that appropriate service agreements be filed as hereinafter ordered.

The request to reject filed by Allegheny and the Company's answer in response thereto raise issues of fact that can only be resolved in an evidentiary hearing. Therefore, Allegheny's request for rejection of an investigation of its rates under section 206 of the Federal Power Act should be denied.

The Commission finds:

(1) Pennsylvania's proposed FPC Electric Tariff, Original Volume No. 1, tendered for filing on March 20, 1972, should be accepted for filing and allowed to become effective on June 1, 1972, without suspension.

(2) For the reasons stated herein, the request for rejection of the institution of a section 206 investigation of its rates by Allegheny should be denied.

(3) It is necessary and proper in the public interest to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing, under section 206 of the Federal Power Act, of Pennsylvania's contract rate to Allegheny.

(4) Participation by Allegheny Electric Cooperative in this proceeding may be in the public interest.

The Commission orders:

(A) Pennsylvania's proposed FPC Electric Tariff, Original Volume No. 1, Rate RP, tendered for filing on March 20, 1972, and the rate schedules designated in Appendix A are accepted for filing.

(B) The rate change set forth in Pennsylvania's FPC Electric Tariff, Original Volume No. 1, Rate RP, is not inconsistent with the Economic Stabilization Act of 1970, as amended, and the rate contained therein is allowed to become effective on June 1, 1972, without suspension.

(C) Pursuant to the authority of the Federal Power Act, including sections 206, 308, and 309 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, a public hearing shall be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of Pennsylvania's contract rate for supplemental power supply to Allegheny.

(D) Staff will serve its direct case no later than August 4, 1972. Intervenors will serve their direct cases no later than September 5, 1972. Pennsylvania's rebuttal evidence shall be served no later than September 19, 1972. Cross-examination of all evidence shall commence October 10, 1972.

(E) The Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 10 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedures.

(F) The aforementioned petitioner for intervention is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any orders entered in this proceeding.

(G) This order is without prejudice to any findings or orders which have been made or may hereafter be made by this Commission in this proceeding.

(H) This order is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

CERTIFICATION OF RATE INCREASE

With respect to the price increase granted in this instance under the Economic Stabilization Act of 1970, as amended, and revised § 300.16 of the rules and regulations of the Price Commission, 6 CFR Part 300 (1972), the Federal Power Commission certifies the following:

(1) The former price, consisting of Penelec's schedule of charges entitled Resale Power Service (RPS), is set forth in Penelec's Rate Schedules FPC Nos. 12, 34, 36, 50, 51, 52, 53, 54, and 55. For the test year, 1970, the average revenue per kilowatt-hour under these rate schedules was 9.9 mills. For the test year, 1970, the average revenue per kilowatt-hour will be increased to 12.9 mills for the corresponding sales. This amounts to an increase in average revenue per kilowatt-hour of 30.3 percent.

(2) The amount of increased revenue that would have been provided under the increased rates for the test year, 1970, is $383,838.

(3) The increased rates would produce an increase in the company's profits for test year, 1970, of $175,643. This represents 13.77 percent of sales under rate RPS and 0.13 percent of total sales for the test year, 1970.

(4) The increased rates would produce an increase in the company's return of $175,643. This would represent an increase in the rate of return on capital allocable to the service under rate RPS of 2.54 percent and an increase in the rate of return on total capital of 0.02 percent.

(5) Sufficient evidence was taken in the course of this proceeding to determine that criteria set forth in paragraphs (d) (1) through (4) of § 300.16 of the rules and regulations of the Price Commission (as in effect on January 17, 1972) have been met.

(6) The rate increase granted in this proceeding meets the criteria set out in paragraphs (d) (1) through (4) of § 300.16 for the following reasons:

(i) The increased rates are justified based on allocated costs of service and do not reflect inflationary expectations.

(ii) The increase is the minimum required to assure continued, adequate, and safe service.

(iii) The realized return for transactions under the increased rates will not exceed the minimum rate of return or profit margin needed to attract capital and will not impair the credit of the utility.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

RATE SCHEDULE DESCRIPTIONS AND DESIGNATIONS

PENNSYLVANIA ELECTRIC COMPANY

Rate schedule designation	Superseding	Other party	Instrument
Supplement No. 3 to Rate Schedule FPC No. 12.	Supplement No. 2 to Rate Schedule FPC No. 12.	Borough of Smethport, Pa..	Original Sheets Nos. 13, 14, 15—FPC Electric Tariff—Original Volume No. 1.
Supplement No. 2 to Rate Schedule FPC No. 34.	Supplement No. 1 to Rate Schedule FPC No. 34.	Wellsborough Electric Co...	Do.
Supplement No. 2 to Rate Schedule FPC No. 36.	Supplement No. 1 to Rate Schedule FPC No. 36.	Rockingham Light, Heat, and Power Co.	Do.
Rate Schedule FPC No. 64.	Rate Schedule FPC No. 50.	Borough of Berlin, Pa.....	Do.
Rate Schedule FPC No. 65.	Rate Schedule FPC No. 51.	Borough of East Conemaugh, Pa.	Do.
Rate Schedule FPC No. 66.	Rate Schedule FPC No. 52.	Borough of Hooversville, Pa.	Do.
Rate Schedule FPC No. 67.	Rate Schedule FPC No. 53.	Borough of Summerhill, Pa.	Do.
Rate Schedule FPC No. 68.	Rate Schedule FPC No. 54.	Waterford Electric Light Co.	Do.
Rate Schedule FPC No. 69.	Rate Schedule FPC No. 55.	Windber Electric Corp.....	Do.
FPC Electric Tariff, Original Volume No. 1.	----------	None, pending receipt of service agreements.	Original Sheets Nos. 1 through 15.

File date: March 20, 1972.

Effective date: June 1, 1972 (60 days after filing).

[FR Doc.72-8714 Filed 6-9-72;8:45 am]

[Docket Nos. RI72-259, etc.]

SOUTHERN UNION PRODUCTION CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes to Become Effective Subject to Refund [1]

JUNE 2, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

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. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless 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, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *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.
RI72-259	Southern Union Production Co.	[4] 1	[1] 28	El Paso Natural Gas Co. (San Juan Basin Area).	----------	5-4-72	6-4-72	[13] Accepted	----------	----------	
RI72-91	do		29	do	($161,820)	5-4-72	----------	[2] 6-4-72	[2] 29.23	22.0	RI72-91.
RI72-259	do			do	([5])	5-4-72	----------	[2] 11-4-72	[2] 15.2886	22.0	RI69-386.
	do	2	[1] 32	do	----------	5-4-72	6-4-72	[13] Accepted	----------	----------	
			33	do	10,595	5-4-72	----------	11-4-72	13.0551	22.0	RI69-700.
	do	5	[1] 16	do	----------	5-4-72	6-4-72	[13] Accepted	----------	----------	
RI72-91	do		17	do	(25,110)	5-4-72	----------	6-4-72	29.23	22.0	RI72-91.
RI72-259	do	10	[1] 6	do	----------	5-4-72	6-4-72	[13] Accepted	----------	----------	
	do		7	do	418,098	5-4-72	----------	11-4-72	15.0	22.0	RI69-372.
	do	15	[1] 10	do	----------	5-4-72	6-4-72	[9] [13] Accepted	----------	----------	
	do		11	do	88,406	5-4-72	----------	11-4-72	14.0	22.0	RI69-386.
						5-4-72	----------	[8] 7-5-72	14.0	22.0	RI70-1199.
											RI69-386.
											RI70-1199.
	do	24	[1] 3	do	----------	5-4-72	6-4-72	[13] Accepted	----------	----------	
	do		4	do	6,390	5-4-72	----------	11-4-72	13.0	22.0	
						5-4-72	----------	[7] 7-5-72	----------	----------	
	do	16	[1] 5	El Paso Natural Gas Co. (Mesa Verde Formation La Plata Co., Colo.).	----------	5-4-72	6-4-72	[13] Accepted	----------	----------	
	do		6	do	3,870	5-4-72	----------	11-4-72	14.0	22.0	
RI72-260	Union Oil Co. of California	170	[1] 2	El Paso Natural Gas Co. (San Juan Basin Area of N. Mex.).	----------	5-5-72	6-5-72	[13] Accepted	----------	----------	
	do		3	do	400	5-5-72	----------	11-5-72	14.0	[10] 22.0	RI69-290.
RI72-261	Gulf Oil Corp	197	[11] 18	Transwestern Pipeline Co. (Puckett-Devonian Field, Pecos County, Tex., Permian Basin).	----------	5-8-72	6-8-72	[13] Accepted	----------	----------	
	do		19	do	57,007	5-8-72	----------	7-9-72	[14] 19.0450	[12] [14] 20.9580	RI72-28.
RI72-262	Cities Service Oil Co	384	1	Transwestern Pipeline Co. (acreage in Eddy County, N. Nex.) (Permian Basin).	13,920	5-9-72	----------	7-10-72	[8] [14] 27.0	[9] [14] 30.48	

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Consistent with El Paso's San Juan Basin contract renegotiation program.
[2] Not applicable to Supplements Nos. 18, 19, and 20.
[3] Applicable to Supplements Nos. 18, 19, and 20.
[4] Also sales in Colorado.
[5] Not stated.
[6] Effective date for production under Supplement No. 8. The acreage therein was dedicated under a contract dated on or after Oct. 1, 1968.
[7] Effective date for production under Supplement No. 2. The acreage therein was dedicated under a contract dated on or after Oct. 1, 1968.
[8] Initial rate under Mitchell type certificate.
[9] Increase to contract rate—Includes 0.48 cent upward B.t.u. adjustment.
[10] Plus upward B.t.u. adjustment.
[11] Amendment provides for a redetermined rate of 24.5 cents from Sept. 1, 1971 to Sept. 1, 1975, for increases to any higher just and reasonable rate established by the Commission and for B.t.u. adjustment up or down from 1,000 B.t.u. per cubic foot.
[12] 21-cent base rate less B.t.u. adjustment.
[13] Accepted for filing as of the date shown in the "Effective Date" column.
[14] The pressure base is 14.65 p.s.i.a.

The proposed decreases filed by Southern Union Production Co. under Supplements Nos. 29 and 17 to its FPC Gas Rate Schedules Nos. 1 and 5, respectively, relate to sales of gas to El Paso Natural Gas Co. in the San Juan Basin, and are suspended until June 4, 1972, with waiver of notice granted, under the existing suspension proceeding in Docket No. RI72-91.

Those 22-cent increases filed by Southern Union which relate to sales from acreage dedicated under contracts on or after October 1, 1968, are suspended for 1 day because they do not exceed the 1 day ceiling for that vintage gas. Gulf Oil Corp's. proposed increase is also suspended for 1 day because it does not exceed the applicable 1 day ceiling and the increase of Cities Service Oil Co. is similarly suspended because the sale is being made under a Mitchell-type certificate. All the remaining proposed increases exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore are suspended for 5 months.

The proposed increased rates and charges involved here 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).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by "Area Rate Proceeding, Docket No. AR61-1 et al.," Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in "Permian Basin Area Rate Case," 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1 day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1 day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinions Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate, and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-8691 Filed 6-9-72;8:45 am]

FEDERAL RESERVE SYSTEM

NORTHEAST BANCORP, INC.

Formation of One-Bank Holding Company

Northeast Bancorp, Inc., Fort Worth, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Northeast National Bank of Fort Worth, Fort Worth, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than June 22, 1972.

Board of Governors of the Federal Reserve System, June 6, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-8778 Filed 6-9-72;8:46 am]

ZIONS UTAH BANCORPORATION

Acquisition of Bank

Zions Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Zions National Bank of Ogden, Ogden, Utah, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 26, 1972.

Board of Governors of the Federal Reserve System, June 6, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-8779 Filed 6-9-72;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2991]

PITTSBURGH COKE & CHEMICAL CO.

Notice of Filing of Amended Application for Order Exempting Proposed Merger

JUNE 6, 1972.

Notice is hereby given that the Hillman Co. (Applicant), a Pennsylvania corporation, has filed an amendment to its application pursuant to section 17(b) of the Investment Company Act of 1940 (Act) for an order exempting from the provisions of section 17(a) of the Act the proposed merger pursuant to which Pittsburgh Coke & Chemical Co. (Pittsburgh Coke), 603 Goldsborough Building, Wilmington, Del. 19801, a closed-end, nondiversified investment company registered under the Act, will be merged into Pittsburgh-Wilmington, Inc. (Surviving Corporation), a Delaware corporation. All interested persons are referred to the application, as amended, for a complete statement of Applicant's representations therein, which are summarized below.

The application was originally described in a notice of filing issued by the Commission on December 21, 1971 (Investment Company Act Release No. 6907) which gave any interested person an opportunity to file a request for a hearing on the matter. Certain interested persons (Interested Persons) requested a hearing. They contested the representations made in the application that the terms of the proposed transaction were fair and reasonable, did not involve overreaching and were consistent with the policy of Pittsburgh Coke and with the general purpose of the Act. On March 3, 1972, the Commission ordered that a hearing be held (Investment Company Act Release No. 7039).

Prior to the commencement of the hearing, an agreement was reached between the Interested Persons and the Applicant concerning the computation of the net asset value of Pittsburgh Coke. As a result of this agreement, the Interested Persons have withdrawn their request for a hearing and the hearing has been canceled pursuant to an order of the Commission. Applicant has amended its application to incorporate the new terms of the proposed merger.

Applicant owns 715,004 shares (approximately 96 percent) of the 742,893 issued and outstanding shares of common stock of Pittsburgh Coke. The remaining 27,889 shares of such outstanding common stock are owned of record by approximately 245 stockholders.

Applicant proposes to transfer its shares of the common stock of Pittsburgh Coke to the Surviving Corporation in exchange for all of the authorized stock of the Surviving Corporation. Thereafter, the Surviving Corporation will adopt a plan of reorganization pursuant to which it, as owner of approximately 96 percent of the issued and outstanding shares of common stock of Pittsburgh Coke, will merge Pittsburgh Coke into itself under section 253 of the General Corporation Law of the State of Delaware. Section 253 does not require the merger to be approved by the stockholders of either the Surviving Corporation or Pittsburgh Coke or by the Board of Directors of Pittsburgh Coke. However, the Board of Directors of Pittsburgh Coke will adopt the plan of reorganization providing for the merger.

The resolutions of the Board of Directors of the Surviving Corporation authorizing such merger will provide that upon the effective date of such merger all the issued shares of common stock of Pittsburgh Coke will be canceled and that the stockholders of Pittsburgh Coke other than the Surviving Corporation, upon surrendering to the Surviving Corporation the certificates representing their respective shares of such common stock, shall be paid in cash for each of such shares the value per share to be calculated as described below. The name of the Surviving Corporation will be changed to Wilmington Securities, Inc., on the effective date of the merger. The Board of Directors of the Surviving Corporation has reserved the right to abandon the proposed merger at any time prior to the effective date of the merger, but no such action is anticipated at this time. It is anticipated that the merger will become effective on the day on which the Commission issues the order applied for herein.

As stated in the notice of filing dated December 21, 1971, the value per share of Pittsburgh Coke common stock will be calculated by using, with respect to securities held by Pittsburgh Coke, either the closing prices on national securities exchanges or the last bid prices in the over-the-counter market, as the case may be, as of the close of business on the business day immediately preceding the effective date of the merger. However, pursuant to the agreement between the Interested Persons and the Applicant, the remaining portion of the formula as stated in the December 21, 1971, notice of filing has been changed and includes the following:

1. Marion Power Shovel, United States Concrete Pipe, and Neville Land Co., subsidiaries of Pittsburgh Coke, valued at the aggregate amount of $47,700,000.

2. Standard Aircraft Equipment, and Penguin Industries, also subsidiaries of Pittsburgh Coke, valued at Pittsburgh Coke's share of the underlying equity of such companies as of December 31, 1971, as shown by their respective books and as audited by their respective independent public accountants.

3. Von Stein Land Co. valued at its underlying book value as of the date of valuation, adjusted upwards to reflect the appraised value of its land.

4. All other assets net of liabilities valued at cost on December 31, 1971, as audited, adjusted for securities transactions subsequent to that date.

5. In computing the value per share of Pittsburgh Coke common stock, no deduction will be taken for applicable income taxes on unrealized appreciation.

If during the notice period, any event should occur which in the opinion of the Boards of Directors of Pittsburgh Coke and the Surviving Corporation results in any significant increase in the value per share of Pittsburgh Coke common stock over and above the value as determined by the above formula, Applicant will file with the Commission a further amendment to its application reflecting such increase.

As part of the agreement with the Interested Persons, Applicant will pay $75,000 to the law firm of Leventritt, Lewittes & Bender, counsel for the Interested Persons, in full satisfaction of all legal fees and expenses for services rendered by it in connection with this proceeding. Applicant states that such payment shall not reduce the amount payable to the Pittsburgh Coke stockholders in accordance with the revised and updated formula and shall be paid to such law firm contemporaneously with the payment to such Pittsburgh Coke stockholders of such amount.

Applicant states that the value per share of Pittsburgh Coke common stock, calculated in accordance with the revised and updated formula and based upon the closing or the last bid prices of traded securities as of the close of business May 22, 1972 (which prices will be updated to the close of business on the business day immediately preceding the effective date of the merger), was $150.20.

Upon the effective date of the merger, the corporate existence of Pittsburgh Coke will cease by operation of law and the Surviving Corporation will acquire all the assets of Pittsburgh Coke. Thus, the merger may be viewed as a purchase by an affiliate, the Surviving Corporation, of property from a registered investment company, Pittsburgh Coke, within the meaning of section 17(a) of

the Act. In addition, certain directors and officers of Pittsburgh Coke who own shares of common stock of Pittsburgh Coke will be paid the value of their respective shares as described above. Therefore, the Applicant is seeking an order of the Commission under section 17(b) of the Act exempting the proposed merger from section 17(a).

Section 17(a) of the Act, among other things, makes it unlawful for any affiliated person of a registered investment company to purchase from such registered investment company any security or other property, except securities of which the seller is the issuer, unless the Commission upon application grants an exemption from such prohibitions pursuant to section 17(b) of the Act after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Notice is further given that any interested person may, not later than June 28, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant, the Hillman Co., 1900 Grant Building, Pittsburgh, Pa. 15219. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-8799 Filed 6-9-72;8:46 am]

[File No. 500-1]

TANGER INDUSTRIES

Order Suspending Trading

JUNE 6, 1972.

The common stock, $1 par value, of Tanger Industries being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Tanger Industries being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 7, 1972, through June 16, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-8800 Filed 6-9-72;8:46 am]

[812-3120]

VOLT INFORMATION SCIENCES, INC.

Notice of Filing of Application for Order Exempting Transaction

JUNE 6, 1972.

Notice is hereby given that Volt Information Sciences, Inc. (Applicant), 640 West 40th Street, New York, NY 10018, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 (Act) and Rule 17d-1 thereunder for an order exempting from the provisions of section 17(a) of the Act a proposed transaction and permitting such transaction pursuant to section 17(d) of the Act and Rule 17d-1 thereunder. Applicant proposes to purchase, pursuant to an agreement (Agreement) dated December 30, 1971, (a) 342,350 shares of Applicant's common stock from Legal List Investments, Inc. (Legal List), for an aggregate price of $342,350, and (b) 150,000 shares of Applicant's common stock for an aggregate price of $150,000 and 50,000 shares of Applicant's Class A convertible preferred stock (Preferred Stock) for an aggregate price of $1,046,300 from Enterprise Fund, Inc. (Enterprise). The Agreement provides that all of such shares of common and preferred stock are to be purchased for retirement and cancellation. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Legal List, formerly Fletcher Capital Fund, a Delaware corporation, is a diversified, open-end, management investment company, registered under the Act, which owns of record and beneficially 342,350 shares or 7.40 percent of the outstanding shares of common stock of Applicant. Applicant is accordingly an affiliated person of Legal List under section 2(a)(3) of the Act.

Enterprise, a Delaware corporation, is a diversified, open-end, management investment company registered under the Act, which owns of record or beneficially 150,000 shares or 3.24 percent of the outstanding shares of Applicant's common stock as well as 50,000 shares, which constitute all the issued and outstanding shares, of Applicant's preferred stock. The preferred stock, in December 1971, was convertible into common stock on the basis of 16.147 shares of common stock for each share of preferred stock, or into approximately 807,337 shares of common stock. Holders of preferred stock have no voting rights.

Shareholder's Management Co. is the investment advisor to both Legal List and Enterprise; the same individuals are directors of both Legal List and Enterprise; and Legal List and Enterprise have seven common officers. Accordingly, Legal List and Enterprise may be affiliated persons of each other as defined in section 2(a)(3) of the Act although Applicant states that it is informed that Legal List and Enterprise do not consider themselves to be affiliated persons.

The 342,350 shares of common stock were acquired by Legal List on June 3, 1968, for $2,822,676. On the acquisition date, the market value of equivalent unrestricted securities was $4,998,310. The shares were purchased under an investment representation and the certificates for such shares bear a legend stating in substance that the shares have not been registered under the Securities Act of 1933 and cannot be sold or transferred in the absence of an available exemption from the registration requirements of that Act.

The 150,000 shares of common stock were acquired by Enterprise from Applicant on December 6, 1967, for $376,000. The 50,000 shares of preferred stock were acquired by Enterprise from Applicant on January 12, 1968, for and aggregate consideration of $5 million. On the respective acquisition dates, the market value of equivalent unrestricted common stock was $1,020,000 and $7,833,349, respectively. All such securities were purchased by Enterprise under an investment representation and the certificates for such shares bear a legend substantially the same as that on the certificates held by Legal List. Applicant's transfer agent was instructed to place a stop transfer order against all the foregoing certificates.

With respect to each such private placement, it is represented that Applicant had agreed that upon request of Legal List or Enterprise it would prepare and file a registration statement under the Securities Act of 1933 and pay the costs of such registration.

At October 31, 1971, the book value of Applicant's common stock was $1.98 per share based on $5 million liquidation value of preferred stock (or $2.55 assuming conversion of the preferred stock into 807,337 shares of common stock). For the year ended October 31, 1971, the net loss incurred per share of common stock was $0.67.

While a market existed for the common stock, there was no quoted market for the restricted securities, or letter stock, held by Legal List and Enterprise. The application states that each of the parties to the Agreement was aware that the current bid and asked prices for the common stock were not determinative bargaining criteria, since any such prices were subject to material discount (a) because of the number of shares involved in the transaction which could not be absorbed in normal trading and (b) more importantly, because the letter stock could not be sold in the open market without registration under the Securities Act of 1933, but could only be sold to another private investor in a negotiated transaction.

The application states that there is no quoted market for the preferred stock. The application further states that the preferred stock is entitled to receive $100 per share upon liquidation before any payment is made to holders of common stock and is redeemable at Applicant's option, at any time, at $100 per share. Holders of preferred stock are entitled to receive dividends (other than dividends paid in shares of common stock) at the same rate per share as holders of common stock. No cash dividends have been declared or paid on the common since 1967 or on the preferred stock at any time. There has been and is no quoted public market for the preferred stock.

As reported in its prospectus dated October 29, 1971, the Board of Directors of Enterprise determined that the fair value of the 150,000 shares of common stock and the 50,000 shares of preferred stock of Applicant at June 30, 1971, were $255,938 and $1,322,428, respectively. As reported in its prospectus dated October 22, 1971, the Board of Directors of Legal List had determined that the fair value of the 342,350 shares of Applicant's common stock on June 30, 1971, was $584,136. In each instance the fair value of the shares was equivalent to approximately 75 percent of the prevailing low bid for the common stock of Applicant or a discount of approximately 25 percent.

The application states that the price payable for the common stock under the Agreement represents a discount of approximately 11 percent from the low bid price for Applicant's common stock on December 30, 1971, and the price for the preferred stock is equivalent to approximately 115 percent of the low bid price for 807,337 shares of common stock on that date. In negotiating the price to be paid for the preferred stock, the parties assigned a value of approximately $4.78 per share of preferred stock to the liquidation preference of such stock.

Applicant states that it favors the proposed transaction as it will reduce the amount of Applicant's common stock outstanding and eliminate a significant "overhang" on the market for Applicant's common stock by retiring both the preferred and the common stock. Applicant is informed that Legal List and Enterprise favor the proposed transaction, rather than sale in the open market pursuant to registration, as registration of such stock would necessarily mean its inclusion in a registration statement covering, in addition to the common stock and preferred stock held by Legal List and Enterprise, in excess of 2,700,000 shares of Applicant's common stock held by other persons. Enterprise and Legal List have also informed Applicant that they wish to liquidate their investment in Applicant as rapidly as possible in order to have funds available for other purposes.

Applicant represents that negotiations of the prices for the common stock and the preferred stock were conducted at arms' length. No director or officer of Applicant is a director or officer of either Legal List or Enterprise. The prices agreed on, in the respective opinions of the several parties, represent prices which, under the circumstances, are reasonable and fair to the parties concerned and to their respective shareholders. The application states that there was no element of overreaching by any party to the Agreement.

The application states that the proposed sale by Legal List and by Enterprise of the common and preferred stocks of Applicant is in no way in conflict with the express or implied policies of either investment company, is consistent with the purposes and policies of the Act and is equally advantageous to Enterprise and Legal List.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company from purchasing from such company or any company controlled by such registered investment company any security or other property, with certain exceptions not here applicable. Section 17(b) of the Act provides that the Commission shall issue an order exempting a proposed transaction from one or more provisions of section 17(a) if the Commission finds, upon application, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or any affiliated person of such person, acting as principal, to participate in, or to effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or a company controlled by such registered company, is a participant unless an order regarding such arrangement has been granted by the Commission upon application. In passing upon such application, the Commission must consider whether the participation of such registered company in such arrangement is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Notice is further given that any interested person may, not later than June 26, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–8801 Filed 6–9–72;8:46 am]

TARIFF COMMISSION

[337–25]

CERTAIN PANTY HOSE

Report to the President

JUNE 6, 1972.

The Tariff Commission today transmitted to the President its report of an investigation (No. 337–25) involving certain panty hose. The report contains the Commission's final findings of a violation of section 337 of the Tariff Act of 1930 and its recommendation for permanent exclusion from entry of the panty hose in question.

The investigation was instituted in response to a complaint filed by Tights,

Inc., Greensboro, N.C. The Commission found (Vice Chairman Parker and Commissioner Young not participating) unfair methods of competition and unfair acts in the importation and sale of certain panty hose manufactured in accordance with the claim of U.S. Patent No. Re. 26,360 owned by the complainant, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. The Commission is recommending to the President that he order the permanent exclusion from entry into the United States of the articles manufactured in accordance with the claim of said patent, until the expiration of such patent, except where the importation is made under license of the registered owner of the patent.

In response to the Commission's preliminary investigation (TC Publication 377), the President, on February 17, 1972, directed the Secretary of the Treasury to enforce a temporary exclusion order against imports of the panty hose in question. The Commission's report on its full investigation (TC Publication 471) was published on March 31, 1972. Section 337 of the Tariff Act of 1930 provides that, subsequent to the publication of the Commission's findings, a rehearing before the Commission may be requested, and, in addition, the importers concerned may within 60 days appeal from the Commission's findings to the Court of Customs and Patent Appeals. No request for a rehearing before the Commission and no appeal to the Court of Customs and Patent Appeals were made. Consequently, the Commission's findings have become final, and, in accordance with section 337 of the Tariff Act of 1930, the President may act on its recommendation of permanent exclusion.

Copies of the Commission's report (TC Publication 471) are available upon request as long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC 20436.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-8776 Filed 6-9-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 5]

ASSIGNMENT OF HEARINGS

JUNE 7, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 119974 Sub 37, L.C.L. Transit Co., now assigned July 10, 1972, at Chicago, Ill., canceled and transferred to modified procedure.

MC 115841 Sub 413, Colonial Refrigerated Transportation, Inc., now assigned July 11, 1972, at Washington, D.C., postponed indefinitely.

MC 51146 Sub 251, Schneider Transport, Inc., now assigned July 17, 1972, at Washington, D.C., canceled and transferred to modified procedure.

MC 70947 Sub 24, Mt. Hood Stages, Inc., doing business as Pacific Trailways, now assigned July 17, 1972, at Salt Lake City, Utah, canceled and reassigned to July 17, 1972, in room 523, Federal Building, 550 West Fourth Street, Boise, ID.

MC-F-11305, Terminal Transport Co., Inc.—purchase (portion)—Deaton, Inc., and MC 11207 Sub 314, Deaton, Inc., now assigned July 17, 1972, at Montgomery, Ala., canceled and reassigned to July 17, 1972, at the Guest House Motor Hotel, 951 South 18th Street, Birmingham, AL.

MC 75302 Sub 11, Doudell Trucking Co., and MC 112123 Sub 9, Best-Way Transportation, now assigned July 24, 1972, at San Francisco, Calif., canceled and applications dismissed.

MC 107295 Sub 484, Pre-Fab Transit Co., now assigned July 6, 1972, at Chicago, Ill., will be held in room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 59150 Sub 64, Ploof Transfer Co., Inc., now assigned July 17, 1972, at Jacksonville, Fla., hearing is canceled and application dismissed.

MC 113855 Sub 251, International Transport, Inc., now being assigned hearing July 24, 1972, in room 9207, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

MC 124377 Sub 22, Refrigerated Foods, Inc., now being assigned hearing July 10, 1972 (2 days), in room 148A, New Federal Building, 601 East 12th Street, Kansas City, MO.

MC 135248 Sub 5, William H. Dees, doing business as Dees Transportation, now being assigned hearing July 13, 1972 (2 days), in room 2330, Federal Building, 1961 Stout Street, Denver, CO.

MC 127042 Sub 92, Hagan, Inc., and MC 136354, Lizza Trucking Co., now being assigned hearing July 14, 1972 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC-F-11212, Gallatin-Portland Freight Lines, Inc.—lease—Robert H. Bradshaw, doing business as Hartsville Freight Co., now assigned July 6, 1972, MC 135812, Professional Driver Services, Inc., now assigned July 10, 1972, in room 661, U.S. Courthouse, Eighth and Broadway, Nashville, TN.

MC 40978 Sub 18, Chair City Motor Express Co., now assigned July 17, 1972, MC 60014, Sub 27, Aero Trucking, Inc., now assigned July 18, 1972, MC 119619 Sub 47, Distributors Service Co., now assigned July 12, 1972, MC 135487 Sub 1, Hulcher Emergency R.R. Service, Inc., now assigned July 19, 1972, hearing will be held in room 1086A, Everett Dirksen Building, 219 South Dearborn Street, Chicago, Ill.

MC 13250 Sub 113, J. H. Rose Truck Line, Inc., now being assigned hearing July 25, 1972 (1 day), at Los Angeles, Calif., in a hearing room to be later designated.

MC 133796 Sub 7, George Appel, now being assigned hearing July 24, 1972 (1 day), at Los Angeles, Calif., in a hearing room to be later designated.

MC 136387, Hillis D. Greer, doing business as Greer's Service, now being assigned hearing July 26, 1972 (3 days), at Los Angeles, Calif., in a hearing room to be later designated.

MC 74321 Sub 55, B. F. Walker, Inc., now being assigned hearing July 24, 1972 (2 days), at Denver, Colo., in a hearing room to be later designated.

MC-C-7647, Jon Pierre Wiest, doing business as J. P. Wiest and as Wiest Trucking, and Summers Manufacturing Co., Inc.—investigation of operations and practices, now being assigned hearing July 20, 1972 (1 day), at Minneapolis, Minn., in a hearing room to be later designated.

MC 95876 Sub 122, Anderson Trucking Service, Inc., now being assigned hearing July 24, 1972 (1 week), at Minneapolis, Minn., in a hearing room to be later designated.

MC 105501 Sub 6, Terminal Warehouse Co., now being assigned hearing July 21, 1972 (1 day), at Minneapolis, Minn., in a hearing room to be lated designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-8819 Filed 6-9-72;8:47 am]

[Notice 6]

ASSIGNMENT OF HEARINGS

JUNE 7, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION:

MC 41432 Sub 117, East Texas Motor Freight Lines, Inc., instead of East Texas Management Freight Lines, Inc., now assigned July 17, 1972, at Atlanta, Ga., will be held in room 102E, 1776 Peachtree Road NW.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-8820 Filed 6-9-72;8:47 am]

ASSIGNMENT OF HEARINGS

Correction

In F.R. Doc. 72-8138 appearing on page 10821 of the issue for Wednesday, May 31, 1972, the date in item MC 55822 Sub. 12 should read "July 10, 1972", instead of "July 12, 1972"; and the date in item MC 119547 Sub 29 should read "July 11, 1972", instead of "July 12, 1972".

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 7, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules

of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42445—*Paper and paper articles from Keltys, Tex.* Filed by Southwestern Freight Bureau, agent (No. B–328), for interested rail carriers. Rates on paper and paper articles, in carloads, as described in the application, from Keltys, Tex., to points in Illinois, western trunkline and southwestern territories, also Mississippi River crossings; also returned shipments of newsprint paper, printing paper, tissue paper, and groundwood paper winding cores, also wood plugs, and wooden skids or platforms, in the reverse direction.

Grounds for relief—Market competition.

Tariff—Supplement 33 to Southwestern Freight Bureau, agent, tariff ICC 4965. Rates are published to become effective on July 4, 1972.

FSA No. 42446—*Iron or steel articles to Brownsville, Tex.* Filed by Southwestern Freight Bureau, agent (No. B–323), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from specified points in Alabama, Georgia, Kentucky, and Tennessee, to Brownsville, Tex.

Grounds for relief—Rate relationship and market competition.

Tariff—Supplement 301 to Southwestern Freight Bureau, agent, tariff ICC 4753. Rates are published to become effective on July 9, 1972.

FSA No. 42447—*Sodium bichromate to Chicago, Ill.* Filed by M. B. Hart, Jr., agent (No. A6312), for interested rail carriers. Rates on sodium bichromate, in solution, in tank-car loads, as described in the application, from Castle Hayne, N.C., to Chicago, Ill.

Grounds for relief—Market competition.

Tariff—Supplement 180 to Southern Freight Association, agent, tariff ICC S–800. Rates are published to become effective on July 13, 1972.

By the Commission.

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

[FR Doc.72-8821 Filed 6-9-72;8:47 am]

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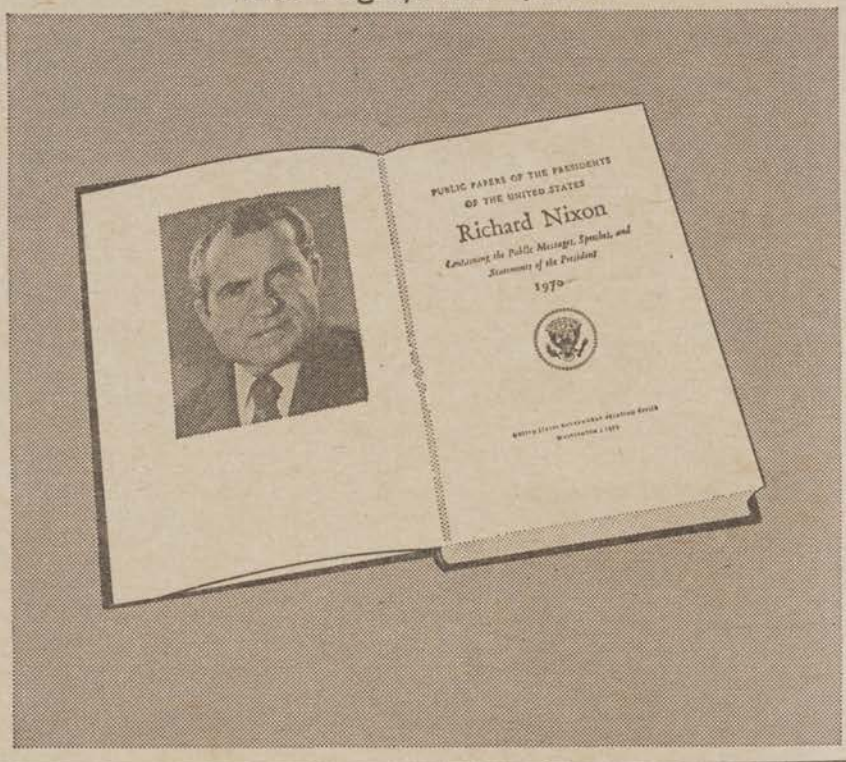

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