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## Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers,  
Department of the Army

### PART 203—BRIDGE REGULATIONS

Bronx River, New York

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.190 is hereby amended redesignating subparagraph (f) (2) as (f) (2-a) and prescribing a new subparagraph (f) (2) to govern the operation of the City of New York highway bridge across the Bronx River at Westchester Avenue, Borough of The Bronx, New York, New York, as follows:

§ 203.190 Navigable waters in the State of New York and their tributaries; bridges where constant attendance of draw tenders is not required.

(f) The bridges to which this section applies, and the regulations applicable in each case, are as follows:

(2) Bronx River; City of New York highway bridge at Westchester Avenue. At least 24 hours' advance notice required, except that the draw shall be opened for the passage of vessels owned, controlled or employed by the United States or by the City of New York, with the least possible delay upon receipt of oral or written notice.

(2-a) Bronx River; New York, New Haven and Hartford Railroad Company bridge, north of Westchester Avenue. The draw need not be opened for the passage of vessels and the special regulations contained in paragraphs (b) to (e) of this section shall not apply to this bridge.

[Regs. July 10, 1959, 285/91 (Bronx River, N.Y.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

R. V. LEE,  
Major General, U.S. Army,  
The Adjutant General.

[F.R. Doc. 59-6042; Filed, July 22, 1959; 8:45 a.m.]

## Title 32—NATIONAL DEFENSE

Chapter VII—Department of the  
Air Force

SUBCHAPTER A—AID TO CIVIL AUTHORITIES  
AND PUBLIC RELATIONS

### PART 805—SAFEGUARDING MILITARY INFORMATION

In Part 805, §§ 805.1 to 805.17 supersede §§ 805.1 to 805.13 (21 F.R. 3834, June 5, 1956; 22 F.R. 3041, April 30, 1957, and 23 F.R. 7219, September 18, 1958).

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AUTHORITY: §§ 805.1 to 805.17 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

SOURCE: AFR 205-1, April 1, 1959.

#### § 805.1 Purpose.

This part establishes policies for safeguarding classified information and explains how to identify, classify, and protect such official material.

#### § 805.2 Definitions.

(a) *Atomic energy restricted data.* As defined by Public Law 703, 83d Congress, Atomic Energy Act of 1954, Act of August 30, 1954 (68 Stat 924), Restricted Data means all data concerning (1) the design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the pro-

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duction of energy, but shall not include data declassified or removed from the category of Restricted Data which the Atomic Energy Commission from time to time determines may be published without undue risk to the common defense and security.

(b) *Classified defense information.* Official information, the safeguarding of which is necessary in the interests of national defense, and which is classified for such purpose by appropriate classifying authority.

(c) *Document.* Any recorded information regardless of its physical form or characteristics. Includes, but is not limited to, the following: all written material, whether handwritten, printed, or typed; all painted, drawn, or engraved material; all sound or voice recordings; all printed photographs and exposed or printed film, still, or motion picture; and all reproductions of the foregoing, by whatever process reproduced.

(d) *Foreign nationals.* All persons not citizens of or immigrant aliens to, the United States. All citizens of the United States and immigrant aliens when acting as representatives, officials, or employees of a foreign government, firm, corporation, or individual shall be considered as foreign nationals. (Immigrant aliens are persons in the United States for permanent residence under immigration visas.)

(e) *Material.* Any document, product, or substance on or in which information may be recorded or embodied.

(f) *Material.* Any article, product, substance, or apparatus from which information may be obtained. It comprises military arms, armament, and equipment, both complete and in process of research, development, experimentation, and construction, and includes elements, components, accessories, models, fixtures, mockups, jigs, and dies associated therewith.

(g) *Security.* The protected conditions of classified matter which prevents unauthorized persons from obtaining information of direct or indirect military value. It is a condition resulting from the establishment and maintenance of protective measures which insure a state of inviolability from hostile acts or influences.

#### § 805.3 Responsibility of individuals.

Each individual is responsible for protecting and accounting for any classified information which he possesses or knows, no matter how that information was obtained.

#### § 805.4 Preparation, reproduction, and photographing.

(a) *Photographs.* Photographs or similar reproductions of classified matter are prohibited, except by persons specifically directed or authorized by proper authority.

(b) *Commercial facilities.* Classified matter other than Top Secret may be printed, developed, or otherwise processed or reproduced in properly cleared commercial facilities if adequate Government facilities are not available.

#### § 805.5 Dissemination; general provisions.

(a) *Discussion and access.* Classified information will not be discussed in the presence or hearing of unauthorized persons.

(b) *Physical security factor.* Possession or use of classified defense information or material will be limited to locations where prescribed facilities for secure storage or protection of it are available.

(c) *Automatic distribution and dissemination.* Regulations and other directives which authorize automatic distribution of documents or dissemination of information will not apply to classified information unless the proposed dissemination is necessary and is authorized by this part. Normally, automatic distribution of classified information outside the Department of Defense will not be authorized.

#### § 805.6 Identification and personnel security clearance.

Before an individual discusses or permits access to classified information, he must make sure that the intended recipients are indisputably identified and determined trustworthy (by personal recognition, identifying documents, or verification of identity by telephone, telegraph, radio, or mail communication). If prior personnel security clearance is prescribed as a prerequisite for access to a specific item of information, the intended recipient's clearance will be verified.

#### § 805.7 Advising of need for protection.

When classified information is discussed with persons who are subject to military law or are employed in the Executive Branch of the Federal Government they will be informed of its classification. When classified information is discussed with persons other than those subject to military law or employed in the Executive Branch, they will be informed that it affects the national defense of the United States within the meaning of the Espionage Laws and that its revelation to an unauthorized person is prohibited by law.

#### § 805.8 Telephone conversations.

Classified information will not be discussed or revealed over the telephone. However, it is permissible to refer to classified material, provided that such references do not reveal the classified portions. For example, reference may be made to the file number, date, and subject (provided that the subject itself is not classified). Each individual must make sure that questions or their answers do not reveal classified information.

#### § 805.9 Commercial and service publications.

(a) *Individual activities.* Military or civilian personnel will not include classified information in any personal or commercial article, thesis, book, or other product written for publication or distribution.

(b) *Compilations of information.* A compilation of individually unclassified

items may be published in commercial or service publications only after coordination with the office(s) having primary interest in the material to insure that such compilation does not require classification.

#### § 805.10 Additional precautions necessary to limit dissemination.

(a) *Personal correspondence.* Classified information will not be included in personal correspondence or messages.

(b) *Rescission.* Classified documents which have been rescinded or superseded will be protected according to their category until destroyed.

#### § 805.11 Return or transfer of classified matter.

(a) *General.* Neither a military person nor a civilian may retain classified matter for personal or commercial purposes, even though such person may have been solely or partly responsible for production of the material.

#### § 805.12 Top secret, secret, and confidential matter.

(a) *Top Secret matter—(1) Definition.* Executive Order 10501 defines the Top Secret category as follows: "The use of the classification Top Secret shall be authorized, by appropriate authority, only for defense information or material which requires the highest degree of protection. The Top Secret classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense."

(b) *Secret matter—(1) Definition.* Executive Order 10501 defines the Secret category as follows: "The use of the classification Secret shall be authorized, by appropriate authority, only for defense information or material the unauthorized disclosure of which could result in serious damage to the Nation, such as by jeopardizing the international relations of the United States, endangering the effectiveness of a program or policy of vital importance to the national defense, or compromising important military or defense plans, scientific or technological developments important to national defense, or information revealing important intelligence operations."

(c) *Confidential matter—(1) Definition.* Executive Order 10501 defines the Confidential category as follows: "The use of the classification Confidential shall be authorized, by appropriate authority, only for defense information or material the unauthorized disclosure of which could be prejudicial to the defense interests of the Nation."

#### § 805.13 Atomic energy restricted data.

(a) *Dissemination—(1) Within Department of Defense and to contractors.*

Restricted Data may be disclosed only to Department of Defense personnel and to contractors of the Department of Defense and their employees who have been granted a personnel security clearance equivalent to the security classification of the information involved.

(2) *Disclosure to foreign nationals.* Foreign nationals (see § 805.2(d)) will not be permitted to have access to Restricted Data or classified former Restricted Data, regardless of grade, position, employment, or nationality, except for certain releases that are made in strict compliance with the Atomic Energy Act of 1954, after specific approval of the Chief of Staff, USAF (Assistant Chief of Staff, Intelligence).

(b) *Oral discussions.* When an individual discloses Restricted Data or classified former Restricted Data to other persons during discussions, he will inform them of the designation of such information.

#### § 805.14 Disclosure of classified information.

(a) *General limitations.* Classified information will not be released or disclosed to private individuals, organizations, corporations, or State or Federal agencies, unless they must have it to perform an official governmental function in the interest of promoting national defense. Further, no release or disclosure of classified information will be made to persons or agencies outside the Department of Defense except with specific approval of the officials designated in this section.

(b) *Congress and its members.* All requests by the Congress or its committees or members for classified information will be referred to the Secretary of the Air Force (SAFLL).

(c) *Contractors and prospective contractors—(1) Responsibility for dissemination.* The commander, major air command, who has jurisdiction over a contractor, or who will procure materiel, supplies, or services from a prospective contractor, is responsible for releasing or disclosing classified information to them if they must have it. However, he may release or disclose only the classified information required by such contractors or prospective contractors in performing specific contracts or preparing specific bids or quotations. Such a commander may authorize a subordinate commander to release or disclose classified information to a contractor or prospective contractor, if such subordinate is authorized to procure materiel, supplies, or services. The authorization will only be given in writing. Also, it must be specific as to the conditions under which the subordinate may make disclosures or releases.

(2) *Requirements for assuring security.* Before a commander can release or disclose classified information to a contractor or prospective contractor, the following is required: A security agreement, signed by the individual or by a responsible officer on behalf of the firm or corporation concerned; a facility security clearance, properly granted; and a security survey of the facility, as appropriate.

(d) *To other civilian activities.* Generally, all requests for classified information from persons or agencies outside the Department of Defense, and all proposals originating in the Air Force to release classified information to such persons or agencies will be forwarded for necessary action to the Chief of Staff, USAF.

#### § 805.15 Visitors.

(a) *Definition of "visitor" and applicability of policy—(1) Visits at AF activities.* For the purpose of this section, a visitor is any person admitted to any AF installation except those who are directly and officially concerned with its activities (on duty, employed, or traveling under official orders requiring performance of duty at the installation).

(2) *Access to classified defense information.* A person has access to classified information when he is permitted to gain knowledge of the information, or to be in a place where he would be expected to gain such knowledge. A person does not have access to classified information merely by being in a place where classified material is kept, provided security measures prevent him from gaining knowledge of the information.

(b) *Requests for permission to visit.* Individual requests to visit an installation should be referred to the installation commander for approval or disapproval. All requests for permission to visit AF installations or activities which will involve access to classified information will:

(1) Be in writing, and be made early enough to permit appropriate action by the commander.

(2) Be forwarded to the office or headquarters having the authority to approve the disclosure of the classified information involved.

(3) Include the following information, as applicable: (i) Name in full, grade, title, position.

(ii) Nationality of visitor (immigrant aliens will furnish alien registration number), date, and place of birth.

(iii) Current residence or military assignment.

(iv) Employer or sponsor.

(v) Name and location of installation or activity to be visited.

(vi) Date, time, and duration of visit.

(vii) Purpose of visit, in detail.

(viii) Security clearance status of visitor and name of clearing agency (if clearance previously granted).

(c) *Visits to AF installations—(1) Visits involving access to classified information—(i) Approval.* Individuals may be permitted to visit AF installations or activities to receive or to have access to classified information only if its disclosure or dissemination is properly approved.

(ii) *Written authority for admission.* Approval for visitors to AF installations to have access to classified information must be given in writing.

(iii) *Concurrences and notices.* Whenever practical, the official who approves a request to visit another AF installation should coordinate with the commander of that installation for concurrence or recommendation before

finally approving the visit. In all cases, the official who approves such a visit will promptly notify the commander concerned. He will also specify any limitations or restrictions to be placed upon the visitor.

(2) *Visits not involving access to classified information.* United States citizens and foreign nationals who will not have access to classified information may be admitted to AF installations on the authority of the commander concerned. However, they must not be allowed in any place where mere presence would afford them access to or knowledge of classified information.

#### § 805.16 Restricted areas.

(a) *Designation of restricted areas.* The commander of an AF installation will designate as a "restricted area" such areas under his jurisdiction as he considers necessary to promulgate regulations pursuant to section 21 of the Internal Security Act of 1950.

(b) *Procedure in case of violations.* Persons not subject to military law who violate the regulations issued by the commander will be delivered to the appropriate civil authority, subject to the following provisions:

(1) The commander of an AF installation will cause any such person to be detained, warned of his rights, and interrogated as soon as possible by proper authority. If there is no evidence of intent to violate the regulations the person may be warned against repetition and released. Otherwise, the commander will promptly notify the nearest office of the Office of Special Investigations by the fastest means available. That office will immediately request the nearest office of the Federal Bureau of Investigation to take custody of the individual at the installation. The commander will furnish the representative of the Federal Bureau of Investigation with a written statement of the facts, the names and address of the witnesses, and any pertinent exhibits that may be available.

(2) When an investigation reveals that such a person has entered a restricted area or building, and was not apprehended, the commander will promptly notify the nearest district office of the Office of Special Investigations of all the facts, including the names and addresses of the witnesses. The district office will immediately notify the nearest office of the Federal Bureau of Investigation.

#### § 805.17 Air space reservations.

An air space reservation is the air space above an area on the land or water, designated and set apart by Executive Order of the President of the United States, or by State, Commonwealth, or Territory, over which the flight of aircraft is prohibited or restricted for the purpose of national defense or for other governmental purposes.

[SEAL] CHARLES M. McDERMOTT,  
Colonel, U.S. Air Force, Deputy  
Director of Administrative  
Services.

[F.R. Doc. 59-6063; Filed, July 22, 1959;  
8:49 a.m.]

## SUBCHAPTER J—AIR FORCE PROCUREMENT INSTRUCTIONS

## MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Subchapter J is amended as follows:

## PART 1002—PROCUREMENT BY FORMAL ADVERTISING

## Subpart A—Use of Formal Advertising

1. Sections 1002.104 and 1002.104-50 are added, as follows:

## § 1002.104 Types of contracts.

See § 2.104 of this title.

## § 1002.104-50 Firm fixed-price materials reimbursable contracts.

(a) When it is desired to procure the repair and overhaul of items on the basis of a firm fixed-price for the services with reimbursement for cost of materials used, such procurement may be advertised when both of the following criteria are met:

(1) The cost of the direct materials to be used will be relatively small in relation to the total cost of the repair and overhaul services.

(2) It can be reasonably expected that the materials for which reimbursement is to be made are available to all bidders at basically the same price.

(b) The IFB and the resultant contract must:

(1) Adequately define the material for which reimbursement is to be made.

(2) Limit reimbursement to the contractor's actual cost of such reimbursable material (including cash and trade discounts, rebates, allowances, and commissions).

(3) Contain adequate controls to limit the purchase of reimbursable materials by the contractor.

The IFB will not require bidders to furnish estimated prices of materials the cost of which is reimbursable, nor will the cost of such materials be considered in the evaluation of bids.

(c) The clauses set forth in Subpart SS, Part 1007 of this chapter, will be used, provided the "Payments" clause includes the sentence prohibiting payment of profit on materials, as prescribed for use in formally advertised contracts in the note set forth in § 1007.4503-4 of this chapter.

## Subpart B—Solicitation of Bids

1. Section 1002.200 is added, as follows:

## § 1002.200 Scope of subpart.

See § 2.200 of this title.

2. Section 1002.201 is deleted and the following substituted therefor:

## § 1002.201 Preparation of forms.

For forms discussed in this section, see Part 1016 of this chapter. The following paragraphs contain implementations of the corresponding paragraphs of § 2.201 of this title. (See Subpart T of this part for samples.)

(a) *Invitation for bids.* (1) *Invitation number.* Each invitation issued

will be assigned, and will contain in the space provided therefor, a number composed of: (i) the station number of the issuing office, followed by a dash, (ii) the last two numerals of the fiscal year in which the invitation is issued, followed by a dash, and (iii) the serial number of the invitation being issued. Only one series of numbers will be used under any one station number for each fiscal year, and the first invitation issued in each fiscal year will bear "1" as its serial number. A serial number once assigned to an invitation which has been distributed will not be used in the same fiscal year for any other invitation. Other numbers or letters will not be prefixed or suffixed to this number. Accordingly, the first invitation issued by the Base Contracting Officer, Wright-Patterson Air Force Base, in the fiscal year 1954 would be numbered 33-601-54-1.

(2) *Name and address of issuing activity.* No reference.

(3) *Date of issuance.* No reference.

(4) *Date, hour, and place of opening.* The hour for opening of bids is of importance to bidders desiring to attend openings. Military timing by the 24-hour clock will NOT be used. Standard Time will be used in every instance; although a base is in a locality operating on daylight saving time, this fact will be ignored in establishing the hour of opening and Standard Time will be used, with this information stated in the invitation for bids.

ILLUSTRATION: ----- will be received at the above office until 11:00 o'clock a.m. eastern standard time -----

IFB's will generally allow 30 days to intervene between the date of issuance and the date of opening of bids. A shorter period may be allowed, but no period of less than 10 days will be designated, except in case of emergency. The existence of such emergency will be determined by the contracting officer. When such emergency will not permit 10 days to intervene, the copy of the invitation furnished the Procurement Information Center will bear on its face the following certificate and appropriate reasons signed by the contracting officer:

I certify that the date shown hereon for the opening of bids cannot be a later date for the following reasons:

(5) *Statement required on invitation for bids.* See § 2.201(a)(5) of this title.

(b) *Bid.* See § 2.201(b) of this title.

(c) *Schedule.* In addition to the information to be included in the Schedule, as set forth in § 2.201(c) of this title, the following additional information and changes are authorized or required, as specified, whenever applicable. (Before reviewing the information set forth in subparagraph (1) of this paragraph, the contracting officer should familiarize himself with the policy set forth in § 1001.305-3 of this chapter.)

(1) *Number of pages.* This insertion will include the number of additional continuation sheets (Standard Form 36) required to complete the invitation for bids.

(2) *Requisition (or other purchase authority), appropriation, and accounting data.* No reference.

(3) *Discount provisions.* The discount provisions on the bid portion of Standard Form 33 and in the approximate center of the Schedule, Standard Form 31, relating to "10 calendar days," "20 calendar days," and "30 calendar days" may be deleted only when it is definitely known that final acceptance cannot be accomplished, or that payment cannot be effected within the period of time from date of delivery or from date of receipt of invoice, whichever is later. To accomplish this, the blanks referred to will be X-ed out and the words "none" inserted after "as follows." This authority will be used sparingly. In special cases where a prolonged acceptance test is necessary, and the invitation or specifications set a limiting date for acceptance that is more than 20 days after date of delivery, the provision in the form on computation of discount (Condition 7 on Reverse of Standard Form 30 and 33) may be changed by special provisions to read as follows: "Time, in connection with the discount offered, will be computed from the limiting date set herein for final acceptance." When the change is made, the limiting date for final acceptance must be stated in the invitation.

(4) *Quantity of supplies or services to be furnished under each item, and any provision for quantity variation.* Quantity variation includes requirements contracts (see § 1007.4028 of this chapter) and indefinite quantity call contracts (see § 1007.4039 of this chapter) as well as the standard type of variation in quantity provisions.

(5) *Description of supplies or services to be furnished under each item.* See § 1.305 of this title; ASPR 3-201(d) and § 1001.305 of this chapter as to general requirements, and see § 1002.2002 for sample descriptions.

(6) *Qualified products.* The provision set forth in § 1002.505-2 will be used to meet the requirements of § 2.201(c)(6) of this title.

(7) *Time, place, and method of delivery.* With reference to invitations for bids specifying place of delivery being on the basis of f.o.b. carrier's equipment, wharf, or freight station (at the Government's option) at or near contractor's plant, at a specified point (see § 1.306-2(b) of this title), the procuring contracting officer will comply with the requirements of § 1053.104 of this chapter to insure accurate analysis of transportation costs.

(8) *Permission, if any, to submit telegraphic bids.* Invitations for bids which permit the submission of telegraphic bids will contain a provision that any bidder who submits a telegraphic bid must complete the required forms prior to award if he is the successful bidder. (For letter bids, see § 1002.301.)

(9) *Permission, if any, to submit alternative bids including alternative materials or designs.* See § 1002.2003-6 for sample provisions and paragraph (d)(6) of this section.

(10) Requirement, in the case of advertising for the construction of naval vessels, that the bidder files with his bid the estimates on which the bid is based. No reference.

(11) Preservation, packaging, packing and marking requirements, if any. See the sample provision in § 1002.2001, for central procurements in AMC only.

(12) Place, method, and conditions of inspection. See Part 1014 of this chapter.

(13) Bond and surety requirements, if any. See Subpart 10 of this title and Subpart 1010 of this chapter.

(14) Special provisions. (Also see § 1002.406-3(a)(2) and (3) of this chapter.)

(i) Liquidated damages: (See § 1007.105-5 of this chapter.)

(ii) Buy American certificate: See §§ 6.104-3 and 6.204-2 of this title.

(iii) Delivery schedules: The usual provision, where the Government indicates a desired delivery schedule, is included in the sample IFB in § 1002.2001. A "required delivery" provision is set forth in § 1002.2003-2.

(iv) Bids of partial quantities: Condition 8 on the reverse side of Standard Forms 30 and 33 includes:

Unless otherwise provided in the schedule, bids may be submitted for any quantities less than those specified; and the Government reserves the right to make an award on any item for a quantity less than the quantity bid upon at the unit prices offered unless the bidder specifies otherwise in his bid.

Accordingly, if it is intended to make an award only on the basis of the quantities advertised, it will be necessary to make this provision inapplicable in the invitation for bids.

(v) Awards in groups or in the aggregate: If it is intended to make an award in groups or in the aggregate, the invitation will so state.

(vi) Increase or decrease: When it is considered necessary in the interest of the Government to provide for an increase or decrease in the quantity specified in the invitation at the option of the Government, the maximum percentage of such increase or decrease will be specified by the contracting officer in the invitation. Such percentages will only in rare cases exceed 25 percent and should not in any case exceed 50 percent.

(vii) Location of plant: Invitations may provide for each bidder to indicate the location of the particular establishment or plant in which a contract will be performed, if awarded.

(viii) Percentage of subcontracting: When a Facility Capability Report is contemplated as prescribed in Part 1052 of this chapter, the IFB will contain the following clause: "Bidder represents that the estimated percentage of subcontracting contemplated on this procurement is \_\_\_\_\_ percent."

NOTE: The "percentage of subcontracting" will be reported as a percentage of the prime contractor's selling price. "Subcontracting" means only contracts for the production of or work upon an item, component, or assembly and does not include: (a) any purchase of a standard commercial or catalog item, (b) any purchase of a basic

raw material, (c) any purchase of supplies or services for the general operation of the contractor's plant, or (d) any purchase from a parent, subsidiary, or affiliate of the contractor.

(ix) Number of employees: Invitations will provide that each bidder will indicate the number of persons employed, to comply with § 1.702(c) of this title.

(x) Samples: See § 1002.403-51.

(xi) Approval of resulting contracts: IFB's covering procurement which may exceed the delegated authority of the issuing contracting officer for which the resulting contract may require approval of higher authority, will include the following provision:

APPROVAL: Any contract in excess of \$ (insert amount of delegated contracting authority of contracting officer issuing the invitation for bids) awarded as a result of this invitation shall contain the following approval clause: "This contract shall be subject to the written approval of the Secretary of the Air Force or his duly authorized representative and shall not be binding until so approved."

(xii) Items assigned to another department or agency: Include a statement that the department or agency having assigned procurement responsibility has authorized the AF to purchase the items, when such authorization is required.

(xiii) Statement in lieu of Standard Form 119: See § 1001.507-1 of this chapter (to be used in conjunction with § 1.506 of this title).

(xiv) Labor surplus "set-asides," under DMP No. 4: See § 1002.205-3.

(xv) Small business "set-asides": See §§ 1.706-5 and 1.706-6 of this title (as implemented by § 1001.706-6 of this chapter).

(xvi) Financial and technical ability: See §§ 1002.2003-3 and 1052.302 of this chapter.

(xvii) Procurement of items containing wool (except mohair): See § 6.304-2 (c) of this title.

(xviii) DO ratings: See § 1001.463 of this chapter.

(xix) Labor information: See § 1012.603 of this chapter.

(xx) Classified information: Classified information in bids will be handled according to AFR 205-4, Armed Forces Industrial Security Regulation (AFISR) and regulations issued by each major air command, such as AMCR 205-9 for Air Materiel Command.

(xxi) Price escalation for basic steel, aluminum, brass, bronze or copper mill products: See § 1002.250.

(xxii) Multiple awards: IFB's which will be evaluated according to § 1002-406-3 (d) will include the following statement:

NOTICE TO BIDDERS: Bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making multiple awards. For this purpose, the cost of issuing an advertised contract is estimated to be \$50. Accordingly, where several items are included in an invitation for bid and, after opening bids, it is ascertained that no one responsible bidder submitted the lowest price on each of the items, the \$50 factor of whether it will be to the best interest of the Government to make multiple awards will be considered, other factors being equal.

(xxiii) Progress payments: (a) Whenever, incident to formal advertising, the contracting officer considers: (1) that the period between the beginning of work and the required first production delivery will exceed 6 months, or (2) that progress payments will be useful or necessary by reason of unusual circumstances that will involve substantial accumulation of pre-delivery costs that may have a material impact on a contractor's working funds (including but not limited to substantial small business set asides expected to involve a relatively large pre-delivery accumulation of materials, purchased parts, or components) the IFB will include the following provision:

#### NOTICE TO BIDDERS

#### PROGRESS PAYMENTS

The need for progress payments conforming to regulations (22 F.R. 826-838; 22 CFR, Ch. 1, Subch. 9, Part 82; AR 715.6, NPD 31, AFR 173-133) will not be considered as a handicap or adverse factor in the award of a contract hereunder. Bidders desiring progress payments in accordance with the Progress Payments clause attached hereto, shall include a written request therefor in their bids, and bids including requests for progress payments will be evaluated on an equal basis with bids not including a request for progress payments. Copies of pertinent regulations cited above are available for examination at the office issuing this invitation for bids. The Progress Payments clause attached hereto conforms to such regulations. If a bid does not contain a request for progress payment provision, the Progress Payments clause will not be included in the contract as awarded.

NOTE: (1) The above provision will not be used on construction contracts providing for progress payments based on a percentage or stage of completion.

(2) When the above provision is included in an IFB, the Progress Payments—Total Cost clause contained in § 1058.306-1 of this chapter will be attached to the invitation.

(3) In "Small Business Restricted Advertising" (See § 1.706-5 of this title), the percentage stated throughout the Progress Payments—Total Cost clause § 1058.306-1 of this chapter will be 75 percent.

(4) Whenever it is intended that the contractor is to be reimbursed for progress payments to subcontractors the clause set forth in § 1058.306-3 of this chapter will be included in the schedule.

(b) Whenever the contracting officer determines that Progress Payments are not appropriate in connection with a particular procurement in accordance with the criteria set forth above the following statement will be included in the IFB:

Progress Payments are not available under this invitation for bids and bids conditioned upon the making of Progress Payments will be considered nonresponsive. This does not preclude payments for partial deliveries as otherwise authorized in the General Provisions.

(xxiv) Advance payments: (Advance Payment provisions in connection with advertised procurement are reserved pending implementation of Public Laws 800 and 804, 85th Congress.)

(xxv) The following alteration to General Provisions will be included in the IFB:

The following is hereby added to Clause 10, Federal, State and Local Taxes: The

term "except as otherwise provided in this contract" means "except as the Government has otherwise provided in this IFB" and shall not be construed to permit the bidder to submit bids conditioned on exclusions of tax not set forth in the IFB.

(15) *Special provisions relating to Government-furnished property and to the use of Government property in the bidder's possession under a facilities contract or other agreement independent of the IFB.* (i) The property to be furnished by the Government for performance of the contract will be described in the schedule or specification. See §§ 13.101-2(a), 13.102, 13.201, and 13.301 of this title.

(ii) (Applicable only to AMC central procurement IFB's). Use of Government property in the bidder's possession under a facilities contract or other agreement independent of the IFB on a "no charge for use," "rent free," or other no charge basis is not permitted. See Note 7, §§ 1002.2001 and 1002.406-3(f).

(16) *Minimum period for Government acceptance of bids.* See § 2.201 (c) (16) of this title.

(17) *Affiliated Bidders.* See § 2.201 (c) (17) of this title.

(18) *Principal producing facilities.* See § 2.201 (c) (18) of this title.

(d) *Availability and identification of specifications.* See § 1001.305 of this chapter.

(1) *Formal specifications.* Every item on an IFB which is covered by drawings, plans, or specifications will contain a reference to all applicable drawings, plans, and specifications. (See § 1001.305 of this chapter for a listing of the various types of specifications in order of preference.) At least one copy of each referenced drawing, plan, or specification will be on file at the AF installation which issues the IFB prior to such issuance. When bids are invited on an item to be supplied according to drawings, plans, or specifications, and when distribution to prospective bidders of the applicable drawings, plans, and specifications with the IFB (pursuant to § 2.201(d) (i) of this title) or upon request (pursuant to § 2.201(d) (ii)), is impracticable, the IFB will state the exact mailing address of all locations where the IFB, containing a complete set of drawings, plans, and specifications, will be available for public display and examination.

(2) *Description of authorized alternate bids.* The IFB may request that alternate bids be submitted on the basis of several different items or qualities of material; for example: (i) Where the Government wants to use a specific grade of material but the bids for that grade may be so high as to require the use of less expensive material, or (ii) where the Government wishes to have a certain quantity of work done, or items delivered, but the cost of such work or items may be so high that the Government's interest will require procurement of a lesser quantity. Similarly, the Invitation for Bids may request alternate bids in situations where two different items will be equally acceptable to the Government depending upon relative

price. (See § 1002.2003-6.) However, alternate bids which are authorized in the IFB must be stated with a reasonable degree of preciseness to assure that the same degree of competition is obtainable on the alternate bids as is obtainable on the basic item described.

(e) *General provisions or conditions.* (1) The IFB will include general provisions according to the appropriate part of Part 1007 of this chapter, and any special conditions necessary to describe the Government's requirements fully, such as, but not limited to, the following:

- (i) Kind of packing required.
- (ii) Special marking of packages, boxes, invoices, etc.
- (iii) Conditions of inspection.
- (iv) Special factors to be used in evaluation of bids covering such areas as quality, qualifications and experience of bidders, financial and technical ability, cost of inspection, etc.

See Subparts A and T of this part.

(2) When procurement is effected by formal advertising, price redetermination clauses (as distinguished from escalation clauses) will not be inserted in the IFB or in any resulting contract. (See § 1002.104-50.)

(3) IFB's for sealed bids sales will be prepared according to instructions contained in paragraph 21, section 9, volume XIII, AFM 67-1, except that IFB's and contracts for the disposal of edible garbage will also contain the following provision:

Prior to award the bidder agrees to furnish a certification from an Animal Disease Eradication Division representative of the U.S. Department of Agriculture that he possesses adequate and approved garbage sterilization equipment. In the event of an acceptance of his bid by the Government, the bidder warrants that all garbage received under contract will be sterilized not less than 30 minutes at 212° F before being fed to livestock or poultry. The bidder agrees to permit representatives of Animal Disease Eradication Division of the U.S. Department of Agriculture to make inspections at any time without prior arrangements to determine that the garbage is heat-treated in accordance with this provision.

3. Section 1002.202 is added, as follows:

§ 1002.202 *Methods of soliciting bids.*

4. Section 1002.202-1 is deleted and the following substituted therefor:

§ 1002.202-1 *Mailing or delivering to prospective bidders.*

(a) IFB's, when mailed, will be sent as first class mail.

(b) In the case of construction contracts, copies of the IFB's including plans and specifications, if available, may be furnished upon request to non-bidders having a direct interest in the bidding, such as subcontractors, material men and suppliers of equipment for installation or use by the prime contractor on the project. Copies may also be furnished to any established trade publication or association requesting them, provided that the activities of the publications or associations are not restricted to publishing bid information for which a charge is made.

5. Sections 1002.202-2 and 1002.202-3 are added, as follows:

§ 1002.202-2 *Displaying in public places.*

One copy of each IFB will be displayed in a public place at the activity issuing the IFB. The place selected for such public display should be one available to the public with due consideration given to the security requirements of the activity issuing the IFB. In the case of Hq AMC, the place of public display will be Contractors Relations Office.

§ 1002.202-3 *Publishing in trade journals.*

See § 1002.202-1(b).

6. Section 1002.202-4 is deleted and the following substituted therefor:

§ 1002.202-4 *Publishing in newspapers.*

Paid advertisements in newspapers will be used in connection with the disposition of disposable property by sale. If time will permit, the publication of essential details of IFB's in newspapers (paid advertisements) may be authorized as shown in paragraph (a) of this section, when necessary to obtain effective competition, or in view of the quantity, character, or value of the supplies or services to be procured.

(a) *Authority.* (1) Authority to authorize the publication of advertisements, notices, or proposals has been delegated by the Secretary to the:

- (i) Commander, Air Materiel Command.
- (ii) Director and Deputy Directors of Procurement and Production, Hq AMC.
- (iii) Commander and Deputy Commander, AMC Ballistic Missiles Center.
- (iv) Commander and Deputy Commander, AMC Aeronautical Systems Center.

(v) Chiefs of divisions, Directorate of Procurement and Production, Hq AMC, AMC Ballistic Missiles Center, and AMC Aeronautical Systems Center.

(vi) Director of Procurement and Production, air materiel areas and AF depots.

(vii) Directors of Procurement and Production, air materiel forces.

(viii) Commanders and Vice Commanders of major AF commands.

(ix) Commander, Wright-Patterson Air Force Base.

and, while he is so acting, to the person acting for the time being in any of the foregoing capacities. The above authority will not be redelegated.

(2) No advertisement, notice, or proposal will be published in any newspaper except in pursuance of written authority for such publication from the Secretary or the appropriate official named in subparagraph (1) of this paragraph, and no bill for advertising will be paid unless a copy of such written authority is presented with the bill.

(3) All authority to advertise is granted to the office concerned, not to the officer.

(b) *Requests for authority to place advertisements.* (1) Requests for authority to place advertisements in newspapers will be made on AFPI Form 25, "Request for Authority to Advertise,"

according to § 1002.204-4(h)(1) of this title, except in case of emergency, the nature of which will be stated in the request, authority to advertise may be requested direct by telegraph to the proper official, who will obtain the necessary coordination with others concerned.

(2) In applying for authority to advertise, newspapers in which it is considered advantageous to advertise will be specified. Due economy will be observed regarding the number of newspapers and the number of insertions, whether advertising under special or general authority, no greater number being used in any case than may be necessary to give proper and sufficient public notice.

(i) Special authority authorizes the publication of a given advertisement a specified number of times in a designated newspaper or newspapers.

(ii) General authority authorizes the publication during a fiscal year, as designated, of such advertisements, for proposals as may be required by the duties of officers engaged in making frequent purchases or contracts.

(3) In all cases authority to advertise must be obtained in advance. Authority will not be granted retroactively.

(c) *Preparation of advertisements.* Except as provided in subparagraph (1) of this paragraph, all advertisements will be solid line. A sample set up according to the usual Government requirements is shown on Standard Form 1143, "Advertising Order."

(1) When advertising to be set other than solid is authorized, care will be taken to insure that the specifications are definite, clear, and specific since no allowance will be made for paragraphing or for display or leaded or prominent heads, unless specifically ordered, or for additional space required by the use of type other than that specified in the sworn statement of advertising rates on file in the General Accounting Office. Specifications for advertising other than solid will accompany the advertisement copy submitted to the publisher with the advertising order, and copies of both documents will be sent to the General Accounting Office with the voucher.

(2) Any unnecessary expense to the Government, resulting from failure to observe the requirements of this section, may be made a charge against the pay of the officer responsible therefor.

(d) *Insertions and limitations thereon.* Ordinarily, advertisements will be given six insertions in daily or four in weekly papers. When more than 10 days are to intervene between the date of the first publication and the date of opening bids, those in the daily newspapers inviting bids will at once be given four consecutive insertions, and immediately before the date of opening two consecutive insertions. In construction projects, such insertions will be placed in sufficient time prior to the date of opening to allow interested bidders to obtain plans and specifications and prepare bids. In case of emergency, advertisements may be given one or more insertions, as time and circumstances permit.

7. Section 1002.204-1(a) is deleted and the following substituted therefor:

**§ 1002.204-1 General.**

(a) *Basic policies.* (1) *Advertised procurement.* It is mandatory that the completed list be obtained by the contracting officer. The selection of sources from the list will be at the discretion of the contracting officer but will be in consonance with §§ 1.302-4(b)(3), and 1.702(b)(2) of this title.

(2) *Negotiated procurement.* It is mandatory that the complete list be obtained by the contracting officer for procurement of supplies and services estimated to cost \$10,000 or more unless the procurement is to be placed on an authorized selected-source basis. The selection of sources from the list will be at the discretion of the contracting officer but will be in consonance with §§ 1.302-4(b)(3), and 1.702(b)(2) of this title.

8. Section 1002.205-3 is deleted and the following substituted therefor:

**§ 1002.205-3 Special conditions to be inserted in invitations for bids.**

Whenever it has been determined to set aside a quantity of a procurement according to § 1.302-4 of this title and § 1001.302-4 of this chapter, the following provision will be included in the IFB or RFP covering procurement of the items not set aside. Pursuant to Defense Manpower Policy No. 4, an additional quantity of \_\_\_\_\_

(Insert quantity)

has been "set-aside" for subsequent negotiation exclusively with the firms who: (a) are located in areas classified by the Department of Labor as areas of substantial labor surplus; or are located in areas not so classified by the Department of Labor but submit with their bids (or proposals) a certification from the Local State Employment Office that the firm is located in an area of substantial labor surplus; (b) will perform not less than 60 percent of the dollar value of any resulting contract in an area of substantial labor surplus; and (c) have submitted a bid (or proposal) upon the items covered by this IFB (or RFP) at a unit price within 120 percent of the highest award made with respect to the items covered by this IFB (or RFP).

9. Sections 1002.206, 1002.206-1 and 1002.206-2 are added, as follows:

**§ 1002.206 Synopses of proposed procurements.**

**§ 1002.206-1 Statement of policy.**

(a) Section 2.206-1(f) of this title will apply when the opening date is 18 days or less from date of issue.

(b) Justification referred to in § 2.206-1(g) of this title will be approved by the chief or deputy chief of the buying division at Hq AMC, by the division chief or deputy division chief of the purchasing office at AMA's and AF depots, and by the chief or deputy chief of the purchasing and contracting office at all base procurement activities. This written justification will be made part of the procurement file.

**§ 1002.206-2 Supply of invitation for bids and request for proposals at purchasing offices.**

Based upon the judgment and experience of the purchasing office, a reasonable number of copies of each IFB and RFP that has been synopsisized will be maintained by the purchasing office for supplying requests therefor. Once this supply has been exhausted, requesters will be advised of the nearest location where a copy of such IFB or RFP is available for examination. In addition, in the case of IFB's, requesters will be advised that letter bids are acceptable according to § 1002.301 of this chapter, provided such letter bids specifically accept all the terms and conditions of the IFB and are otherwise responsive thereto so that acceptance of such bid by the Government will result in a mutually binding contract.

**Subpart D—Opening of Bids and Award of Contract**

1. Section 1002.402 is deleted and the following substituted therefor:

**§ 1002.402 Recording of bids. (Abstract of bids.)**

(a) *Procedure.* An abstract of bids will be prepared for each IFB as soon as practicable after bids have been opened or as soon as it is decided to cancel the invitation before opening of bids. The abstract will set forth all qualifications to the IFB made by bidders and included in their bid. As soon as practicable after bid opening a preliminary abstract of bids will be made available for public examination in the procurement office or other appropriate location. In the case of Hq AMC, the place for public examination will be Office of Inspection (MCPI) in which contractor's relations function is performed. The preliminary abstract will be replaced by the abstract prepared when award has been made or bids have been rejected.

2. In § 1002.403-50, paragraph (c)(2) (iv) is revised, as follows:

**§ 1002.403-50 Rejection of bids because of internal administrative Air Force difficulties.**

(c) \* \* \*  
(2) \* \* \*

(iv) Failure to resolve the administrative difficulties and effect award of the contract(s) to the lowest responsible bidder prior to the expiration of the bid acceptance period (or any unqualified extensions thereto) will not be cause for rejection of all bids and readvertisement unless the delay in making award or the difference in price between the lowest responsive bid and the next lowest responsive bid is unreasonable.

**§ 1002.404 [Amendment]**

3. In § 1002.404, paragraph (e) is deleted.

4. Section 1002.405 is deleted and the following substituted therefor:

**§ 1002.405 Mistakes in bids.**

After the opening of bids, contracting officers will examine all bids for mistakes.



In cases of obvious error, and in cases where the contracting officer has reason to believe that a mistake has been made, he will request from the bidder a verification of the bid (see § 1002.405-2(d)(1)). If the bidder alleges a mistake, the matter will be processed as set forth in § 2.405 of this title. All the foregoing action will be taken before the award is made.

5. In § 1002.405-2, paragraphs (b)(1) through (3), (d)(1) and (f) are deleted and the following substituted therefor:

**§ 1002.405-2 Mistakes disclosed after opening and prior to award other than obvious or apparent mistakes of a clerical nature.**

(b)-(c) See § 2.405-2(b) and (c) of this title.

(d)(1) When requesting a bidder to either verify the bid submitted or furnish evidence in support of a mistake according to § 2.405-2(d) of this title, the contracting officer should inform the bidder of the reason for suspecting that a mistake in bid exists. Such reason may be based on a substantive analysis of the bid in relation to the required work or may be based on the disparity in prices between the low bid and the other bids in relation to the surrounding circumstances. General requests for verification which do not inform the bidder of the reason for suspecting a mistake will not be made. If a mistake in bid is alleged, the contracting officer will request the bidder to ask for permission either to withdraw the bid from consideration for award or to modify the bid to correct the alleged mistake according to the bidder's desires. In addition, the contracting officer should request the bidder to submit all available evidence in support of the alleged mistake such as sworn statements of facts, bidder's file copy of the bid, the original work sheets and other data used in preparing the bid, sub-bidder's quotations, published price lists, and any other evidence which tends to establish the existence of the error, how it occurred, and, if modification is sought, the bid actually intended. Requests for extensions of bid expiration time should be made of the bidders as necessary to permit administrative determination of the alleged mistake in bid.

(f) Doubtful mistakes in bids will NOT be submitted by contracting officers directly to the Comptroller General for advance decisions.

(g) In addition to § 2.405-2(g) of this title, copies of all administrative determinations will be included in the official contract file. If modification is authorized and award is made to the bidder alleging the mistake, a copy of the determination will be furnished to the finance officer to support payment. MCJCR, Hq AMC, will maintain the record required by § 2.405-2(g) of this title. At the end of each 6-month period, or more often if warranted, the Staff Judge Advocate will forward to the Purchase Policy Division (MCPD), Hq AMC, the number of cases handled for the period by types, and his findings as to

any pattern disclosed that may indicate the need for additional or revised procurement instructions or procedures. Following review of the findings a copy will be furnished by MCPD to Hq USAF together with a statement showing the action taken.

**§ 1002.405-3 [Amendment]**

6. In § 1002.405-3, paragraphs (c) and (d) are deleted and the following substituted therefor:

(c) The data required by paragraph (b) of this section will be submitted to the Commander, AMC, attn: MCPRC, who will take appropriate action according to Part 17 of this title concerning correction of mistakes in contracts.

(d) Correction of mistakes under paragraph (b) of this section involving the sale of Government-owned surplus property will be processed to the Comptroller General.

7. In § 1002.406-3, paragraph (a)(2) is deleted and the following substituted therefor:

**§ 1002.406-3 Other factors to be considered.**

(a) *General.* \* \* \*

(2) The selection of proper evaluation factors is considered to be the most important judgment area of the contracting officer in the preparation of IFB's. It is only through these factors that the best interest of the Government may be served. However, caution must be observed to insure that invitations to prospective bidders do not impose conditions or restrictions which tend to limit competition unless such restrictions are required by statute or otherwise permitted in the public interest. This does not mean that restrictions necessary to achieve contractual goals cannot be applied. This does mean, however, that judgment must be used to insure contractual goals cannot be achieved by any other means. For example, establishing a geographical limitation in an IFB covering the furnishing of offset Printing Supplies and Services (or other similar printing requirements) is considered an unwarranted restriction since compliance with the needs of the Air Force can be achieved by establishing realistic time limits in the IFB for pick up of the work; return of the proofs, if necessary; and delivery of the final contract requirements. Bids may not be evaluated on any basis not provided for in the IFB, except that cost of delivery may be considered in determining award whether expressly stated in the IFB or not.

**§ 1002.408-50 [Amendment]**

8a. In § 1002.408-50(a), the first sentence is amended to read: "All purchasing offices will prepare and forward one copy of the synopsis report to the addresses listed below."

b. In § 1002.408-50(b), the word "competitively" is to be inserted before the word "Negotiated" in the heading and in the text.

**Subpart E—Qualified Products**

1. Section 1002.503-1 is deleted and the following substituted therefor:

**§ 1002.503 Qualification of products.**

**§ 1002.503-1 Opportunity to qualify.**

(a) *Procedures leading to qualification.* (1) The Directorate of Engineering Standards, WADC (WCXPR), W-PAFB, Ohio, issues a Daily Activity Report which lists and identifies all specifications covering commodities requiring qualification testing which are used by the Air Force.

(2) The Daily Activity Report will be distributed to the appropriate services office at the AMC procurement activity.

(3) When a specification containing a qualification requirement appears on the Daily Activity Report for the first time, Contract Distribution and Files Branch (LMPGS), AMC, or the services activity within the AMA, Depot or other AMC procurement activities shall obtain a current source list and notify all sources thereon by letter, stating the Air Force policies on procurement of Qualified Products and encourage manufacturers to contact the Commander, W-PAFB, USAF Engineering Specifications and Drawings Branch, Administrative Services Office, attn: EWBFE, Wright-Patterson Air Force Base, Ohio, for copies of the QPL Summary Provisions Governing Application for Military Qualified Products Lists and the specification for the product which they may wish to qualify.

(4) LMPGS will forward each specification number, nomenclature as listed in the Daily Activity Report together with the name and address of the organization to be contacted for copies of specifications to the U.S. Department of Commerce, Room 1300, 433 West Van Buren Street, Chicago 7, Illinois, for publication in the daily "Synopsis of U.S. Government Proposed Procurements, Sales and Contract Awards." If a qualification testing requirement is deleted, or a specification requiring qualification testing is canceled (the Daily Activity Report contains this information), LMPGS or the services office at the appropriate AMC procurement activity will notify all sources on the source list of the change in the specification.

(b) Unlisted manufacturers requesting to be added to the bidder's mailing list as manufacturers of products covered by a QPL will be informed by LMPGS or the applicable AMC procurement services activity of the Air Force policies on procurement of qualified products.

2. Section 1002.503-50 is added, as follows:

**§ 1002.503-50 Waivers of qualification requirement.**

The qualification requirement of a specification may be disregarded when no products have been approved for inclusion on a QPL. Waivers of the qualification requirement where products have been approved for inclusion on a QPL shall be treated as deviations and processed according to § 1001.109-50 of this chapter. When the qualification requirement of the specification is not invoked, coordination of the responsible engineering activity, whose identity and address is normally set forth in the ap-

pliable specification, will be obtained as to the use of first article test procedures.

#### Subpart T—IFB Provisions

1. Section 1002.2003-1 is deleted and the following substituted therefor:

#### § 1002.2003 Special contract provisions.

##### § 1002.2003-1 General.

The use of formal advertising is not impractical merely because certain special conditions must be applied with respect to matters other than the description of the supplies or services being procured. Since maximum use of formal advertising is required, the insertion of special conditions in Invitations for Bids, thereby enabling these procurements to be formally advertised, may be necessary; provided these conditions are not otherwise unduly restrictive and are properly utilized. Certain of these special conditions are set forth in the sample Invitation for Bids appearing in § 1002.2001 as lettered paragraphs following the Schedule item description; they are conditions relating to subjects which will require treatment in most, if not all, Invitations for Bids. The following sections set forth additional sample provisions covering other special conditions which are used with varying frequency. In particular, the special conditions relating to qualifications of bidders (§ 1002.2003-3) should not be employed except where necessary to protect the interests of the Government (see also § 1002.406-3 of this chapter). However, the availability of such special conditions where properly applied is pointed out here for the purpose of illustrating that formal advertising may still be employed despite the need for the insertion of special conditions.

2. Section 1002.2003-2 is deleted and the following substituted therefor:

#### § 1002.2003-2 Required delivery schedule.

Paragraph F in the Schedule of the sample IFB in § 1002.2001 advises bidders of the delivery schedule desired by the Government and then asks the bidder to offer its own delivery schedule within a stipulated maximum number of days. With that provision in the IFB, award will normally be made to the lowest responsible bidder regardless of the fact that the delivery schedule offered is somewhat longer than the desired delivery schedule but not exceeding the stipulated maximum number of days. Since permitting the bidders to establish their own delivery schedule normally results in lower cost to the Government, the "desired delivery" provision should be used in most formally advertised procurements. In a few procurements the urgency of the Government requirement may make delivery by a certain date essential. The Invitation for Bids in such cases should contain a "required delivery" provision similar to the sample set forth below rather than the "desired delivery" provision of § 1002.2001. (In either case see § 1053.102-4 of this chapter as to limits on maximum delivery time where fiscal year funds are involved.) Also, see § 1053.102-3(e) of this chapter.

#### DELIVERY

Delivery of the articles listed herein is required on or before expiration of the time specified immediately below:

----- days after receipt of written notice of award.

Bidders are cautioned to consider carefully the Government's required delivery, as bids specifying delivery after the time specified above will be rejected.

Bidder's proposed Delivery Schedule: ----- days after receipt of written notice of award.

If the bidder does not state a different delivery schedule, the Government's required delivery schedule, stated above, will apply.

3. In § 1002.2003-3, paragraphs (b) (1), (2) and (3) are deleted and the following substituted therefor:

#### § 1002.2003-3 Qualification of bidders.

(b) *Special qualifications.* In unusual cases (see § 1002.406-3), special qualifications may have to be inserted in invitations due to the complexity of the equipment being purchased or for some other special reason. Sample clauses are set forth in subparagraphs (1) and (2) of this paragraph, covering these types of situations to again serve as a reminder that, in spite of the need for such special conditions, formal advertising may nevertheless be employed. Since such conditions tend to reduce competition and to eliminate potential bidders, these conditions should only be used where necessary to protect the Government's interests (see § 1002.2003-1). In any event, such special conditions as to qualifications of bidders should not be so limiting as to reduce the number of potential bidders to the point where full and free competition will not be obtained. The following subparagraphs set forth sample provisions for use in these unusual situations and should be modified to suit particular procurements.

##### (1) Sample number one.

#### BIDDER'S QUALIFICATIONS

All bidders are hereby notified that any bid submitted in response to this advertisement must be accompanied by a statement of facts in detail of the business and technical organization of the bidder available for the contemplated work including financial resources and building experience. The Government expressly reserves the right to reject any bid in which the facts as to the business and technical organization, financial resources, or building experience, compared with the project bid upon, justifies such rejection.

##### (2) Sample number two.

#### BIDDER'S QUALIFICATIONS

Bids to furnish and install the equipment specified will be accepted only from bidders who are versed in the art of water sterilization by means of chlorine gas, and who have been engaged in the business either as manufacturers of such equipment or as suppliers and installers of such equipment for a period of not less than five (5) years and who have actually made similar installations of a satisfactory character. Bidders shall submit with their proposals a list of not less than three (3) such installations which are now operating satisfactorily and have been so operating for a period of not less than two (2) years. The Government reserves the right to reject any bid which does not comply with the above requirements.

#### § 1002.2003-5 [Deletion]

4. Section 1002.2003-5 is deleted.

#### Subpart U—Procedures for Two-Step Formal Advertising

1. A new Subpart U is added, as follows:

Sec.	Scope of subpart.
1002.2100	Scope of subpart.
1002.2101	Applicability of subpart.
1002.2102	Criteria for use of two-step formal advertising.
1002.2103	Procedure for use in two-step formal advertising.
1002.2104	Discontinuance of a procurement under two-step formal advertising.

AUTHORITY: §§ 1002.2100 to 1002.2104 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

#### § 1002.2100 Scope of subpart.

This subpart provides for: (a) Determination of need for technical proposals, (b) method of soliciting technical proposals, (c) evaluation of technical proposals, (d) solicitation of bids, and (e) evaluation of bids and award of contract.

#### § 1002.2101 Applicability of subpart.

This subpart applies to procurements accomplished by AMC procurement activities.

#### § 1002.2102 Criteria for use of two-step formal advertising.

(a) This method is used when:

(1) The specification is not sufficiently definitive to permit full and free competition without negotiation as to the technical aspects of the requirement to obtain an acceptable basis of understanding between the individual bidders and the Government.

(2) A production contract is contemplated as distinguished from a contract that would require development to advance the state of the art to meet AF requirements.

(3) More than one source would be available as to technical qualifications either initially or after negotiation of the technical aspects of the requirement.

(4) A firm fixed price contract is contemplated.

(b) This method is accomplished in two steps:

(1) Submission and evaluation of technical proposals without pricing to determine acceptability of the products offered.

(2) Issuing Invitations for Bids (IFB's), only to those firms having acceptable technical proposals.

#### § 1002.2103 Procedure for use in two-step formal advertising.

(a) Upon receipt of a Purchase Request, the buyer will review the requirement to select the best method of procurement with consideration to be given in the following order of preference: (1) Straight formal advertising, (2) formal advertising with special evaluation factors included in the IFB, (3) two-step formal advertising, and (4) negotiation.

(b) (1) When it is believed that straight or special evaluation formal advertising procedures cannot be used

and the criteria of § 1002.2102(a) are present, two step formal advertising procedures should be considered. It is necessary to obtain concurrence of the cognizant engineering activity before using this procedure.

(2) If the cognizant engineering activity concurs in using the two-step procedure, it will specifically state in writing the detailed requirements for the technical proposal to give all bidders an equal opportunity to submit the required data. Terms such as "the bidder will furnish such data as to indicate an understanding of the problem" will not be used. The engineering activity will furnish the following to be used by the buyer:

- (i) Criteria for technical proposals.
  - (ii) Cutoff date for receipt of technical proposals.
  - (iii) Anticipated date evaluation of technical proposals will be completed.
- (3) In the event the engineering activity does not concur in using this procedure for the procurement under consideration, the nonconcurrence will be signed out at the level of the Chief of the Laboratory, or comparable level and will be considered a final determination not to use Two-Step Formal Advertising Procedures. The reasons cited in the nonconcurrence will be considered in determining an alternate method of procurement.

(c) Upon receipt of concurrence from the cognizant engineering activity and such approval as is required by the procurement activity, the buyer will prepare a letter request for proposal. Selection of sources will be according to § 1.302-2 of this title and § 1002.204 of this chapter. In addition, the letter request for technical proposals will be synopsisized according to § 2.206 of this title and § 1002.206 of this chapter. The authority in § 2.206-1(g) of this title will not be exercised.

(d) The letter request for Technical Proposals will be identified as "Letter Request for Technical Proposals Number (add applicable purchase request number)." The IFB resulting from the Request for Technical Proposals will be numbered in the normal manner.

(e) The letter request for technical proposals will be substantially as follows:

Gentlemen:

The Department of the Air Force anticipates a requirement for procurement of the following:

1,000 ea. (Complete description)

Delivery: (Insert schedule)

This procurement will be accomplished in two phases: (1) submission and evaluation of technical proposals without pricing to determine acceptability of the products offered, and (2) issuing Invitation for Bids only to those firms having acceptable proposals.

Requirements for the technical proposals are as follows:

It is strongly urged that the requirements for the technical proposals set forth above be strictly complied with and complete in all respects. Do not rely on data previously submitted being given any consideration. The right is reserved to negotiate with firms having marginal technical proposals.

Your technical proposal (not including any pricing information) must be received

not later than \_\_\_\_\_ Proposals received after that time may not be considered.

It is now anticipated that Invitation for Bids will be issued on or about \_\_\_\_\_ only to those bidders having acceptable technical proposals on that date. No other firms will be given opportunity to bid. Firms having unacceptable proposals will be so notified. Award will be made to the lowest responsible bidder conforming to the Invitation for Bids.

Technical proposals should be forwarded to the following address: \_\_\_\_\_

(Insert address of Buyer)

Yours truly,

CONTRACTING OFFICER.

(f) Distribution of Request for Technical Proposals in addition to potential bidders will be as follows: One copy of the letter request and one set of data will be furnished to:

- (1) Each air procurement district.
- (2) LMMA-1, ASC.
- (3) Procurement Information Center.
- (4) Air Procurement Offices, if appropriate.

(g) The buyer will receive the technical proposals and hold them unopened in a secure manner until the submission cutoff date has arrived. The buyer will then open the proposals and examine them for inadvertent references to proposed prices. Any reference to proposed prices will be deleted or removed and those bidders so notified, since engineering evaluation will be based strictly on technical aspects without reference to price. Extreme care will be exercised in the deletion or removal of any reference to price to insure that the engineering aspects are not changed or distorted. The buyer will then forward the technical proposals to the engineering activity for evaluation, making reference to the previously agreed anticipated date for completion of evaluation. Technical Proposals marked pursuant to § 3.109 of this title are acceptable under Two-Step Formal Advertising procedures notwithstanding § 1003.109-50 of this chapter and they will be handled according to § 3.109(a) of this title and § 1003.109 of this chapter.

(h) If technical proposals are received after the submission cutoff date, the contracting officer will document a recommended course of action as to whether the late technical proposal should be considered and refer it for final decision to the Director or Deputy Director of AMC Centers or to the director or deputy director of procurement and production of AMC field procurement activities.

(i) Upon receipt of the technical proposals, the engineering activity will commence evaluation based upon the exact criteria required for preparation of the technical proposals. Technical evaluation will be accomplished as set forth in Joint AMCR 84-19/ARDC R 11-16. It should be borne in mind that the Air Force reserved the right to negotiate with firms having marginal proposals. The engineering activity will submit recommendations to the buyer for negotiations with the bidders. The buyer will discuss these recommendations with the contracting officer and they will arrange and conduct such discussions with the bidders, assisted by the engineering activity.

(j) Following any negotiations with the bidders, the engineering activity will give the buyer its final evaluation of each of the technical proposals. Acceptable proposals will be so designated. For unacceptable proposals, the engineering activity will give complete and detailed reasons as to why the proposal is not acceptable. Broad statements of unacceptability will not suffice. Some technical proposals may be received which require additional information or clarification to make a firm technical evaluation. The handling of these proposals requires acute and careful exercise of judgment. If additional information or clarification is required and the proposal is otherwise technically satisfactory, those items in doubt should be clarified and defined. Proposals should not be rejected when reasonable effort on the part of the Government would bring the proposal to acceptability and increase competition. If, on the other hand, the technical proposal clearly does not comply with the provisions of the request and the matters in question leave no doubt or uncertainty as to the technical inadequacies of the proposal, it should not be considered. Technical evaluations listing proposals which are unacceptable must clearly state whether rejection is based on the failure of the firm to furnish sufficient information or because of an unacceptable engineering approach. If the rejection is because of missing information the evaluating activity must state specifically what information was not furnished. These evaluations are recommendations only and must be approved by the contracting officer, as selection of sources is his responsibility. However, any differences of opinion between the contracting officer and the engineering activity must be mutually resolved or decision will be made in writing by the chief or deputy chief of the buying division, of the AMC procurement activities, following discussion with the chief of the cognizant engineering activity concerned.

(k) After approval of the technical evaluation, the contracting officer will notify each bidder having an unacceptable technical proposal of that fact and acknowledge appreciation for its participation. Upon request, these bidders will be given the detailed reasons of the engineering activity as to why the technical proposal was not acceptable. He will also issue the Invitation for Bids ONLY to the bidders having acceptable proposals. The technical proposal may be referenced in the item description included in the IFB. The IFB will include the following clause "Award: This IFB is issued pursuant to Two-Step Formal Advertising procedures set forth in Air Force Procurement Instruction Section II Part 21. Award will be made to only those firms who have submitted acceptable technical proposals pursuant to the first step of such procedures." The Invitation for Bids will not be synopsisized or publicly posted.

(l) Submission and evaluation of bids and award of contract will be strictly according to Subparts C and D, Part 2 of this title, and Subparts C and D of this part.

**§ 1002.2104 Discontinuance of a procurement under two-step formal advertising.**

If, after evaluation of technical proposals, it appears necessary to discontinue the two-step advertising method of procurement, the full facts and circumstances which make for such discontinuance will be set forth in writing and submitted to the official of the procurement activity (§ 1002.2103(c)) who originally approved the method of procurement. If that official approves the discontinuance, the buyer will notify each bidder in writing of the discontinuance, stating the reasons therefor.

**PART 1003—PROCUREMENT BY NEGOTIATION**

**Subpart C—Determination and Findings**

**§ 1003.101-53 [Amendment]**

1. In § 1003.101-53, former paragraph (e) is redesignated paragraph (f), and former paragraph (f) is redesignated paragraph (g); new paragraphs (e) and (f) (6) are added, as follows:

**§ 1003.101-53 Steps in negotiation.**

(e) *Determination of the appropriate type of contract.* (1) *New procurements.* Before commencing negotiations the contracting officer should consider the type contract which is likely to be most appropriate in the circumstances to protect the best interest of the Government. The alternatives will be fully weighed at the outset. (See Subpart D of this part.)

(2) *Follow-on procurements.* See Subpart K, Part 1053 of this chapter.

(f) *Request for proposals.* \* \* \*

(6) Contain for procurements involving small business set-asides the notices applicable in §§ 1.706-5 or 1.706-6 of this title (as implemented by § 1001.706-6 of this chapter).

2. Section 1003.107-2 is deleted and the following substituted therefor:

**§ 1003.107-2 Procedure.**

Research and development procurements are exempt from the procedure set forth in paragraphs (a) and (b) of this section.

(a) In each case in which a late low proposal, or a late proposal otherwise worthy of consideration, is received from a qualified firm, the contracting officer will immediately execute a finding and determination as to the course of action which he deems to be in the best interests of the Government, taking into account all pertinent factors, and will refer it to the appropriate officer listed below for written concurrence:

(1) The director or deputy director of procurement and production at the AMC field procurement activity for contracts to be written by that activity.

(2) The chief of the buying division or weapon system project office (WSPO) of the AMC Aeronautical Systems Center (ACS) for contracts to be written by that buying division or WSPO except

where both the two conditions set forth in subparagraph (3) of this paragraph are present.

(3) The Chief or Deputy Chief, Contract Support Office, ASC, for ASC contracts.

**NOTE:** Only those findings and determinations will be referred to the Chief or Deputy Chief, Contract Support Office, for signature, which: (1) find that the late low proposal will not be accepted for consideration and (2) involve a procurement which will exceed \$350,000.

(4) The commander of the major air command concerned (or a duly authorized representative not below the level of a staff officer responsible for procurement within the headquarters of the first echelon of command immediately subordinate to the major air command).

(5) The Commander, AMC Ballistic Missiles Center or his designee.

(6) The Chief, Electronics Defense Systems Division, Hq AMC, or his designee.

(b) See § 3.107-2 of this title.

**§ 1003.153 [Amendment]**

3. In § 1003.153, the word "Bidder" is changed to "Offeror."

**Subpart B—Circumstances Permitting Negotiation**

1. Section 1003.200 is added, as follows:

**§ 1003.200 Scope of subpart.**

See § 3.200 of this title.

2. Sections 1003.201-1 and 1003.201-2 are deleted and the following substituted therefor:

**§ 1003.201-1 Authority.**

See § 3.201-1 of this title.

**§ 1003.201-2 Application.**

(a) See § 3.201-2 of this title.

(b) See § 3.201-2 of this title.

(c) Negotiated procurements other than the categories mentioned in § 3.201-2(b) of this title must be authorized by appropriate subsections of 10 U.S.C. 2304(a). See § 1003.250. Purchases or contracts negotiated under the categories mentioned in § 3.202-2(b) of this title will cite 10 U.S.C. 2304(a) (1) on the face of the DD Form 1261, 1155, 746-2 as appropriate and no further written determinations and findings are required.

3. Section 1003.201-3 is added, as follows:

**§ 1003.201-3 Limitation.**

See § 1003.201-50.

4. Sections 1003.203, 1003.203-1, 1003-203-2 and 1003.203-3 are added, as follows:

**§ 1003.203 Purchases not more than \$2,500.**

**§ 1003.203-1 Authority.**

The authorization contained in § 3.203 of this title will be used in the case of purchases aggregating \$2,500 or less rather than any other authorization set forth in Subpart B, Part 3 of this title, except as provided in § 3.203-3 of this title and § 1003.203-3. For example, a purchase of perishable or nonperishable

subsistence supplies aggregating \$2,500 or less will be made under 10 U.S.C. 2304(a) (3) rather than 10 U.S.C. 2304(a) (9).

**§ 1003.203-2 Application.**

See § 3.203-2 of this title.

**§ 1003.203-3 Limitation.**

In addition to the limitation in § 3.203-3 of this title, contracts aggregating \$2,500 or less for personal or professional services will not be negotiated under this authority, but will be negotiated under 10 U.S.C. 2304(a) (4). (See § 1003.204.)

5. Section 1003.208-3 is added, as follows:

**§ 1003.208-3 Limitation.**

This authority will not be used in connection with purchases made pursuant to Purchase Notice Agreements published in Department of the Army Supply Bulletins.

6. Section 1003.210-3 is deleted and the following substituted therefor:

**§ 1003.210-3 Limitation.**

It is essential that first consideration be given to the practicability of effecting procurement by formal advertising. If such consideration leads to the definite conclusion that procurement by formal advertising is impracticable and none of the other authorities set forth in §§ 3.201 to 3.217 of this title, except § 3.212, are applicable as a basis for negotiation, the contracting officer will prepare and sign determinations and findings. Each such determination and findings will set forth the particular reasons why competition by formal advertising is impracticable, and will be approved as provided in § 1003.306(b). (See § 1003.210-2 for examples of circumstances in which this authority may be used.)

7. Section 1003.212-3 is added, as follows:

**§ 1003.212-3 Limitation.**

See § 3.212-3 of this title.

8. Section 1003.215-50 is added, as follows:

**§ 1003.215-50 Application.**

The authority of 10 U.S.C. 2304(a) (15) can be invoked for all or only a portion of a specific procurement. Requests for determinations and findings to negotiate under this authority should state: (a) The range of bid prices received and reasons why these prices (or some of them) are deemed unreasonable, or (b) evidence that the bid prices have not been independently arrived at in open competition. The letter of transmittal will set forth the estimated cost of the proposed procurement.

**Subpart C—Determinations and Findings**

1. Section 1003.301 is added as follows:

**§ 1003.301 Nature of determinations and findings.**

(a) Determinations and findings are the written recordings of the facts that circumstances permitting negotiation or

other action, such as the making of advance payments, are present. Determinations and findings consist of two distinct parts: (1) The findings which is a recital of facts, and (2) the determination, which is a statement of the conclusion which follows logically from the facts recited in the findings. It is emphasized that the conclusion (the determination) must be one which follows logically from the recited facts (the findings). In composing determinations and findings, care must be taken to see not only that the conclusion follows from the facts, but that sufficient facts are recited to sustain and make clear the appositeness of the conclusion.

(b) Determinations and findings, referred to throughout Part 3 of this title, may be made with respect to classes of purchases or contracts only by the Secretary. The policy of the Department of the Air Force is to make class determinations only under very exceptional circumstances and for a period normally not to exceed one year. In requesting class determinations and findings the supporting information with respect to each item of the class will be as detailed as the supporting information required for an individual determination and findings under the particular section of the Act involved.

2. In § 1003.303, subparagraphs (1) through (8) of paragraph (c) are deleted, and subparagraphs (1) through (6) substituted therefor:

§ 1003.303 Determinations and findings by the head of a procuring activity signing as "a Chief Officer responsible for procurement."

(c) \* \* \*

(1) Deputy Directors of the Directorate of Procurement and Production, Hq AMC.

(2) Commander, Aeronautical Systems Center—AMC, with power of redelegation.

(3) Commander, Ballistic Missiles Center—AMC. Redlegation may be made to not below the level of the Chief, Procurement Staff Division.

(4) Commanders of AMC field procurement activities with power of redelegation not below the level of a deputy director of procurement and production.

(5) Commander, ARDC, with respect to research and development procurement (excludes base procurement) with power of redelegation.

(6) Chief, Electronics Defense Systems Division, with power of redelegation to the Deputy Chief, Electronics Defense Systems Division.

3. Section 1003.306 is added as follows:

§ 1003.306 Procedure with respect to determinations and findings.

(a) *Contracting officer's determinations and findings; negotiated contracts.* There is no approved format for individual determinations and findings with respect to the negotiation of contracts under the authority of § 3.202 of this title but those set forth for the Sec-

retarial determinations and findings may be used as a guide.

(b) *Approval of determinations and findings; negotiated contracts.* Determinations and findings under §§ 3.202 and 3.210 of this title and §§ 1003.202 and 1003.210 of this chapter require contracting officers' signature and will be subject to the following written approvals:

(1) Buying Divisions, Hq AMC and AMC Centers:

(i) Branch Chiefs or their deputies—procurements initially estimated to be in excess of \$10,000 but not in excess of \$50,000.

(ii) Division Chiefs or their deputies—procurements initially estimated to be in excess of \$50,000.

(2) AMC field procurement activities:

(i) Chiefs or deputy chiefs of divisions—procurements initially estimated to be in excess of \$10,000 but not in excess of \$50,000.

(ii) Directors or deputy directors of procurement and production—procurements initially estimated to be in excess of \$50,000.

(3) Hq ARDC and ARDC Centers:

(i) Chief or Deputy Chief of Buying Divisions—procurements initially estimated to be in excess of \$10,000 but not in excess of \$50,000.

(ii) Director or Deputy Director of Procurement—procurements initially estimated to be in excess of \$50,000.

(4) Purchasing activities other than those stated in subparagraphs (1), (2), and (3) of this paragraph: Chief or deputy chief of the purchasing office—procurements initially estimated to be in excess of \$10,000.

(c) *Limitation.* No person will exercise the authority re delegated in paragraph (b) of this section if he is the contracting officer in the procurement involved. This limitation does not apply to WSPO's at Hq AMC where the chief of the WSPO is the only contracting officer appointed for such WSPO. In these instances, the determination and finding will indicate that the person executing the determination and finding is both the contracting officer and the chief of the WSPO and no further approval of such determination and finding will be required.

(d) *AMC procedure.* (1) Prior to preparation of determinations and findings, procurement personnel should familiarize themselves with the provisions of § 1003.301(a).

(2) Determinations and findings authorizing negotiation which require signature by the Assistant Secretary of the Air Force will be prepared on plain bond paper, undated, and without signature block. An original and nine carbon copies will be prepared.

(3) Letters of transmittal will be prepared and submitted (an original and four copies) to the Commander, AMC, attn: MCPC, for review and forwarding to the Director of Procurement and Production, AFMPP-PR, Hq USAF. When considered necessary, these letters will include additional information to show compliance with the applicable section of ASPR.

(e) *ARDC procedure.* ARDC activities will process requests for approval of determinations and findings authorizing negotiation requiring signature by the Assistant Secretary of the Air Force through command channels directly to the Director of Procurement and Production, AFMPP-PR, Hq USAF.

(f) *Major commands other than ARDC.* Such activities will process requests for approval of findings and determinations authorizing negotiation requiring signature by the Assistant Secretary of the Air Force through command channels directly to the Commander, AMC, attn: MCPC, using procedure set forth in paragraph (d) of this section.

(g) *Quantitative change in requirements.* Whenever a quantitative increase in requirements occurs with respect to a Secretarial determination and finding prior to execution of the contract, the following policies will govern:

(1) Secretarial Determinations and Findings authorizing negotiation for research and development will be considered to authorize negotiation for increased requirements provided the dollar value of the increase in requirements, in the aggregate, does not exceed 20 percent of the dollar value of the quantity upon which the original D&F was based, or \$500,000, whichever is less.

(2) Secretarial Determinations and Findings authorizing negotiation for other than research and development will be considered to authorize negotiation for increased requirements provided the increase in requirements, in the aggregate, does not exceed 10 percent of the quantity upon which the original D&F was based, or \$350,000, whichever is less.

(3) If a change in requirements exceeds the limitations authorized above, the procurement will not be consummated until a new determination and finding covering the increase has been obtained according to the prescribed procedures.

(h) *Cancellation.* If total requirements are cancelled or if a signed Secretarial determinations and findings is cancelled or not used for any other reason, Hq USAF (AFMPP-PR) will be so notified through the same channels prescribed for submission of requests for determinations and findings. This notification will be made immediately after deciding that the determinations and findings will not be needed; and the determinations and findings will be marked "cancelled" and placed, together with a copy of the letter of notification, in the cancelled PR/MIPR case file.

#### Subpart D—Types of Contracts

1. Section 1003.402 is deleted and the following substituted therefor:

§ 1003.402 Selection of contract type.

Sound procurement requires discriminating choice of the right type of contract. This selective process requires the exercise of judgment to determine the type of contract best suited to each individual negotiated procurement. No absolute rules can be laid down, but there are numerous factors bearing on

## RULES AND REGULATIONS

this problem which should be considered when negotiating an appropriate type of contract. Rigid attitudes or preferences to any one type of contract will be avoided. Preferences or prejudices towards the use of any single type of contract without adequate consideration of the major factors bearing on the selection can result in an inappropriate contract. The factors given in § 2.402 of this title should be carefully weighed and applied to the individual procurement at hand before the type of contract is selected.

2. Section 1003.402-1 is deleted and the following substituted therefor:

§ 1003.402-1 **Obligation of funds.**

The following rules will apply to obligation of funds under each type of contract:

(a) *Firm fixed-price contract.* Obligations will be for the total amount of the contract.

(b) *Fixed-price contract with an escalation, price redetermination or an incentive provision.* Obligations will be for the amount of the fixed price stated in the contract, or the target or billing price in the case of a contract with an incentive clause. For any type of contract having both a target and a ceiling price, obligation will be in the amount of the target price.

(c) *Cost-reimbursement type contracts, time and material contracts, and labor-hour contracts.* Obligations will be for the amount of the total estimated costs or payments shown or provided for in the contract, but not in excess of the maximum current liability shown, including the fixed fee in the case of cost-plus-fixed-fee contracts and the target fee in the case of cost-plus-incentive-fee contracts.

(d) *Letter contracts.* (See § 1003.405-3(c).)

(e) *Basic agreements.* Basic agreements do not create any monetary liability and require no obligation of funds.

(f) *Indefinite delivery type contracts.* Funds are obligated at the time of and to cover each call or order.

3. In § 1003.403-3, the clause in paragraph (j) is deleted and the following substituted therefor:

§ 1003.403-3 **Fixed-price contract providing for the redetermination of price.**

(j) \* \* \*

*Form F (FPR-F) clause. Price redetermination upon happening of specified contingency.*

FORM F CLAUSE

a. Basic assumption: The contractor represents the prices under this contract are on a fixed price basis compiled on the shooting schedule set forth in the approved cost estimated breakdown upon which this contract is awarded and further based on the following assumption (hereinafter called the basic assumption).

1. That no standby time will be required, which is beyond the control and without the fault or negligence of the contractor, due to adverse weather conditions while on shooting location.

2. That no standby time will be required by the contractor due to the unavailability

of Government personnel and equipment or other act by the Government which is beyond the control and without the fault or negligence of the contractor.

b. In the event of the non-realization of the basic assumption, in whole or in part, and as a result the contractor's shooting schedule is exceeded and there is an increased cost to the contractor, the parties agree that an equitable adjustment shall be made in the contract price from that non-realization. It is expressly understood between the parties that the Government shall not pay for the cost of standby time incurred hereunder until the combined actual shooting time plus standby time incurred has exceeded the contractor's shooting schedule; and that an adjustment shall be made for only that portion of increased time cost which (i) exceeds the contractor's approved shooting schedule, and (ii) was incurred as standby time hereunder.

c. Immediately upon the occurrence of standby time or upon completion of the location photography phase, whichever is later, the contractor shall submit a claim in writing for standby time occasioned by the non-realization of the basic assumption to the contracting officer through the Air Force Project Officer, consisting of three copies of an interim report as to the cause of delay, the number of personnel involved, the type of personnel involved and the time involved. The Air Force Project Officer shall attach a letter of transmittal to the contractor's claim setting forth comments, recommendations and/or justification of the contractor's claim. Then, within sixty (60) days after completion of the contract (or within such further period as the contracting officer may in writing allow before the date of final settlement of the contract), the contractor shall submit to the contracting officer, through the Air Force Project Officer, three detailed copies compiling all claims which the contractor may then have for adjustment under this clause, setting forth the fact and extent of such non-realization of the basic assumption together with three copies of a detailed cost breakdown consistent with the breakdown of estimated cost furnished by the contractor in his Request for Proposal upon which this contract is based. The Air Force Project Officer shall attach a letter of transmittal to the contractor's final detailed claim setting forth comments and recommendations to the contracting officer.

d. In the event of the non-realization of the basic assumption resulting in standby time while on location, in determining an equitable adjustment of the contract price, the Government shall allow only the additional direct costs incurred plus a fair and reasonable allowance for General and Administrative Costs.

e. In the event of the non-realization of the basic assumption resulting in standby time in the Producer's Studio, in determining an equitable adjustment of the contract price, the Government shall allow only the additional direct costs incurred plus a fair and reasonable allowance for overhead.

f. The parties agree to negotiate in good faith concerning any claims under this article as to the amount and terms of any equitable adjustment which should be made. If the parties fail to agree whether an equitable adjustment is required under this clause, or upon the terms or amount of such adjustment, the dispute shall be disposed of as a question of fact in accordance with Clause hereof entitled "Disputes."

g. Nothing provided in this clause shall excuse the contractor from proceeding with the contract in accordance with its terms and conditions.

h. Nothing provided in this clause is intended to alter, restrict or limit the terms of Clause 2—Changes—of the General Provisions or the authority of the contracting officer thereunder.

1. Warranty—The contractor represents and warrants that there is not included in the fixed price hereunder any charge, allowance, or reserve for the possible non-realization, in whole or in part, of the basic assumption.

j. Any adjustment hereunder shall be evidenced by a Supplemental Agreement to this contract, between the parties.

k. The contractor agrees not to incur any costs under this Clause which when added to all cost previously incurred under this contract will exceed the total allotted to the contract as set forth in Part I of the Schedule, as amended from time to time, except with the prior approval of the contracting officer.

4. In § 1003.403-4, a new paragraph (a) is added; former paragraphs (a) through (c) are now redesignated (b) through (d), and paragraphs (d) and (e) are deleted and a new paragraph (e) substituted therefor:

§ 1003.403-4 **Fixed-price incentive contracts.**

(a) *Description.* See § 3.403-4(a) of this title.

(e) *Fixed-price-incentive clause (FPIC) with initially firm target.* Section 7.108 of this title applies.

(f) *Fixed-price-incentive clause (FPIS) with successive targets.* No standard clause available.

5. Section 1003.404-2 is deleted and the following substituted therefor:

§ 1003.404-2 **Cost-sharing contract (CS).**

(a) *Description.* See § 3.404-2(a) of this title.

(b) *Applicability.* See § 3.404-2(b) of this title.

(c) *Limitations.* This type of contract is authorized for use by Hq AMC, AMC centers, AMC field procurement activities, ATC, ARDC, and the AF Academy Construction Agency. Other procuring activities are not authorized to use this type of contract.

6. In § 1003.404-3, paragraph (c) (1) to (3) is revised, and paragraph (d) (1) and (2) is added, as follows:

§ 1003.404-3 **Cost-plus-a-fixed-fee contract (CPFF).**

(c) *Limitations.* (1) This type of contract is authorized for use by Hq AMC, AMC centers, AMC field procurement activities, ATC, ARDC, and the AF Academy Construction Agency. AMFPA and AMFEA are allowed this type of contract for limited use as set forth in § 1003.303(g). Other procuring activities are not authorized to use this type of contract.

(2) In no case will the fixed fee exceed the percentages of estimated cost authorized by section 4(b) of 10 U.S.C. 23066(d), and only in most unusual circumstances (usually those involving an outstanding contribution to the defense effort (see § 3.808-4 of this title) in relation to estimated cost) will authority be granted to exceed the percentages set forth in § 3.404-3(c) of this title. To obtain the approval of the Secretary to exceed the prescribed percentages for a fixed fee, the initiating agency will forward a request containing a full state-

ment of facts and recommendations through the Commander, AMC, attn: MCPC, to the Director of Procurement and Production, Hq USAF, attn: AFMPP-PR-2.

The request will contain information pertaining to the type of procurement (research or development, production, architectural or engineering, etc.) need for the supplies or services, estimated total costs, percentage of fixed fee proposed, and all other pertinent information.

(3) For contracts placed by AMC field procurement activities, AMC centers, and Hq AMC, fees within the prescribed limits may be approved by those officials who have been authorized to make findings and determinations to support the use of this type of contract.

(d) *Contractors' investment in work-in-process.* (1) See § 3.404-3(d)(1) of this title.

(2) Unless exception is granted by § 3.404-3(d)(2) of this title, the clause contained in § 7.203-4(b) of this title, appropriately modified, will be incorporated in (i) all new procurements placed on a cost reimbursement basis effected by new contracts, supplemental agreements or otherwise, whether or not involving a basic agreement and (ii) definitive contracts superseding letter contracts. When the definitive contract supersedes a letter contract issued prior to November 1, 1957, November 1, 1957 is the date on which withholding under the clause will be made effective. On such contracts reimbursement for cost incurred prior to November 1, 1957 will be made according to the terms of the contract, exclusive of this clause. Where the letter contract was issued subsequent to November 1, 1957, the date the letter contract becomes effective will be the date on which withholding under the clause will be made applicable. The 20 percent withholding applies to all allowable costs incurred before completion of delivery of the end items governing liquidation of the gross withheld payments pool. After complete liquidation of the gross withheld payments pool, full reimbursement will be made according to the terms of the contract, exclusive of this clause. In administration of prime contracts incorporating this ASPR clause, every effort should be made to insure that prime contractors do not place an undue hardship on their subcontractors (and particularly small business) or restrict unduly subcontractors' abilities to continue production. The ASPR clause will not be added to existing contracts except upon direction of the Office of the Secretary of the Air Force. Requests for exception, contemplated in § 3.404-3(d)(2)(ix) of this title, will be screened by the Financial Branch (MCPZF), Hq AMC. The request, if considered favorably by Hq AMC, must be forwarded through channels to the Assistant Secretary of the Air Force (Materiel) for decision.

7. In § 1003.404-4, a new paragraph (a) is added. Former paragraphs (a), (b), and (c) are redesignated (b), (c),

and (e), respectively. A new paragraph (d) is added.

§ 1003.404-4 **Cost-plus-incentive-fee contract (CPIF).**

(a) *Description.* See § 3.404-4(a) of this title.

(d) *Contractors' investment in work-in-process.* See § 3.404-3(d) of this title.

(e) *Cost-plus-incentive-fee clause (CPIF).* Section 7.203-4(b) of this title applies.

8. In § 1003.405-3, paragraphs (c) (1) and (d) (2) to (4) are deleted and the following substituted therefor:

§ 1003.405-3 **Letter contract (LC).**

(c) *Limitations.* \* \* \*

(1) Subject to the limitations set forth in § 3.405-3 of this title and § 1003.405-3 of this chapter, the authority vested in the Director of Procurement and Production, Hq AMC, to issue letter contracts has been redelegated as indicated below:

(i) Irrespective of dollar amount:  
(a) Commander, Ballistic Missiles Center—AMC, with power of redelegation to the deputy Commander, Ballistic Missiles Center.

(b) Commander, ARDC, with respect to research and development procurements, with power of redelegation.

(c) Commanders of overseas commands, air attachés, and chiefs of AF foreign missions. Oversea commanders may redelegate to not below the level of a staff officer responsible for procurement within the headquarters of the first echelon of command immediately subordinate to the major air command.

(d) Commanders, air materiel forces, with power of redelegation to not below the level of a staff officer responsible for procurement within the headquarters of the first echelon of command immediately subordinate to the air materiel force.

(e) Commander, Air Training Command, with power of redelegation to not below the level of a staff officer responsible for procurement within the headquarters of the first echelon of command immediately subordinate to Air Training Command. The exercise of this authority will be subject to obtaining prior authorization of the Office of the Procurement Committee, Hq AMC, according to the provisions of paragraph (e) of this section.

(ii) Where the total estimated costs are not anticipated to exceed \$1,000,000:

(a) Commanders, air materiel areas (ConUS) and Rome and Dayton AF Depots with power of redelegation to directors of procurement and production only.

(b) Commander, Aeronautical Systems Center—AMC, with power of redelegation.

(c) Chief, Electronics Defense Systems Division, Hq AMC, with power of redelegation to Deputy Chief, Electronics Defense Systems Division.

(d) *Content.* \* \* \*

(2) *Progress payments under fixed price supply or service letter contracts.*

For AF policy concerning use of Progress Payment clauses in letter contracts see Part 1058 of this chapter. Progress Payments at 75 percent of total cost or 90 percent of direct labor and material may be made to small business concerns pursuant to § 1058.302(c) of this chapter. For unusual progress payments see §§ 1058.303(d) and 1058.304 of this chapter. When progress payments are to be provided in a letter contract § 1058.306-4 of this chapter will be complied with. Subparagraph (a)(4) of either clause will be replaced by a provision reading as follows:

(a)(4) The aggregate amount of progress payments made shall not exceed \$-----.

The amount to be inserted in the blank space will be:

(i) *Total cost basis.* The amount represented by the percentage at which progress payments are made of the dollar amount obligated by the letter contract. Illustration: Progress payments are made at 70 percent of total costs; the total estimated cost of the procurement is \$1,000,000; the amount of obligation by the letter contract is \$400,000; the amount to be inserted in the blank space is \$280,000.

(ii) *Direct labor and material basis.* The amount represented by the percentage at which progress payments are made of the percentage of estimated total cost represented by the estimated costs of direct labor and material of the amount obligated by the letter contract. Illustration: Progress payments are made at 90 percent; estimated labor and material cost represent 70 percent of estimated total costs; the amount obligated by the letter contract is \$400,000; the amount inserted in the blank space is \$252,000 (i.e., 63 percent [90 x 70] of the obligated amount).

(3) *Reimbursement under cost-reimbursement type letter contracts.* Current reimbursement may be provided under cost-reimbursement type letter contracts upon request by the contractor. Contract financing policy stated in Subpart A, Part 1058 of this chapter, as it relates to fixed price contracts is equally applicable in principle to cost-reimbursement contracts. Reimbursement will be at a rate not exceeding 70 percent of the contractor's allowable cost or 85 percent of the contractor's direct labor and material cost if desired. Reimbursement at rates of 75 percent of total cost or 90 percent of direct labor and material cost may be made to small business concerns. In each instance where current reimbursement is to be provided a clause must be drafted for inclusion in the letter contract. This clause will include a sentence stating: "In no event shall reimbursement aggregating more than \$----- be made under this letter contract." The figure to be inserted in the blank space will be calculated in the same manner as in paragraph (d)(2) of this section.

(4) Properly authorized letter contracts do not require manual approval, irrespective of dollar amounts, except letter contracts for personal and professional services procured under the authority of Public Law 600 (see § 1003.204).

9. In § 1003.405-5, paragraph (c) (1) is deleted and the following substituted therefor:

**§ 1003.405-5 Indefinite delivery type contracts.**

(c) *Indefinite quantity contract*—(1) *Description.* The clause provided by § 1007.4039 of this chapter will be used as a required clause. The stated minimum quantity of the supplies or services will be in terms of obligated dollars only and will be a part of the contract at the time of execution. The first call (order) on the contract may or may not be included in the original contract. The PCO will determine which alternative serves the Government's best interest. In addition to the specific item(s) included in the first call, if used, the contract may provide contractual coverage for future calls for similar type supplies or services where recurring requirements are anticipated, but specific item requirements are not presently known, provided that the pricing for such calls can be effected by the same method as for the initial specific supplies or services and is so provided in the contract. Except for the obligated amount on the contract, the Government is under no obligation to order any supplies or services during the contract period. After liquidation of the original obligated dollars by calls (orders) all funds are obligated and delivery schedules and quantities are established by each call, not the contract itself. The stated maximum quantity contained in the contract will be the estimated dollar amount of similar supplies or services of the type involved to be procured during the contract period. Such dollar amount will be considered the amount of the contract within the delegation of authority to make awards and execute or approve contracts set forth in § 1001.457 of this chapter.

The present Subpart E is deleted and the following inserted in lieu thereof:

**Subpart E—Advance Payments**

CROSS REFERENCE: For a complete discussion on the policy and procedures covering advance payments see Subpart G, Part 1058 of this chapter. For instructions relating to administration of advance payments see Subpart AA, Part 1054 of this chapter.

**Subpart F—Small Purchases**

1. In § 1003.604, the reference "§ 1003.604-1(d) (1) and (2)" is changed to "§ 1003.604-1(c) (1) and (2)"; paragraph (a) (3) is added; and paragraph (b) (2) to (4) is revised, as follows:

**§ 1003.604 Imprest funds (petty cash) method.**

(a) *Policy.* \* \* \*

(3) The use of Standard Form 1094, "US Government Tax Exemption Certificate," will not be required for payments made in cash through the use of the imprest fund procedure. Cash purchases will be made on a basis inclusive of all taxes except where the vendor is permitted by local or state authorities to use the copy of AF Form 385a as evidence that a local or state tax was not

included in the price to the Government (see § 1003.604-2(a) (3)).

(b) *Definitions.* \* \* \*

(2) "Cash Purchasing Officer." Any officer, warrant officer, airman (not below grade E-5), or civilian under the command or jurisdiction of the base commander who has been appointed cash purchasing officer (imprest fund cashier) and also appointed a cash purchasing agent by competent authority.

(3) "Accounting and Finance Officer." The individual who performs the duties described in paragraph 50318, AFM 170-6.

(4) "Accounting and Disbursing Agent." The individual who performs the duties described in paragraph 50322, AFM 170-6.

2. Section 1003.604-1 is deleted and the following substituted therefor:

**§ 1003.604-1 Conditions for use.**

See § 3.604-1 of this title.

(a) Purchases for each activity, i.e., air installations or base supply, will be considered separate transactions if based upon separate Purchase Requests or other authorized requisition forms used as purchase requests.

(b)-(d) See § 3.604-1(b)-(d) of this title.

(e) A cash purchasing officer has been appointed, is bonded according to the provisions of AFM 173-10, and has been intrusted with funds.

(f) The supplies or services to be procured are authorized for purchase by existing regulations or directives.

(g) The signature of the vendor or his agent can be obtained for each transaction over \$3.

(h) The cost of the item is considered reasonable.

(i) No additional action following payment for the supplies or services and the signing of the receipt by the vendor is required to complete the procurement. Assigning a defense order rating or execution of a hand receipt by the vendor for equipment delivered to him for repair are not considered "additional action."

(1) *Limitation.* Imprest funds will not be used to pay for personal services, to pay transportation charges on bills of common carriers, to cash checks or other negotiable instruments, or for any other payment that is not for authorized small purchases contemplated by these instructions.

(2) *Cash purchasing procedure.* (i) *Requests for procurement.* (a) Requirements will be submitted to the contracting office (or Cash Purchasing Officer at isolated activities without a contracting office) as appropriate.

(b) If a cash purchasing officer who is assigned to a contracting office determines that cash purchase is not appropriate and that the requirement is chargeable against an obligation authority or may be purchased against a blanket purchase agreement, he will turn the requirement over to the contracting officer, who will process it by one of the other prescribed small purchase procedures. If the requirement cannot be charged to an obligation authority or purchased against a blanket purchase

agreement or if a cash purchasing officer who is not assigned to a contracting office determines that cash purchase is not appropriate, the requirement will be returned to the initiating office for submission to the contracting officer as a funded purchase request.

(c) When a contracting officer receives a funded Purchase Request and determines that the supplies listed therein should be procured by cash, he will mark across the face of the Request "appropriate for cash purchase," and effect the procurement by cash if authorized to do so, or forward a copy of the request to a cash purchasing officer who will effect the procurement by cash on the basis of the information contained in the request.

(ii) *Effecting procurement.* (a) The contracting officer, or cash purchasing officer, upon receipt of the requirement, will make the determination, based on paragraph (a) (1) of this section, as to whether the supplies will be purchased by cash. If he decides to purchase by cash, the contracting officer, or cash purchasing officer, will select a source (see § 3.603 of this title) and effect payment in cash upon delivery. At the time of payment, a signed receipt will be obtained from the vendor on AF Form 385, "Cash Purchase Receipt."

(b) At the discretion of the cash purchasing officer, quantities in excess of those requisitioned by the using activity may be procured if the standard unit pack of such item can be purchased more economically than the exact quantity requested. The full unit pack will be accepted by the requisitioning activity.

(3) *Cash purchasing officers*—(i) *Appointment and termination authority.* Any base commander is authorized to appoint any qualified officer, warrant officer, airman (not below Grade E-5), or civilian under his jurisdiction as a cash purchasing officer and to terminate such appointment whether made by him or a predecessor. However, before a base commander may appoint any individual who is not assigned to the contracting office as a cash purchasing officer, prior written approval for assigning cash purchasing functions outside the contracting office must be obtained. When it is necessary to appoint a cash purchasing officer in an activity of one major command which is assigned to a base of another major command for logistical support, but which is geographically located away from the base, such appointment will be made by the base commander of the base to which assigned for logistic support, after securing the necessary prior approval from his major air commander.

(ii) *Appointment and termination orders.* Each appointment and termination of appointment will be made by the base commander in writing, together with special orders or letter orders, which will: (a) Include designation as a cash purchasing officer (imprest fund cashier) and as a cash purchasing agent; (b) identify the name, installation, and accounting and disbursing station number of the accounting and finance officer or accounting and disbursing agent for whom the cash purchasing agent will act; (c) specify the duties and responsibilities



related to the appointment and a statement that the position is covered by Air Force position schedule bond; and (d) cite the maximum amount of cash to be advanced to the cash purchasing officer.

(4) [Reserved.]  
 (5) **Personal responsibility.** (i) Attention is directed to the following sections contained in Title 18, U.S. Code Annotated, crimes and criminal procedure, which provide:

(a) *Sec. 653, Disbursing officer misusing public funds.*

Whoever, being a disbursing officer of the United States, or any Department or agency thereof, or a person acting as such, in any manner converts to his own use, or loans with or without interest, or deposits in any place or in any manner, except as authorized by law, any public money intrusted to him; or, for any purpose not prescribed by law, withdraws from the Treasury or any authorized depository, or transfers, or applies, any portion of the public money intrusted to him, is guilty of embezzlement of the money so converted, loaned, deposited, withdrawn, transferred, or applied, and shall be fined not more than the amount embezzled or imprisoned not more than ten years, or both; but if the amount embezzled is \$100 or less, he shall be fined not more than \$1,000 or imprisoned not more than one year or both.

(b) *Sec. 1001, Statements or entries generally.*

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(c) *Sec. 2073, False entries and reports of moneys or securities.*

Whoever, being an officer, clerk, agent or other employee of the United States or any of its agencies, charged with the duty of keeping accounts or records of any kind, with intent to deceive, mislead, injure, or defraud, makes in any such account or record any false or fictitious entry or record of any matter relating to or connected with his duties; or

"Whoever, being an officer, clerk, agent, or other employee of the United States or any of its agencies, charged with the duty of receiving, holding, or paying over moneys or securities to, for, or on behalf of the United States, or of receiving or holding in trust for any person any moneys or securities, with like intent, makes a false report of such moneys or securities—

Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

(ii) The cash purchasing officer will be responsible for the legality of all payments made by him and personally accountable for any unauthorized payments he may make.

(iii) When the cash purchasing officer is in doubt as to the propriety of any particular purchase he may refer the matter to the base commander who, if he con-

siders the purchase proper, will give specific approval in writing for the purchase before it is made.

(iv) The base commander will be responsible for insuring that sufficient surveillance of the cash purchasing system is maintained to assure that pertinent laws and regulations are observed.

(6) *Request for deviations and interpretations.* Deviations from the requirements of § 1003.604 will be made only by and with the prior approval of the Director of Procurement and Production, DCS/M, Hq USAF, who will be responsible for coordination and clearance of all proposed deviations within the Department of Defense. Requests for deviations or interpretations of § 1003.604 will be sent to Hq USAF through channels including Commander, AMC, attn: MCPC.

3. In § 1003.604-2, paragraph (a) (1) and the sample form are deleted and the following substituted therefor:

**§ 1003.604-2 Documentation.**

(a) *Cash purchase receipt.* AF Form 385, "Cash Purchase Receipt," and AF Form 385a, "Cash Purchase Receipt—Memorandum," April 16, 1956, are authorized for use in lieu of Standard Form 1165. AF Form 385 (original) is available in pads and AF Form 385a is available in pads with interleaved carbon.

(1) AF Form 385 and four copies of AF Form 385a will be prepared, except as provided in subparagraph (3) of this paragraph, using ballpoint pen, indelible pencil, or typewriter, to include the following:

Standard Form No. 1130-Rev.  
 Form prescribed by Comp. Gen., U. S.  
 March 19, 1952  
 General Regulations No. 109  
 ATTACH SUBVOUCHERS HERE

**REIMBURSEMENT VOUCHER**

(For use of Accounting & Finance Officer)  
 D. O. Ven. No. \_\_\_\_\_  
 Bur. Vou. No. \_\_\_\_\_

U. S. Air Force - Accounting & Finance  
 (Department, bureau, or establishment)  
 Payee's name John Doe, Cash Purchasing Agent  
 Mailing address Blank Air Force Base

PAID BY  
 (For use by Accounting & Finance Officer Only)

(AF Form 385)  
 For payments made on account of official business as per attached subvouchers numbers (Insert Number) to (Insert Number), inclusive, for the period (Insert Date), 19\_\_\_\_, to (Insert Date), 19\_\_\_\_, and reclaimed subvouchers numbers (Insert Numbers) → AMOUNT  
 DOLLARS CENTS  
 (Insert Am't.)

STATUS OF FUND	DOLLARS	CENTS
This Voucher	(Insert Am't.)	
Unpaid Reimbursement Voucher Dated		
Unscheduled Subvouchers		
Interim Receipts for Cash		
Cash on Hand		
<b>TOTAL</b>	<b>(Total of Above)</b>	

Differences  
 (For use of Accounting & Finance Officer or Accounting & Disbursing Agent Only)  
 Amount verified; correct for

I certify that the disbursements claimed herein are correct and proper, that payment has not been received, and that the status of the imprest fund for which I am accountable is as stated above.  
 (Signature of Cash Purchasing Agent)  
 (Date) (Imprest Fund Cashier)  
 SIGN ORIGINAL ONLY  
 Title (Cash Purchasing Agent)  
 Number of reimbursement checks desired \_\_\_\_\_  
 in the amounts of (Insert Amounts)

(For Administrative Use)  
 Approved: \_\_\_\_\_  
 (Not to be completed)  
 Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.  
 (For use of Accounting & Finance Officer or Accounting & Disbursing Agent)  
 (Date) Authorized Certifying Officer.  
 SIGN ORIGINAL ONLY

- ACCOUNTING CLASSIFICATION (Appropriation symbol must be shown—other classification optional)  
 (To be completed by Comptroller's Office)
- \* Insert amount of voucher submitted to finance officer for which reimbursement has not as yet been received.
  - \*\* Insert dollar and cents amount of AF Forms 385 on hand for which reimbursement has not been requested.
  - \*\*\* Insert amount of cash in hands of others for which interim receipts are being held.
  - \*\*\*\* Insert amount of cash and checks on hand.

Paid by check(s) on Treasurer of the United States in favor of payee named above No. (s)  
 (For use of Accounting & Finance Officer or Accounting & Disbursing Agent)

(For use of Accounting & Finance Officer or Accounting & Disbursing Agent)  
 Paid by cash, \$ \_\_\_\_\_ ON \_\_\_\_\_ (Date)  
 Payee \_\_\_\_\_  
 SIGN ORIGINAL ONLY

4. Sections 1003.605, 1003.605-1, 1003.-606-1, and 1003.606-2 are deleted and the following substituted therefor:

**§ 1003.605 Order-invoice-voucher method.**

Standard Form 44, "U.S. Government Purchase Order-Invoice-Voucher," is now available in books of 25 sets, five copies each, with interleaved carbon. Approximately May 1, 1959, the form will be available in seven-part, manifold snapout construction with interleaved carbon of light-weight paper which will permit it to be prepared by ballpoint pen or indelible pencil as well as typewriter. Pending availability of the seven-part form, authority is granted to use two additional copies from another set, except that the original or vendor's copy may not be used for this purpose.

**§ 1003.605-1 Limitations on use.**

Additional conditions are hereby added to the conditions set forth in § 3.605-1 of this title, as follows:

(a)-(d) See § 3.605-1 of this title.

(e) Requirement is chargeable against an obligation authority, or the funds for the requirement were committed on the purchase request.

**§ 1003.606 Blanket purchase agreement method.**

**§ 1003.606-1 General.**

The blanket purchase agreement method will be used to the greatest extent practicable. In every case when a request is made, whether orally or by informal memorandum, the applicable request number and name of person placing the request will be furnished the vendor at the time the request is placed in order that he may ascertain that the request is proper against the blanket agreement.

**§ 1003.606-2 Establishment of blanket purchase agreement.**

Notwithstanding the monetary limitations imposed by § 16.303-2(b) of this title, DD Form 1155, "Order for Supplies or Services," will be used to establish the "Blanket Purchase Agreements." The schedule in each blanket purchase agreement will contain a statement to the effect that the issuance of individual requests against the blanket purchase agreement will be made under the authority of 10 U.S.C. 2304(a)(3).

(a) See § 3.606-2(a) of this title.

(b) When individual requests are to be funded against existing obligation authorities, blanket purchase agreement will contain the statement: "Individual requests under this agreement will be charged to an existing obligation authority administered by the contracting officer."

(c) The contracting officer will negotiate with each proposed charge account vendor to obtain a prior understanding of pricing basis for noncompetitive orders (less than \$100). Usually this will be a matter of discount from some recognized list price. The contracting officer will prepare a memorandum for record, briefly outlining understanding of the parties, and will maintain the memorandum in the blanket agreement file. This memorandum

need not be redrawn at the beginning of each blanket purchase agreement period, but should at all times represent the current understanding. Periodic spot checks will be made to assure that billings conform to the understandings.

(d)-(f) See § 3.606-2 (d) through (f) of this title.

(g) In establishing blanket purchase agreements, contracting officers will attempt to induce vendors to provide delivery of supplies purchased thereunder. Vendors should not be expected to make multiple deliveries of small dollar value purchases. However, an agreement wherein vendors would deliver all purchases, in excess of a specified monetary value is considered feasible and advisable.

5. Section 1003.607 is deleted and the following substituted therefor:

**§ 1003.607 Use of Department of Defense or departmental procurement forms.**

Small purchases as defined in § 3.600 of this title will normally be accomplished on AF Form 385 and AF Form 385a, SF44, or DD Forms 1155 and 1155s. When DD Form 1155 and 1155s are used, they will be prepared and processed according to Subpart C, Part 16 of this title and Subpart C, Part 1016 of this chapter. When the procurement necessitates the addition of clauses covering the subject matter of any ASPR clause, other than those set forth on the reverse side of DD Form 1155 or on the face of DD Form 1155s, or in § 6.403 of this title, any appropriate authorized negotiated (two-signature) contract form (e.g., DD Form 351) will be used.

6. Section 1003.651-1 is added, as follows:

**§ 1003.651-1 Applicability of section.**

This section applies to AMC field procurement activities and AF base procurement activities.

7. Section 1003.651-2 is deleted and the following substituted therefor:

**§ 1003.651-2 General.**

(a) All requests to oil companies for credit cards will be made according to Federal Supply Schedule classes 7 and 14 and by a properly appointed contracting officer who will be accountable for all such cards issued to the installation.

(b) The contracting officer will maintain a record of all credit cards received and issued and of the officer having responsibility for each card.

(c) Upon receipt of a written request, credit cards will be issued by the contracting officer to an officer responsible for vehicles (commander, motor vehicle squadron, base motor pool officer, etc.). Such officer will be responsible to the contracting officer for purchases made against credit cards issued to him.

(d) Whenever a purchase is made against a credit card, the individual making the purchase will secure from the service station attendant a copy of the delivery ticket and, immediately upon return from a trip, will turn in such delivery ticket to the officer responsible for the credit card.

(e) The officer responsible for the credit card will immediately review each delivery ticket to insure that it is correct and complete, including identification number of the vehicle and signature of the individual who made the purchase.

(1) If the responsible officer is authorized to hold the credit card for an indefinite period, he will accumulate these delivery tickets and submit them to the contracting officer on the first work day of each month, and, in addition, on the 15th day of June or the first work day thereafter.

(2) If the credit card has been issued for a specific trip, the responsible officer will submit delivery tickets to the contracting officer immediately upon return from the trip.

(f) Copies of delivery tickets will be held by the contracting officer, filed under the name of the appropriate Federal Supply Schedule contractor pending receipt of invoice.

(g) Oil companies will be instructed to submit all invoices for credit card purchases to the contracting office.

(h) To preclude overobligation of funds in connection with credit card purchases, the contracting officer will:

(1) Utilize "obligation authorities," for all purchases made, billed, and processed for payment during the same fiscal year (appropriate action, as determined locally, will be taken to assure that sufficient funds of the obligation authority are available to cover credit card invoices), and (2) initiate action in the month of June of each year to require the accounting activity to record an obligation using AF Form 406 "Miscellaneous Obligation Document" (MOD) in an amount sufficient to cover all purchases made or anticipated to be made during the fiscal year but not billed for prior to the end of that fiscal year. The amount and period of the "MOD" will be governed by local conditions and practices. Factors to be considered are: (i) Uninvoiced delivery tickets, (ii) average monthly expenditures, (iii) average delay between date of purchase and date of billing, and (iv) average time required to process purchases made during a specific monthly period.

(i) Upon receipt of the invoice and supporting delivery tickets, the contracting officer will match the copies of delivery tickets in his suspense files with those attached to the invoice and verify the amount due. Upon verification of the amount due, the contracting officer will prepare a DD Form 1155, "Order for Supplies or Services," under the applicable Federal Supply Schedule contract. The order will cite the current Obligation Authority and proper allotment citation and, if appropriate (when invoice covers purchases made during the current and preceding fiscal years), the allotment citation, number and date of the Miscellaneous Obligation Document established by paragraph (h) of this section. The duplicate delivery tickets will be retained in the files of the contracting officer.

(j) Delivery orders prepared and issued as above will not:

(1) Itemize the supplies and services shown on the invoice, but will merely contain a reference to the contractor's

invoice and amount, less State and local taxes, if any.

(2) Be written for a portion of the invoice amount. (If a discrepancy is discovered, such an error in the amount of the invoice or of the tickets attached, or an unauthorized purchase, such discrepancies will be rectified prior to preparation of the order.)

(3) Be distributed to the contractor (order is for internal Air Force purposes).

(4) Be issued to such organizations as the National Credit Card Association (invoice must be submitted by the oil company concerned).

**Subpart H—Price Negotiation Policies and Techniques**

**§ 1003.805 [Deletion]**

1. Section 1003.805 is deleted.  
2. In § 1003.808-4, paragraph (b) is deleted and paragraphs (b) to (f) are added, as follows:

**§ 1003.808-4 Profit.**

(a) *General.* \* \* \*  
(b)-(e) See § 3.808-4 (b) through (e) of this title.

(f) *Contractor's performance.* Because it is AF policy to reward good performance through application of the incentive approach in its contracting, demonstrably poor performance should result in reduction of profit. This policy may have its most important application in the case of design changes where the contracting officer's review establishes that the change was made necessary by a deficiency in the contractor's design. In this situation, the contracting officer first must determine whether the cost of the change is something the contractor should bear wholly or in part. If the responsibility can be fixed with the contractor and the change negotiated so that the contractor bears at least a part of its attendant cost, the question of profit reduction becomes academic. If however, the responsibility is shared in such a way that it becomes reasonable for the Air Force to pay the cost of the design change, the figure agreed to by the Air Force should include little or no provision for profit.

3. In § 1003.808-5, paragraph (b) is redesignated paragraph (d) and the symbol "MCPPC" in the second sentence therein is changed to "MCPK". Paragraphs (b) and (c) are added, as follows:

**§ 1003.808-5 Subcontracting.**

(b) See Subpart A, Part 1053 of this chapter.

(c) See § 3.808-5 of this title.

4. In § 1003.811, paragraph (b) is deleted and the following is substituted therefor:

**§ 1003.811 Record of price negotiation.**

(b) *Record of contractor's certification.* A written statement is required from the contractor when: (1) A price

negotiation conference is required, (2) price negotiated is based more on the contractor's actual or estimated cost than upon competition, catalog, or market prices, or (3) actual prices on material, actual labor costs, and other actual cost data are available for use at the negotiation conference. The settlement must affirm that all pricing data available have been considered in preparing the proposal and that such data is current. The signed statement, substantially in the following format, will be included in the contract file along with the memorandum of the negotiations.

This is to certify that in the preparation of the proposal for \_\_\_\_\_

(Insert item identification)  
being produced under the terms of Contract No. \_\_\_\_\_

(Insert contract number when applicable)  
(i) all available actual prices on materials, actual labor costs, and other actual cost data have been considered in preparing the price estimate, and made known to the Air Force negotiator for his use in evaluating the estimate and (ii) all significant pricing data being considered in the negotiation conference is current.

The requirement for a contractor's certification of pricing is not to be considered a substitute for careful review and analysis of contractors' proposals by contracting officers, price analysts, and, where appropriate, Government auditors.

5. In § 1003.850-1, paragraph (b) (3) is revised as follows:

**§ 1003.850-1 Pricing of support items.**

\* \* \* \* \*

(b) *Responsibility.* \* \* \* \* \*

(3) Where support items are procured without a provisioning document on other than indefinite quantity contracts, responsibility for final review and acceptance of prices, unless otherwise specified, remains that of the procuring contracting officer (PCO). However, where contractor uses formula method to price support items and administrative contracting officer (ACO) has negotiated a formula for this purpose, ACO will be responsible for recommending prices to PCO. ACO also will write and distribute memorandum of formula negotiations to each AF buying office dealing with the contractor. PCO may accept those recommendations without further analysis or negotiation but he should put a notation in contract file that exhibits were priced using ACO-approved formula.

**Subpart T—Administration of All Types of Price Revision Clauses**

1. Subpart T is deleted.

(Sec. 8012, 70A Stat. 483; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314)

[SEAL] CHARLES M. McDERMOTT,  
Colonel, U.S. Air Force, Deputy  
Director of Administrative  
Services.

[F.R. Doc. 59-6064; Filed, July 22, 1959; 8:49 a.m.]

**Title 7—AGRICULTURE**

**Chapter XI—Agricultural Conservation Program Service, Department of Agriculture**

**PART 1101—NATIONAL AGRICULTURAL CONSERVATION**

**SUBPART—1960**

**Miscellaneous Amendments**

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, Public Law 86-80, Public Law 85-58, Public Law 85-170, and Public Law 85-766, the provisions of §§ 1101.1000 to 1101.1097 of the 1959 National Agricultural Conservation Program (23 F.R. 5247), as amended, shall be effective for the 1960 National Agricultural Conservation Program for the period July 1, 1959, through December 31, 1960, except for the following changes and such other changes as may hereafter be made:

1. For purposes of the 1960 program, references to the years 1958, 1959, and 1960 (except those in § 1101.1005(b)) shall be construed as references to the years 1959, 1960, and 1961, respectively.

2. Paragraph (a) of § 1101.1002 is amended, for purposes of the 1960 program, to read:

**§ 1101.1002 State funds.**

(a) Funds available for conservation practices will be distributed among States on the basis of conservation needs, but the proportion allocated for use in any State shall not be reduced more than 15 percent from its proportionate 1959 distribution. The allocation of funds among the States is as follows:

Alabama	-----	\$6,148,000
Alaska	-----	62,000
Arizona	-----	1,585,000
Arkansas	-----	4,938,000
California	-----	5,879,000
Colorado	-----	3,281,000
Connecticut	-----	492,000
Delaware	-----	332,000
Florida	-----	2,795,000
Georgia	-----	7,378,000
Hawaii	-----	184,000
Idaho	-----	1,831,000
Illinois	-----	8,836,000
Indiana	-----	5,758,000
Iowa	-----	9,680,000
Kansas	-----	8,446,000
Kentucky	-----	7,143,000
Louisiana	-----	4,339,000
Maine	-----	980,000
Maryland	-----	1,292,000
Massachusetts	-----	561,000
Michigan	-----	5,148,000
Minnesota	-----	6,234,000
Mississippi	-----	6,609,000
Missouri	-----	9,097,000
Montana	-----	3,883,000
Nebraska	-----	6,447,000
Nevada	-----	390,000
New Hampshire	-----	539,000
New Jersey	-----	718,000
New Mexico	-----	1,941,000
New York	-----	4,683,000
North Carolina	-----	6,588,000
North Dakota	-----	4,505,000
Ohio	-----	6,088,000

Oklahoma	\$7,357,000
Oregon	2,297,000
Pennsylvania	4,972,000
Puerto Rico	867,000
Rhode Island	82,000
South Carolina	3,642,000
South Dakota	4,693,000
Tennessee	5,220,000
Texas	20,230,000
Utah	1,376,000
Vermont	1,114,000
Virgin Islands	13,000
Virginia	4,570,000
Washington	2,452,000
West Virginia	1,566,000
Wisconsin	5,596,000
Wyoming	2,143,000
Total	211,000,000

### § 1101.1003 [Amendment]

3. Section 1101.1003 is amended, for purposes of the 1960 program, by changing the period at the end thereof to a colon and adding the following: "Provided, That the proportion of the State fund initially allocated to any county for the 1960 program shall not be reduced from the distribution of such fund for the 1958 program year."

### § 1101.1005 [Amendment]

4. Paragraph (b) of § 1101.1005 is amended, for purposes of the 1960 program, by changing the proviso in the third sentence to read: "Provided, however, That notwithstanding other provisions of the 1960 national or State program, no change shall be made in the 1960 program for the county which will have the effect of restricting eligibility requirements or cost-sharing on practices included in either the 1957 or 1958 program for the county, unless such change shall have been recommended by the county committee and approved by the State committee."

(Sec. 4, 49 Stat. 164; 16 USC. 590d. Interpret or apply secs. 7 to 17, 49 Stat. 1148, as amended, 73 Stat. 167, 71 Stat. 176, 71 Stat. 426, 72 Stat. 864; 16 U.S.C. 590g-590o)

Done at Washington, D.C., this 17th day of July 1959.

TRUE D. MORSE,  
Acting Secretary.

[F.R. Doc. 59-6065; Filed, July 22, 1959;  
8:49 a.m.]

[ACP-1959-Alaska, Supp. 2]

## PART 1104—AGRICULTURAL CONSERVATION; ALASKA

### SUBPART—1959

#### Seeding, Planting, or Interplanting Forest Trees or Shrubs or Improvement of a Stand of Forest Trees on Farmland

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959, the 1959 Agricultural Conservation Program for Alaska, approved August 8, 1958 (23 F.R. 6231), as amended February 17, 1959 (24 F.R. 1304), is further amended as follows:

Section 1104.848(a) is amended to read as follows:

(a) *Purpose.* This practice includes (1) thinning, (2) pruning crop trees, (3) removing or killing competing or undesirable vegetation, (4) seeding, planting, or interplanting desirable trees or shrubs, (5) site preparation for natural reseedling, and (6) establishing fire lanes.

(Sec. 4, 49 Stat. 164; 16 U.S.C. 590d. Interprets or applies secs. 7 to 17, 49 Stat. 1148, as amended, 72 Stat. 192; 16 U.S.C. 590g-590q)

Done at Washington, D.C., this 17th day of July 1959.

TRUE D. MORSE,  
Acting Secretary.

[F.R. Doc. 59-6066; Filed, July 22, 1959;  
8:50 a.m.]

## Title 14—AERONAUTICS AND SPACE

### Chapter III—Federal Aviation Agency

[Special Airspace Reg. 1]

#### PART 409—PROCEDURES AND RULES FOR AIRSPACE ASSIGNMENT AND UTILIZATION

##### Report on Utilization of Restricted Areas

Section 307(a) of the Federal Aviation Act of 1958, authorizes and directs the Administrator of the Federal Aviation Agency to develop plans for and to formulate policy with respect to the use of the navigable airspace of the United States, and assign by rule, regulation, or order, the use of such airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace. The Administrator may also modify or revoke assignments of airspace when required in the public interest.

In assuming management of the navigable airspace of the United States, and, in order to carry out the objectives of section 307(a) of the Act, it is the Administrator's view that assignments and allocations of airspace must be subject to continuous reexamination. This can be accomplished only when there is available, accurate and complete information with respect to the past and present utilization of airspace which has been assigned or allocated. In addition there must be sufficient information on which to evaluate the future need therefor.

A large portion of the navigable airspace of the United States is presently set aside for special purposes through the designation of "Restricted Areas" each of which is under the jurisdiction of a "Controlling Agency." However, the Federal Aviation Agency is without complete information as to the nature and volume of past and present operations conducted in these restricted areas, or future requirements. As one of the first steps in establishing a program for the management of the navigable airspace, the Administrator is adopting, as

an interim measure, this Special Airspace Regulation which will provide the Federal Aviation Agency with the requisite data in connection with the utilization of restricted areas. It is anticipated that the data so obtained will furnish the basis for the development of a permanent regulation which will require that such information be furnished periodically.

It is essential that the information required to be submitted by this Special Airspace Regulation be obtained at an early date in order to enable the Federal Aviation Agency to carry out its responsibilities under section 307(a) of the Federal Aviation Act. For this reason, compliance with the notice, procedures and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest.

In consideration of the foregoing, I hereby adopt the following Special Airspace Regulation:

Within 30 days after the effective date hereof, each Controlling Agency of a designated restricted area shall submit a report of the use of such restricted area. Such report shall be submitted in triplicate to the Director, Bureau of Air Traffic Management, Federal Aviation Agency, Washington 25, D.C., and shall contain the following information:

A. For the period of July 1, 1958 through June 30, 1959.

1. Designation number of area.
2. Name of area.
3. Activities presently being conducted in area (be specific).
4. Controlling Agency.
5. User Agencies.
6. Number of aircraft involved in daily operations (average).
7. Types of aircraft normally involved in daily operations.
8. Number of hours area used per day (average).
9. Time daily operations commence and end.
10. Number of days per week of actual operations (average).
11. Altitudes used in daily operations and percent of time used.

(a) Minimum.  
(b) Maximum.  
(c) Normal operating altitudes.

12. Flight operations: Depict the following information on aeronautical charts:

(a) Geographical location of points of ingress to area.  
(b) Aircraft flight paths (if appropriate).  
(c) Type, location and coverage of electronic control equipment.

13. Ground operations: Depict the following information on aeronautical charts:

(a) Geographical location of firing points.  
(b) Maximum range and ordinate altitude of operations in area.  
(c) Per cent of time (daily) maximum range and altitude are utilized.  
(d) Normal ordinate altitude for daily operations.

B. Current Use and Future Requirements.  
A brief resume of pertinent facts concerning present use, future requirements and justification for continued use of the area or any part of it.

Note: Items 6 through 13 should be reported on the basis of actual operations conducted within the restricted area during its period of use as a restricted area. If area is used by other agencies as a restricted area, this information should be obtained from the user agency and identified and included in the report.

This regulation shall become effective August 1, 1959.

(Sec. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on July 17, 1959.

E. R. QUESADA,  
Administrator.

JULY 17, 1959.

[F.R. Doc. 59-6045; Filed, July 22, 1959; 8:46 a.m.]

## Title 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket 7061]

#### PART 13—DIGEST OF CEASE AND DESIST ORDERS

##### Macris & Kaptan

Subpart—*Invoicing products falsely*: § 13.1108 *Invoicing products falsely*: Fur Products Labeling Act. Subpart—*Misbranding or mislabeling*: § 13.1190 *Composition*: Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements*: Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1852 *Formal regulatory and statutory requirements*: Fur Products Labeling Act. Subpart—*Using misleading name—Goods*: § 13.2280 *Composition*: Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Alex Macris and James Kaptan trading as Macris & Kaptan, New York, N.Y., Docket 7061, June 24, 1959]

#### *In the Matter of Alex Macris and James Kaptan, Individually and as Copartners Trading as Macris & Kaptan*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in New York City with violating the Fur Products Labeling Act by setting forth on labels the names of animals other than those producing certain furs and by failing in other respects to comply with the labeling and invoicing requirements.

Following the usual proceedings, the hearing examiner made his initial decision and order to cease and desist which, with slight modification, on June 24 became the decision of the Commission.

The order to cease and desist, as so modified, is as follows:

*It is ordered*, That respondents Alex Macris and James Kaptan, individually and as copartners trading as Macris & Kaptan, or under any other name, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, advertising, or offering for sale in commerce, or in the transportation and distribution in commerce, of fur products, or in connection with the manufacture for sale, sale, advertising, offering

for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur", and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

##### A. Misbranding fur products by:

1. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

2. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations.

3. Setting forth on labels attached to fur products:

(a) Required information in abbreviated form or in handwriting.

(b) Non-required information mingled with required information.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of fur products invoices showing all of the information required to be disclosed by each of the subsections of section 5(b) (1) of the Fur Products Labeling Act.

2. Failing to set forth on each invoice the item number or mark assigned to a fur product.

3. Setting forth on any invoice required information in abbreviated form.

By "Decision of the Commission", etc., report of compliance was required as follows:

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

Issued: June 24, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F.R. Doc. 59-6053; Filed, July 22, 1959; 8:47 a.m.]

[Docket 7439 c.o.]

#### PART 13—DIGEST OF CEASE AND DESIST ORDERS

##### Continental Wool Co. and William Safran

Subpart—*Invoicing products falsely*: § 13.1108 *Invoicing products falsely*: Wool Products Labeling Act. Subpart—*Misbranding or mislabeling*: § 13.1190 *Composition*: Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements*: Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1852 *Formal regulatory*

*and statutory requirements*: Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68-68(c)) [Cease and desist order, William Safran doing business as Continental Wool Co., Brooklyn, N.Y., Docket 7439, June 2, 1959]

#### *In the Matter of William Safran, an Individual Doing Business as Continental Wool Co.*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Brooklyn, N.Y., manufacturer with violating the Wool Products Labeling Act by labeling and invoicing as "wool" and "all wool", woolen stocks which contained a substantial quantity of other fibers and fibers previously woven or felted; and by failing in other respects to comply with the requirements of the Act.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on June 24 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered*, That the respondent William Safran, an individual, doing business as Continental Wool Co., or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of wolen stocks or other wool products, as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein;

2. Failing to securely affix or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products of any non-fibrous loading, filling or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool products into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined

in the Wool Products Labeling Act of 1939.

*It is further ordered*, That the respondent, William Safran, doing business as Continental Wool Co., or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of woolen stocks or other products, in commerce, do forthwith cease and desist from, directly or indirectly: Misrepresenting the constituent fibers of which products are composed, or the percentages thereof, in invoices, shipping memoranda or in any other manner.

By "Decision of the Commission", etc., report of compliance was required as follows:

*It is ordered*, That respondent William Safran, an individual doing business as Continental Wool Co., shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: June 8, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F.R. Doc. 59-6052; Filed, July 22, 1959;  
8:46 a.m.]

## Title 17—COMMODITY AND SECURITIES EXCHANGES

### Chapter II—Securities and Exchange Commission

#### PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

#### PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

#### Adoption of New Registration Form S-14

The Securities and Exchange Commission has adopted certain amendments to Rule 133 under the Securities Act of 1933 and has also adopted a new registration form designated Form S-14 (§ 239.23). Notice of the proposed amendments to Rule 133 was published September 15, 1958, in Securities Act Release No. 3965. After further study of the matter and consideration of the views and comments submitted, the Commission published a revision of the proposed amendments to the rule together with a draft of the proposed Form S-14. All of the views and comments submitted in response to the revised proposals and the proposed registration form were carefully considered by the Commission and certain of the suggestions made are reflected in the amended rule and registration form as adopted by the Commission.

The general purpose of the amendments to Rule 133 is to indicate the

circumstances under which securities distributed by persons receiving them in connection with mergers, consolidations and similar transactions, may be required to be registered under the Act.

The new Form S-14 is designed to provide a simplified registration procedure for securities issued in a Rule 133 transaction where such registration is required and where the issuer has solicited proxies under the Commission's proxy rules with respect to such transaction. The form provides that the prospectus may consist chiefly of the information set forth in the proxy statement and may be in the form of a proxy statement meeting the requirements of the proxy rules. The information thus supplied must be supplemented by the necessary underwriting and distribution data and pertinent information regarding developments in the registrant's business subsequent to the Rule 133 transaction. A copy of Form S-14 is attached hereto.<sup>1</sup>

Rule 133 is amended by designating the existing rule as paragraph (a) and adding to the rule the following new paragraphs (b), (c), (d), (e) and (f):

§ 230.133 "Definition for purposes of section 5 of the act of "sale", "offer", "offer to sell", and "offer for sale".

(b) Any person who purchases securities of the issuer from security holders of a constituent corporation with a view to, or offers or sells such securities for such security holders in connection with, a distribution thereof pursuant to any contract or arrangement, made in connection with any transaction specified in paragraph (a) of this section, with the issuer or with any affiliate of the issuer, or with any person who in connection with such transaction is acting as an underwriter of such securities, shall be deemed to be an underwriter of such securities within the meaning of section 2(11) of the Act. This paragraph does not refer to arrangements limited to provision for the matching and combination of fractional interests in securities into whole interests, or the purchase and sale of such fractional interests, among security holders of the constituent corporation and to the sale on behalf of, and as agent for, such security holders of such number of fractional or whole interests as may be necessary to adjust for any remaining fractional interests after such matching.

(c) Any constituent corporation, or any person who is an affiliate of a constituent corporation at the time any transaction specified in paragraph (a) of this section, is submitted to a vote of the stockholders of such corporation, who acquires securities of the issuer in connection with such transaction with a view to the distribution thereof shall be deemed to be an underwriter of such securities within the meaning of section 2(11) of the Act. A transfer by a constituent corporation to its security holders of securities of the issuer upon a complete or partial liquidation shall not be deemed a distribution for the purpose of this paragraph.

(d) Notwithstanding the provisions of paragraph (c) of this section, a person specified therein shall not be deemed to be an underwriter nor to be engaged in a distribution with respect to securities acquired in any transaction specified in paragraph (a) of this section, which are sold by him in brokers' transactions within the meaning of section 4(2) of the Act, in accordance with the conditions and subject to the limitations specified in paragraph (e) of this section, if such person—

(1) Does not directly or indirectly solicit or arrange for the solicitation of orders to buy in anticipation of or in connection with such brokers' transactions;

(2) Makes no payment in connection with the execution of such brokers' transactions to any person other than the broker; and

(3) Limits such brokers' transactions to a sale or series of sales which, together with all other sales of securities of the same class by such person or on his behalf within the preceding six months, will not exceed the following:

(i) If the security is traded only otherwise than on a securities exchange, approximately one percent of the shares or units of such security outstanding at the time of receipt by the broker of the order to execute such transactions, or

(ii) If the security is admitted to trading on a securities exchange, the lesser of approximately (a) one percent of the shares or units of such security outstanding at the time of receipt by the broker of the order to execute such transactions or (b) the largest aggregate reported volume of trading on securities exchanges during any one week within the four calendar weeks preceding the receipt of such order.

(e) For the purposes of paragraph (d) of this section:

(1) The term "brokers' transactions" in section 4(2) of the Act shall be deemed to include transactions by a broker acting as agent for the account of the seller where (i) the broker performs no more than the usual and customary broker's functions, (ii) the broker does no more than execute an order or orders to sell as a broker and receives no more than the usual or customary broker's commissions, (iii) the broker does not solicit or arrange for the solicitation of orders to buy in anticipation of or in connection with such transactions and (iv) the broker is not aware of any circumstances indicating that his principal is failing to comply with the provisions of paragraph (d) of this section;

(2) The term "solicitation of such orders" in section 4(2) of the Act shall be deemed to include the solicitation of an order to buy a security, but shall not be deemed to include the solicitation of an order to sell a security;

(3) Where within the previous 60 days a dealer has made a written bid for a security or a written solicitation of an offer to sell such security, the term "solicitation" in section 4(2) shall not be deemed to include an inquiry regarding the dealer's bid or solicitation.

(f) For the purposes of this rule, the term "constituent corporation" means

<sup>1</sup> Filed as part of the original document.

any corporation, other than the issuer, which is a party to any transaction specified in paragraph (a) of this section. The term "affiliate" means a person controlling, controlled by or under common control with a specified person.

The foregoing action is taken pursuant to the Securities Act of 1933, particularly sections 2(3), 5, 6, 7, 10 and 19(a) thereof.

Inasmuch as Rule 133 is in the nature of an interpretative rule, and the use of Form S-14 is optional with registrants, the Commission finds that the foregoing amendments and form may be made effective immediately. Accordingly, the foregoing action shall become effective immediately upon publication, July 16, 1959.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 59-6061; Filed, July 22, 1959;  
8:49 a.m.]

## Title 26—INTERNAL REVENUE, 1954

### Chapter I—Internal Revenue Service, Department of the Treasury

#### SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6401]

#### PART 40—MANUFACTURERS AND RETAILERS EXCISE TAXES

##### Taxes on Motor Vehicles and Parts or Accessories Therefor

On November 8, 1958, notice of proposed rule making with respect to regulations under sections 4061, 4062, and 4063 of the Internal Revenue Code of 1954, as amended, relating to the tax imposed on the sale of motor vehicles and parts or accessories therefor was published in the FEDERAL REGISTER (23 F.R. 8728). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted, subject to the changes set forth below which include changes required by section 3(a)(1) of the Tax Rate Extension Act of 1959 (73 Stat. 157).

PARAGRAPH 1. Section 40.4061(a) is revised as follows:

(A) By striking "July 1, 1959" in section 4061(a)(2), and inserting in lieu thereof "July 1, 1960", and

(B) By inserting in the historical note following section 4061(a) "sec. 3(a)(1), Tax Rate Extension Act 1959 (73 Stat. 157)" after "Tax Rate Extension Act 1958 (72 Stat. 259)".

PAR. 2. Paragraph (b)(1)(ii) of § 40.4061(a)-1 is revised by deleting "June 30, 1959" and "July 1, 1959", and by substituting therefor "June 30, 1960" and "July 1, 1960", respectively.

PAR. 3. Paragraph (b)(2) of § 40.4061(a)-1 is revised as follows:

(A) By striking "and the regulations thereunder contained in Subpart M of this part" and inserting in lieu thereof

"as applicable to sales made prior to January 1, 1959", and

(B) By striking "and the regulations thereunder contained in Subpart N of this part" and inserting in lieu thereof "as applicable to sales made prior to January 1, 1959".

PAR. 4. Paragraph (b) of § 40.4061(a)-4 is revised by striking the second and third sentences.

PAR. 5. Section 40.4061(b) is revised as follows:

(A) By striking "July 1, 1959" in section 4061(b), and inserting in lieu thereof "July 1, 1960", and

(B) By inserting in the historical note following section 4061(b) before the bracket at the end thereof"; sec. 3(a)(1), Tax Rate Extension Act of 1959 (73 Stat. 157)".

PAR. 6. Paragraph (b) of § 40.4061(b)-1 is revised as follows:

(A) By deleting "June 30, 1959" and "July 1, 1959", and inserting in lieu thereof "June 30, 1960" and "July 1, 1960", respectively, and

(B) By striking "and the regulations thereunder contained in Subpart M of this part" and inserting in lieu thereof "as applicable to sales made prior to January 1, 1959".

PAR. 7. Section 40.4061(b)-2 is revised as follows:

(A) By striking paragraph (e),

(B) By redesignating paragraph (f) as paragraph (e), and

(C) By deleting "and the regulations thereunder contained in Subpart L of this part" from redesignated paragraph (e)(3).

PAR. 8. Paragraph (e) of § 40.4063-1 is revised by striking "and the regulations thereunder contained in Subpart N of this part" and inserting in lieu thereof "as applicable to sales made prior to January 1, 1959".

PAR. 9. Section 40.4063-2 is revised by striking "and the regulations thereunder contained in Subpart M of this part" and inserting in lieu thereof "as applicable to sales made prior to January 1, 1959".

(Sec. 7805, I.R.C. 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,  
Commissioner of Internal Revenue.

Approved: July 17, 1959.

FRED C. SCRIBNER, Jr.,  
Acting Secretary of the Treasury.

PARAGRAPH 1. Section 40.0-3 of The Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 40) has been amended by striking paragraph (g) and inserting in lieu thereof the following:

(g) *Subpart H.* The regulations in Subpart H of this part, unless otherwise specified in such subpart, relate to:

(1) *Motor vehicles.* Sales made by a manufacturer, producer, or importer on or after September 1, 1955, of motor vehicles and parts or accessories therefor.

(2) *Tires, tubes, and tread rubber.*

[Reserved]

(3) *Gasoline.* [Reserved]

(4) *Lubricating oil.* [Reserved]

[Paragraph 1 is issued under the authority of section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).]

PAR. 2. The regulations as adopted under part I of subchapter A of chapter 32 of the Internal Revenue Code of 1954, as amended, are as follows:

#### SUBPART H—MOTOR VEHICLES, TIRES, TUBES, TREAD RUBBER, GASOLINE, AND LUBRICATING OIL

##### AUTOMOTIVE AND RELATED ITEMS

MOTOR VEHICLES	
Sec.	
40.4061 (a)	Statutory provisions; imposition of tax; automobiles.
40.4061 (a)-1	Imposition of tax.
40.4061 (a)-2	Definitions.
40.4061 (a)-3	Parts or accessories sold on or in connection with chassis, bodies, etc.
40.4061 (a)-4	Sale of automobile bodies and chassis.
40.4061 (b)	Statutory provisions; imposition of tax; parts and accessories.
40.4061 (b)-1	Imposition of tax.
40.4061 (b)-2	Definition of parts or accessories.
40.4061 (b)-3	Rebuilt, reconditioned, or repaired parts or accessories.
40.4062 (a)	Statutory provisions; definitions; certain articles considered as parts.
40.4062 (a)-1	Specific parts or accessories.
40.4062 (b)	Statutory provisions; definitions; sale price of rebuilt parts.
40.4062 (b)-1	Rebuilt parts or accessories sold on an exchange basis.
40.4063	Statutory provisions; exemptions.
40.4063-1	Tax-free sales of bodies to manufacturers.
40.4063-2	Other tax-free sales.

—AUTHORITY: §§ 40.4061 to 40.4063-2, incl., are issued under sec. 7805, I.R.C. 1954, 68A Stat. 917; 26 U.S.C. 7805.

##### AUTOMOTIVE AND RELATED ITEMS

###### MOTOR VEHICLES

§ 40.4061 (a) Statutory provisions; imposition of tax; automobiles.

SEC. 4061. *Imposition of tax—(a) Automobiles.* There is hereby imposed upon the following articles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof) sold by the manufacturer, producer, or importer a tax equivalent to the specified percent of the price for which so sold:

(1) Articles taxable at 10 percent, except that on and after July 1, 1972, the rate shall be 5 percent—

- Automobile truck chassis.
- Automobile truck bodies.
- Automobile bus chassis.
- Automobile bus bodies.
- Truck and bus trailer and semitrailer chassis.
- Truck and bus trailer and semitrailer bodies.

Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

A sale of an automobile truck, bus, truck or bus trailer or semitrailer shall, for the purposes of this paragraph, be considered to be a sale of the chassis and of the body.

(2) Articles taxable at 10 percent except that on and after July 1, 1960, the rate shall be 7 percent—

- Automobile chassis and bodies other than those taxable under paragraph (1).
- Chassis and bodies for trailers and semitrailers (other than house trailers) suitable for use in connection with passenger automobiles.

A trailer of an automobile, trailer, or semitrailer shall, for the purposes of this para-

graph, be considered to be a sale of the chassis and of the body.

[Sec. 4061 (a) as amended by sec. 3 (a) (2), Tax Rate Extension Act 1955 (69 Stat. 15); Act of Aug. 12, 1955 (Pub. Law 379, 84th Cong., 69 Stat. 709); sec. 3 (a) (2), Tax Rate Extension Act 1956 (70 Stat. 66); sec. 203, Highway Revenue Act 1955 (70 Stat. 388); sec. 3 (a) (1), Tax Rate Extension Act 1957 (71 Stat. 9); sec. 3 (a) (1), Tax Rate Extension Act 1958 (72 Stat. 259); sec. 3 (a) (1), Tax Rate Extension Act 1959 (73 Stat. 157). Secs. 203, 211, Highway Revenue Act 1956, substituted "10 percent" for "8 percent" and "July 1, 1972" for "April 1, 1957" in sec. 4061 (a) (1), effective July 1, 1956.]

#### § 40.4061(a)-1 Imposition of tax.

(a) *In general.* Section 4061(a) imposes a tax upon the following articles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof) sold by the manufacturer, producer, or importer thereof:

(1) Automobile truck and bus chassis and bodies;

(2) Truck and bus trailer and semitrailer chassis and bodies;

(3) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer;

(4) Other automobile chassis and bodies; and

(5) Chassis and bodies for trailers and semitrailers (other than house trailers) suitable for use in connection with passenger automobiles.

(b) *Rates and computation of tax.*

(1) Tax is imposed upon each of the above-mentioned taxable articles at the rate applicable on the date on which the article is sold, as specified below:

(i) Automobile truck and bus chassis and bodies, truck and bus trailers and semitrailers, and tractors sold—

	Percent
(a) During the period September 1, 1955, to June 30, 1956, inclusive—	8
(b) During the period July 1, 1956, to June 30, 1972, inclusive—	10
(c) On or after July 1, 1972—	5

(ii) Other automobile chassis and bodies sold—

	Percent
(a) During the period September 1, 1955, to June 30, 1960, inclusive—	10
(b) On or after July 1, 1960—	7

(2) The tax is computed by applying to the price for which the article is sold the rate in effect at the time of the sale. For definition of the term "price", see section 4216 as applicable to sales made prior to January 1, 1959. For provisions relating to credit against the tax under section 4061(a) with respect to tires, inner tubes, and automobile radio and television receivers sold on or in connection with, or with the sale of, articles specified in section 4061(a), see section 6416(c) as applicable to sales made prior to January 1, 1959.

(c) *Liability for tax.* The tax imposed by section 4061 (a) is payable by the manufacturer, producer, or importer making the sale.

(d) *Nonhighway vehicles.* A chassis or body specified in section 4061 (a) (see paragraph (a) of this section) which is not designed for highway use is not subject to the tax imposed by such section. The following are examples of vehicles which are not designed for

highway use, and, therefore, not taxable: Road graders, bulldozers, power shovels, earth movers, farm tractors, motor-driven vehicles designed and adapted for use in pulling or drawing vehicles around the premises of factories and railway stations, and small trucks for handling baggage and trunks at railway stations.

(e) *Trailers.* (1) A trailer or semitrailer chassis or body primarily designed for highway use in combination with a taxable truck, bus, or tractor is subject to the tax imposed by section 4061 (a) (1). Trailers and semitrailers which are suitable for use in combination with passenger automobiles, but which are not house trailers, are subject to the tax imposed by section 4061 (a) (2). A trailer designed for use in combination with a passenger automobile which is to be used for purposes other than living or sleeping, commonly referred to as a "utility trailer", is an example of a trailer taxable under section 4061 (a) (2). The tax attaches even though the trailer or semitrailer may have equipment to perform functions other than in connection with the transportation of property or persons. However, no tax under section 4061 (a) attaches to that part of the selling price of the complete unit which is reasonably attributable to such equipment provided that such part of the selling price is billed separately on the invoice to the customer or can be otherwise established by adequate records.

(2) Examples of trailers and semitrailers subject to the tax imposed by section 4061 (a) (1) are:

(i) General purpose pole trailers, combination pole and cable reel trailers, transformer trailers, machinery trailers, tilt-top implement trailers, reel dollies, pole dollies, and highway logging dollies.

(ii) Low-bed trailers or semitrailers designed for transporting heavy equipment over the highways.

(3) A farm wagon primarily designed for use on farms, although it may be used on the highway, illustrates a type of vehicle which is not a trailer within the meaning of section 4061 (a).

#### § 40.4061(a)-2 Definitions.

For purposes of the regulations in this subpart, unless otherwise expressly indicated:

(a) *Automobile truck.* The term "automobile truck" includes automobile buses, and truck and bus trailers and semitrailers.

(b) *Other automobile.* The term "other automobile" means all automobiles other than automobile trucks, and includes trailers and semitrailers suitable for use in connection with passenger automobiles, but does not include house trailers.

(c) *Tractor.* The term "tractor" means any tractor chiefly used for highway transportation in combination with a trailer or semitrailer.

(d) *Cross references.* For other definitions, see §§ 40.0-2 and 40.7701.

#### § 40.4061(a)-3 Parts or accessories sold on or in connection with chassis, bodies, etc.

The tax attaches in respect of parts or accessories for articles specified in section 4061(a) sold on or in connection

therewith or with the sale thereof at the rate applicable to the sale of the basic article. The tax attaches whether or not the parts or accessories are billed separately. Moreover, if taxable chassis, bodies, or tractors are sold by the manufacturer without parts or accessories which are considered equipment for such articles, the sale of such parts or accessories will be considered, in the absence of evidence to the contrary, to have been made on or in connection with the sale of the basic article even though they are shipped separately at the same time or at a later date. For example, if a manufacturer sells to any person a chassis and the bumpers for such chassis, or sells a taxable tractor and the fifth wheel and attachments, the tax applies to such parts or accessories at the same rate as on the chassis or tractor regardless of the method of billing or the time at which the shipments were made. For the tax applicable to parts or accessories which are not sold on or in connection with the sale of a taxable chassis, body, or tractor, see § 40.4061 (b)-1.

#### § 40.4061(a)-4 Sale of automobile bodies and chassis.

(a) *Sale of complete vehicle.* An automobile truck or other automobile for purposes of the tax consists of two parts, namely, a body and a chassis. The tax applies to the sale by the manufacturer of each. Thus, if the purchaser of a taxpaid chassis attaches to it a body manufactured by him and sells the completed vehicle, he is liable for a tax based on the sale price of the body only. However, the tax attaches to the selling price of the unit unless adequate records are available to show the portion of the total selling price attributable to the body.

(b) *Nontaxable equipment on a chassis.* Special equipment mounted on a taxable chassis which equipment is not primarily designed or adapted as a body for a chassis is not subject to the tax.

(c) *Bodies and chassis which are subject to different tax rates.* If different rates of tax apply to the body and the chassis and the completed vehicle is sold as a unit, the tax is computed at the appropriate rate on the portion of the selling price applicable to each. Thus, if the manufacturer of a truck body installs it on a passenger automobile chassis manufactured by him, the sale of the body and chassis must be recorded and billed separately and the tax is based on the separate sale price of the body and chassis at the rate applicable to each. The respective selling prices of the body and chassis must include all parts and accessories made a part thereof, or attached thereto, or sold in connection therewith. When doubt exists as to whether a part or accessory should be included in the sale price of the body or of the chassis, the rate of tax will be determined according to whether it is customary to sell such part or accessory with bodies or with chassis when bodies or chassis are sold separately.

#### § 40.4061(b) Statutory provisions; imposition of tax; parts and accessories.

Sec. 4061. *Imposition of tax.* \* \* \*

(b) *Parts and accessories.* There is hereby imposed upon parts or accessories (other



than tires and inner tubes and other than automobile radio and television receiving sets) for any of the articles enumerated in subsection (a) sold by the manufacturer, producer, or importer a tax equivalent to 8 percent of the price for which so sold, except that on and after July 1, 1960, the rate shall be 5 percent.

[Sec. 4061 (b) as amended by sec. 3 (a) (2), Tax Rate Extension Act 1955 (69 Stat. 15); sec. 3 (a) (2), Tax Rate Extension Act 1956 (70 Stat. 66); sec. 3 (a) (1), Tax Rate Extension Act 1957 (71 Stat. 9); sec. 3 (a) (1), Tax Rate Extension Act 1958 (72 Stat. 259); sec. 3 (a) (1), Tax Rate Extension Act 1959 (73 Stat. 157)]

**§ 40.4061(b)-1 Imposition of tax.**

(a) *In general.* Section 4061(b) imposes a tax upon parts or accessories (other than tires and inner tubes and other than automobile radio and television receiving sets) for any of the articles enumerated in section 4061 (a) (see paragraph (a) of § 40.4061 (a)-1) sold by the manufacturer, producer, or importer thereof.

(b) *Rates of tax.* Tax is imposed upon parts or accessories for any of the articles enumerated in section 4061 (a) at the rates specified below:

	Percent
(1) Parts or accessories sold during the period September 1, 1955, to June 30, 1960, inclusive.....	8
(2) Parts or accessories sold on or after July 1, 1960.....	5

The tax is computed by applying to the price for which the part or accessory is sold the rate in effect at the time of the sale. For definition of the term "price", see section 4216 as applicable to sales made prior to January 1, 1959.

(c) *Liability for tax.* The tax imposed by section 4061 (b) is payable by the manufacturer, producer, or importer making the sale.

**§ 40.4061(b)-2 Definition of parts or accessories.**

(a) *In general.* The term "parts or accessories" includes (1) any article, the primary use of which is to improve, repair, replace, or serve as a component part of an automobile truck or bus chassis or body, or other automobile chassis or body, or taxable tractor, (2) any article designed to be attached to or used in connection with such chassis, body, or tractor to add to its utility or ornamentation, and (3) any article, the primary use of which is in connection with such chassis, body, or tractor, whether or not essential to its operation or use. However, the term does not include tires, inner tubes, or automobile radio or television receiving sets, since these articles are expressly excluded by section 4061 (b) from the tax. The term "parts or accessories" does include tire valves designed for use on tires or tubes for articles taxable under section 4061 (a). The term "parts or accessories" includes all articles which have reached such a stage of manufacture as to be commonly known as parts or accessories whether or not fitting operations are required in connection with their installation.

(b) *Articles of a general use.* The term "parts or accessories" does not include articles which are not used prima-

rily in the manufacture of automobile trucks, other automobiles, or tractors, but have a general use in the manufacture of various articles. For example, commodities such as ball and roller bearings, bolts, nuts, washers, screws, nails, tacks, rivets, pins, studs, cotters, pipe fittings such as plugs, tees, ells, and elbows, drain cocks, grease cups, oilers, and similar articles are not of themselves parts or accessories. On the other hand, parts for automobile parts or accessories are in themselves taxable unless they are articles of a type not specifically designed for use primarily in the automobile field. For example, the tax applies to the sale of gears, flexible shafts, and flexible housings designed as replacement parts for automotive speedometers, as well as replacement parts for automobile engines, transmissions, differentials, steering mechanisms, timers, windshield wiper motors, and other automobile parts or accessories.

(c) *Materials of a general use.* The term "parts or accessories" also does not include materials such as glass, cloth, leather, matting, linoleum, and materials sold in rolls or by the foot, such as brake lining, tape, binding, wire, cable, metal and rubber tubing, packing, conduit, and similar material. When any such material is cut or otherwise transformed by any person into an automobile part or accessory, tax attaches at the time such part or accessory is sold by such person. However, the tax does not attach with respect to a part or accessory which is cut or transformed from such material pursuant to a customer's order in connection with an immediate repair job and installed by the person who cut such material inasmuch as the transaction is one involving principally labor and material, rather than the sale of a part or accessory.

(d) *Examples of articles taxable as parts or accessories.* Examples of articles which are taxable as parts or accessories are: Automobile air conditioners, baby seats for automobiles, automobile beds, automobile hammocks, automobile clutches, bottle warmers and heating pads designed to operate from an automobile cigarette lighter, automobile radio antennae, automobile license plate frames, automobile clocks, automobile mirrors and mirror brackets, purses for carrying parking meter coins or cases for carrying registration cards when designed for attachment to an automobile; safes primarily designed for use in taxable motor vehicles; electric bulbs primarily designed and adapted for use on automobiles, automobile floor mats, jacks of the mechanical or hydraulic bumper, screw, ratchet, scissors, or other type primarily designed to be carried as accessories in automobiles as distinguished from jacks designed especially for use in garages and repair shops; dollies of the type commonly known as converter dollies which are used as connectors to convert semitrailers to full trailers; tool kits recommended for use with automobiles, automobile seat covers of any construction whether they are ready-made or custom fitted, and fitted truck top covers.

(e) *Cross references.* For provisions relating to the tax imposed upon:

(1) Tires and inner tubes, see section 4071 and the regulations thereunder contained in Subpart H of this part;

(2) Automobile radio and television receiving sets, see section 4141 and the regulations thereunder contained in Subpart J of this part; and

(3) Fare registers and fare boxes for use on buses and automobiles, see section 4191.

**§ 40.4061(b)-3 Rebuilt, reconditioned, or repaired parts or accessories.**

(a) *Rebuilt parts or accessories.* Rebuilding of automobile parts or accessories, as distinguished from reconditioning or repairing, constitutes manufacturing, and the rebuilder of such parts or accessories is liable for the tax imposed by section 4061 (b) with respect to his sales of such rebuilt parts or accessories. Reboring or other machining, rewinding and comparable major operations constitute rebuilding. The person owning the part or accessory being rebuilt is the manufacturer of the article and is liable for the tax on his sale of the rebuilt part or accessory. The tax attaches whether the machining or other operation is performed by the rebuilder himself or by some other person in his behalf. For example, the tax attaches with respect to sales of (1) rebuilt batteries, (2) rebabbitted or machined connecting rods, (3) reassembled clutches after operations such as the resurfacing of clutch plates, (4) rewound armatures, (5) reassembled generators with armatures rewound by or for the person reassembling the generator, (6) reground or remetalized crankshafts, and (7) engines in which blocks are machined (such as cylinders rebored or new sleeves inserted with or without cylinders being rebored) or new blocks installed. For provisions relating to the sale price of rebuilt parts or accessories, see § 40.4062 (b)-1.

(b) *Reconditioned parts or accessories.* The mere disassembling, cleaning, and reassembling (with any necessary replacements of worn parts) of automobile parts or accessories, such as fuel pumps, water pumps, carburetors, distributors, shock absorbers, windshield-wiper motors, brake shoes, clutch disks, voltage regulators, and other parts or accessories, are regarded as reconditioning operations rather than the manufacturing or production of rebuilt parts or accessories. The sale of reconditioned parts or accessories is not subject to tax. Any new taxable parts or accessories produced, or purchased tax free for use in further manufacture, and used as replacements in reconditioning such units are subject to tax when used by the reconditioner.

(c) *Repaired parts or accessories.* The tax does not apply to the amount paid for the repair of automobile parts or accessories for the owner thereof. Repairing consists of the restoration, whether by rebuilding or reconditioning, of an owner's part or accessory to usable condition for his own use rather than for sale. The person who performs the repairing must retain in his possession evidence or documents from which the nontaxable nature of the operation can be ascertained. Any person engaged in

rebuilding parts or accessories for purposes of sale incurs liability for tax with respect to his own use of any part or accessory rebuilt by him for sale.

**§ 40.4062 (a) Statutory provisions; definitions; certain articles considered as parts.**

**Sec. 4062. Definitions—(a) Certain articles considered as parts.** For the purposes of section 4061, spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, any of the articles enumerated in section 4061 (a), shall be considered parts or accessories for such articles, whether or not primarily adapted for such use.

**§ 40.4062 (a)—1 Specific parts or accessories.**

Spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, automobile trucks, other automobiles, tractors, or other vehicles enumerated in section 4061 (a), are considered parts of, or accessories for, such articles whether or not primarily designed or adapted for such use.

**§ 40.4062 (b) Statutory provisions; definitions; sale price of rebuilt parts.**

**Sec. 4062. Definitions. \* \* \***

**(b) Sale price of rebuilt parts.** In determining the sale price of a rebuilt automobile part or accessory there shall be excluded from the price, in accordance with regulations prescribed by the Secretary or his delegate, the value of a like part or accessory accepted in exchange.

**§ 40.4062 (b)—1 Rebuilt parts or accessories sold on an exchange basis.**

The sale price of a rebuilt part or accessory on which the tax is to be computed shall not include the value of a like part or accessory accepted in exchange. The total amount charged in excess of the amount allowed for a like article accepted in an exchange will be the basis for tax. For example, if a rebuilt automobile engine is sold for \$100, plus another automobile engine, the tax on the rebuilt engine will be computed on the basis of \$100.

**§ 40.4063 Statutory provisions; exemptions.**

**Sec. 4063. Exemptions—(a) Specific articles exempt from tax on automobiles.** The tax imposed under section 4061 (a) (2) shall not apply in the case of house trailers or tractors.

**(b) Sales to manufacturers.** Under regulations prescribed by the Secretary or his delegate, the tax under section 4061 shall not apply in the case of sales of bodies by the manufacturer, producer, or importer to a manufacturer or producer of automobile trucks or other automobiles to be sold by such vendee. For the purposes of section 4061, such vendee shall be considered the manufacturer or producer of such bodies.

[Sec. 4063 as amended by sec. 1 (g), Act of Aug. 11, 1955 (Pub. Law 367, 84th Cong., 69 Stat. 690)]

**§ 40.4063—1 Tax-free sales of bodies to manufacturers.**

**(a) Nonapplication of tax.** The tax imposed by section 4061 shall not apply

to bodies sold by the manufacturer thereof to a manufacturer (but not an importer) of automobile trucks or other automobiles to be sold by the purchaser. Thus, a manufacturer of automobile truck bodies or other automobile bodies is permitted to sell such bodies tax free to manufacturers of automobile truck chassis or other automobile chassis. However, there is no similar provision with respect to the sale of an automobile truck chassis or other automobile chassis to manufacturers of automobile truck bodies or other automobile bodies.

**(b) Exemption certificates required.** In order for a body to be sold tax free under section 4063 (b), the vendor must secure and retain in his possession a certificate of the purchaser establishing that the purchaser is a manufacturer of automobile trucks or other automobiles to be sold by him and that the bodies purchased by him tax free are to be used in the manufacture of automobile trucks or other automobiles to be sold by him. A chassis manufacturer who purchases a body tax free under a certificate, as provided in this paragraph, is required to pay tax on his sale of the completed vehicle as the manufacturer of both chassis and body.

**(c) Frequency of certificates.** Where only occasional sales are made by a manufacturer of automobile bodies to a manufacturer (but not an importer) of automobile trucks or other automobiles, a separate exemption certificate should be furnished for each order. However, where sales of automobile bodies are regularly or frequently made to a manufacturer of automobile trucks or other automobiles, a certificate covering all orders for a specified period not to exceed 4 calendar quarters will be acceptable. Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be readily accessible for inspection by internal revenue officers and retained as provided in section 6001 as applicable to sales made prior to January 1, 1959. If the records with respect to any sale claimed to be tax free do not include a proper certificate, with supporting invoices and such other evidence as may be necessary to establish the exempt character of the sale, the tax is payable on such sale.

**§ 40.4063—2 Other tax-free sales.**

For provisions relating to tax-free sales of articles referred to in section 4061, see—

(a) Section 4220, relating to sales or resales to manufacturers for further manufacture;

(b) Section 4222, relating to sales for use as supplies for certain vessels and airplanes;

(c) Section 4224, relating to articles sold for the exclusive use of a State or local government; and

(d) Section 4225, relating to sales for export; as applicable to sales made prior to January 1, 1959.

[F.R. Doc. 59-6073; Filed, July 22, 1959; 8:50 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

### Chapter I—Bureau of Land Management

#### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1909]

[Arizona 017177]

#### ARIZONA

### Withdrawing Lands for Reclamation Purposes, Marble Canyon Project, Arizona

By virtue of the authority vested in the Secretary of the Interior by section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), and subject to valid existing rights, so much of the following described public lands as lies west of the Navajo Indian Reservation is hereby withdrawn in the first form for use by the Bureau of Reclamation in connection with the Marble Canyon Project, Arizona:

#### GILA AND SALT RIVER MERIDIAN

- T. 36 N., R. 5 E. (partly unsurveyed),  
Sec. 2, E½;  
Sec. 10, E½ SE¼;  
Sec. 11, NE¼, E½ NW¼ and SW¼;  
Sec. 15, NE¼, SE¼ NW¼ and S½ SW¼;  
Sec. 21, SE¼ NE¼ and E½ SE¼;  
Sec. 22, NW¼ and S½;  
Sec. 27, All;  
Sec. 28, E½ NE¼.  
T. 37 N., R. 5 E. (partly unsurveyed),  
Sec. 25, SE¼ NE¼, SE¼ SW¼ and SE¼;  
Sec. 35, SE¼ SE¼;  
Sec. 36, NE¼ NW¼, S½ NW¼ and SW¼.  
T. 37 N., R. 6 E. (partly unsurveyed),  
Sec. 4, W½;  
Sec. 5, SE¼ SE¼;  
Sec. 9, W½ and SE¼;  
Sec. 16, NW¼ and W½ SW¼;  
Sec. 17, E½ NE¼, NE¼ SE¼ and S½ SE¼;  
Sec. 19, SE¼ SE¼;  
Sec. 20, NE¼, SE¼ NW¼ and SW¼;  
Sec. 30, NE¼ and W½.  
T. 38 N., R. 6 E. (partly unsurveyed),  
Sec. 1, NE¼, S½ NW¼ and SW¼;  
Sec. 11, E½ SE¼;  
Sec. 12, W½;  
Sec. 13, NW¼;  
Sec. 14, NE¼ NE¼, S½ NE¼ and S½;  
Sec. 15, NE¼ SE¼ and S½ SE¼;  
Sec. 21, SE¼ SE¼;  
Sec. 22, E½, E½ NW¼, NE¼ SW¼ and S½ SW¼;  
Sec. 27, W½ NE¼, E½ NW¼ and SW¼;  
Sec. 33, NE¼, S½ NW¼ and SW¼.  
T. 39 N., R. 6 E. (partly unsurveyed),  
Sec. 36, E½ E½.  
T. 39 N., R. 7 E. (partly unsurveyed),  
Sec. 3, lots 3, 5, and 8;  
Sec. 4, NE¼ SE¼ and S½ SE¼;  
Sec. 9, E½;  
Sec. 16, NE¼, SE¼ NW¼ and SW¼;  
Sec. 20, NE¼ NE¼, S½ NE¼ and SE¼;  
Sec. 21, NW¼ NW¼;  
Sec. 29, NW¼ NE¼, NW¼ and NW¼ SW¼;  
Sec. 30, SE¼ NE¼, NE¼ SW¼, S½ SW¼ and SE¼;  
Sec. 31, W½ W½.

The areas described contain approximately 10,040 acres.

ROGER ERNST,  
Assistant Secretary of the Interior.

JULY 17, 1959.

[F.R. Doc. 59-6054; Filed, July 22, 1959; 8:47 a.m.]

[Public Land Order 1910]

[Fairbanks 020729]

**ALASKA**

**Withdrawing Lands for Use of Department of the Air Force for Military Purposes (Indian Mountain); Revoking Public Land Order No. 1748 of October 21, 1958**

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

1. Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws and the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604) as amended, and reserved for use of the Department of the Air Force for military purposes:

**INDIAN MOUNTAIN AREA**

**TRACT A**

A parcel of land in approximate latitude 66°04' N., longitude 153°41' W., approximately 195 miles northwest of Fairbanks, described as follows:

Beginning at a point from which Triangulation Station "Indian" bears N. 51°57' E., 9,804 feet, thence

North, 11,200 feet, approximately to a point on Latitude 66°05' N.;

East, 11,858 feet along Latitude 66°05' N.;

South, 11,950 feet, approximately;

N. 86°36'54" W., 11,902 feet to the point of beginning.

The tract described contains approximately 3,136 acres.

**TRACT B**

A parcel of land situated along Indian Creek and Utopia Creek, approximately 195 miles northwest of Fairbanks, described as follows:

Commencing at a point, monumented at Latitude 65°59'36.938" N., Longitude 153°41'29.852" W., and designated "Strip No. 1"; thence N. 40°50'51" W., 1,102.60 feet to the point of beginning thence

N. 76°58'55" E., 1,040 feet, approximately to a point on the mean high water line on the right bank of Indian Creek;

Southeasterly, 170 feet, approximately along line of mean high water;

S. 17°11'20" W., 40 feet, approximately;

S. 72°48'40" E., 365.66 feet;

S. 10°19'53" E., 366.28 feet to a point on the north boundary of Claim No. 7 Below Discovery;

S. 51°20'43" W., 761.02 feet along said boundary;

S. 77°11'31" W., 3,665.31 feet;

S. 7°51'10" E., 94.54 feet;

S. 28°18'39" W., 225.71 feet;

S. 79°23'46" W., 570.49 feet;

N. 10°36'04" W., 1,464.94 feet;

N. 79°25'27" E., 3,683.65 feet to the point of beginning.

The tract described contains 130.25 acres.

2. Public Land Order No. 1748 of October 21, 1958, which reserved the following-described public lands for use of the Department of the Air Force for military purposes, is hereby revoked:

**INDIAN MOUNTAIN SITE**

Beginning at a point from which U.S.C. & G.S. Triangulation Station "Indian" bears N. 51°57' E., 9,804 feet, thence North, 17,838 feet;

East, 11,858 feet;  
South, 18,540 feet;  
N. 86°36'54" W., 11,902 feet to the point of beginning.

The tract described contains 4,951.45 acres.

3. The lands released by this order are all the lands described in paragraph 2 except those described in paragraph 1.

4. The State of Alaska has waived the preference rights of application under section 6(g) of the act of July 7, 1958 (72 Stat. 339), and under section 202b of the act of July 28, 1956 (70 Stat. 709, 711; 48 U.S.C. 46-3b).

5. At 10:00 a.m. on August 22, 1959, the released lands shall, subject to valid existing rights and to the provisions of existing withdrawals be open to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a) as amended, and to settlement under the homestead laws and the homesite act of May 26, 1934 (48 Stat. 809; 48 U.S.C. 461) only, and to those forms of appropriation only by qualified veterans of World War II and the Korean Conflict for whose services recognition is granted by the act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284) as amended, and by other qualified persons entitled to credit for service under the said act. Commencing at 10:00 a.m. on November 21, 1959, any of such lands not settled upon by veterans or other persons entitled to credit for service shall become subject to settlement and other forms of appropriation by the public generally in accordance with appropriate laws and regulations.

The released lands shall be open to location under the United States mining laws, and to applications and offers under the mineral leasing laws at 10:00 a.m. on November 21, 1959.

Inquiries concerning the land shall be addressed to the Manager, Land Office, Bureau of Land Management, Fairbanks, Alaska.

ROGER ERNST,

*Assistant Secretary of the Interior.*

JULY 17, 1959.

[F.R. Doc. 59-6055; Filed, July 22, 1959; 8:47 a.m.]

[Public Land Order 1911]

[Montana 032160]

**MONTANA**

**Partially Revoking Departmental Order of September 2, 1955 (Missouri River Basin Project)**

By virtue of the authority vested in the Secretary of the Interior by section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

1. The departmental order of September 2, 1955, which withdrew lands in Montana for reclamation purposes in the first form in connection with the Missouri River Basin Project, is hereby revoked so far as it affects the following-described land:

**PRINCIPAL MERIDIAN**

T. 31 N., R. 14 E.,  
Sec. 9, lot 4.

The area described contains 10.45 acres.

2. The State of Montana has waived the preference right of application granted to it by subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

3. The land is located in Hill County approximately three miles northeast of Laredo, Montana and one-half mile from a country road. It is gently rolling and supports a vegetative cover of native grasses.

4. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

5. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284 as amended), presented prior to 10:00 a.m. on August 22, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a.m. on November 21, 1959, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral-leasing laws. They will be open to location under the United States mining laws beginning at 10:00 a.m. on November 21, 1959.

6. Persons claiming veterans' preference rights must enclose with their ap-

plications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Billings, Montana.

ROGER ERNST,  
Assistant Secretary of the Interior.

JULY 17, 1959.

[F.R. Doc. 59-6056; Filed, July 22, 1959;  
3:47 a.m.]

## Title 39—POSTAL SERVICE

### Chapter I—Post Office Department

#### PART 4—INFORMATION ON POSTAL MATTERS

#### PART 31—STAMPS, ENVELOPES, AND POSTAL CARDS

#### PART 35—PHILATELY

#### Miscellaneous Amendments

Regulations of the Post Office Department are amended as follows:

I. Section 4.1 *Inquiries* is amended to read as follows:

#### § 4.1 Inquiries.

Inquiries in regard to mail should be made to your postmaster

NOTE. The corresponding Postal Manual section is 114.1.

(R.S. 161, as amended, 396, as amended; 5 U.S.C. 22, 369)

#### § 4.2 [Amendment]

II. In § 4.2 *General postal publication*, as amended by Federal Register document 59-30, 24 F.R. 55, make the following changes:

A. In paragraph (f) strike out "\$1.00 a copy" and insert in lieu thereof "(75 cents a copy)".

B. In paragraph (g) strike out "Distribution: one copy to each first-class office" and insert in lieu thereof "(No distribution made to post offices)".

C. Paragraph (i) is amended to read as follows:

(i) "Postage Stamps of the United States, 1847-1957", lists all issues of stamps from the first adhesive stamp, issued in 1847, through the Flushing Remonstrance Commemorative Stamp, issued December 27, 1957. It contains an illustration of each stamp and gives detailed information on each stamp as well as miscellaneous historical information on stamps. (\$1 a copy.) (Supplement 1, including stamps issued to December 31, 1958, 15 cents a copy.) (No general distribution made to post offices.)

NOTE: The corresponding Postal Manual section is 114.2.

(R.S. 161, as amended, 396, as amended; 5 U.S.C. 22, 369)

#### § 31.1 [Amendment]

III. In § 31.1 *Postage Stamps (adhesive)*, paragraph (a) is amended to read as follows:

(a) *Adhesive stamps available.*

Purpose	Form	Denomination and prices
Ordinary postage.....	Single or sheet.....	½, 1, 2, 2½, 3, 4, 4½ through 10 cents; 12, 15, 20, 25, 30, 40, and 50 cents; \$1 and \$5.
	Book.....	24 4-cent; 97 cents.
	Coil of 100.....	4 cents. (Dispenser to hold coils of 100 4-cent stamps may be purchased for 5 cents additional.)
	Coils of 500 and 3,000.....	1, 2, 3, 4, and 4½ cents.
Commemorative stamps.....	Single or sheet.....	Various denominations as announced.
Airmail postage (for use on airmail only). (See § 31.1(b) of this chapter.)	do.....	5, 7, 10, 15, and 25 cents.
	Book.....	12 7-cent; 85 cents.
	Coils of 500 and 3,000.....	7 cents.
Precanceled postage.....	Coils and sheets.....	Available on special order to permit holders only. (See part 32 of this chapter.)
Postage-due (for post office use only).	Single or sheet.....	½, 1, 2, 3, 4, 5, 6, 7, 8, 10, 30, and 50 cents; \$1 and \$5. (Available to public for stamp collections only through the Philatelic Sales Agency, Post Office Department, Washington 25, D.C.)
Special delivery. (See part 60 of this chapter.)	do.....	30 cents. Good only for special-delivery fee.

NOTE. The corresponding Postal Manual section is 141.41.

(R.S. 161, as amended, 396, as amended, 3914, 3915, as amended, 3916, as amended; 5 U.S.C. 22, 369; 39 U.S.C. 351, 354, 356)

#### § 31.2 [Amendment]

IV. In § 31.2 *Plain envelopes, postal cards, and air letter*, the second column headed "Size" in the table of paragraph (a) (1), as amended by Federal Register document 59-361, 24 F.R. 365, is further amended to read "Size and Number."

NOTE. The corresponding Postal Manual section is 141.211.

(R.S. 161, as amended, 396, as amended, 3914, 3915, as amended, 3916, as amended; 5 U.S.C. 22, 369; 39 U.S.C. 351, 354, 356)

on historical places, events, or personages. Widespread use of these stamps by the American public is encouraged by the Department in order that our ideals, progress, and heritage, as reflected in our stamps, are carried throughout the world. They do not displace regular stamps of like denomination, but are provided on request, if available.

(b) *Commemorative stamp supplies.* Postmasters shall carefully evaluate the demand for new stamp issues and shall forward a separate requisition for adequate stocks in accordance with notices which appear in the Postal Bulletin, so that stock will be available at all post offices on the day following official first-day sale. Regional distributing offices shall make certain stamps are supplied to post offices in time to permit sales the day after the official first-day sale.

(c) *Sale of commemorative stamps.* Commemorative stamps will be sold to meet the public demand until supply is exhausted, as follows:

(1) *Philatelic window service.* In post offices where full or part-time philatelic window service is provided, the sale of plate numbers and marginal markings shall be restricted according to the instructions outlined by the Philatelic Sales Agency. When notice is published in Postal Bulletin of removal of a stamp from sale in the Philatelic Sales Agency, the item will be immediately withdrawn from the philatelic window of post offices and the stock sold for regular postage purposes.

(2) *Plate number blocks.* Plate number blocks are the stamps (usually requested in blocks of four) located on one corner of a sheet of stamps with a plate number printed on the margin. Stamp clerks must not remove plate number blocks in advance from a large number of sheets for the benefit of individual purchasers. Plate blocks may be laid aside, however, as sheets are broken for regular sale purposes and may be sold as an accommodation to local stamp collectors.

(3) *Outside sales of commemorative stamps.* Postmasters shall not accept mail orders for postage stamps from patrons outside the limits of the area served by their post office, and any such requests shall be returned to the sender calling attention to the services provided by the Philatelic Sales Agency, Post Office Department, Washington 25, D.C.

#### § 35.2 The philatelic sales agency.

(a) *Establishment and purpose.* The Philatelic Sales Agency was established on November 25, 1921, to make available to stamp collectors United States postage stamps of selected quality. Stamps sold by the Agency are the best available, having been selected for good centering, and freedom from tears and other flaws.

(b) *Stamps available.* In addition to stamps of the ordinary series, the Agency has for sale commemorative, airmail, special delivery, special handling, postage-due, and migratory-bird hunting stamps. To get a list of items available for sale, send a self-addressed stamped envelope with your request to the Philatelic Sales Agency, Post Office Department, Washington 25, D.C. The list is

Part 35 Philately, is amended to read as follows:

- Sec.  
35.1 Commemorative stamps.  
35.2 The philatelic sales agency.  
35.3 New stamp issue.  
35.4 Cancellations for philatelic purposes.  
35.5 Inaugural covers.  
35.6 Stamp exhibits.  
35.7 Stamp booklet.

AUTHORITY: §§ 35.1 to 35.7 issued under R.S. 161, as amended, 396, as amended; 5 U.S.C. 22, 369.

#### § 35.1 Commemorative stamps.

(a) *Description.* Commemorative stamps are postage stamps issued in limited quantities to focus attention

revised when a new stamp is announced or an old one withdrawn.

(c) *Order for stamps.* All stamps are for sale at face value plus postage and handling charges listed below, for mail orders where domestic rates apply:

1-49 stamps.....	\$0.05
50-400 stamps.....	.10
401-1,000 stamps.....	.20
1,001-3,000 stamps.....	.40
3,001-5,000 stamps.....	.70
5,001-10,000 stamps.....	1.20
10,001-35,000 stamps.....	3.00
Over 35,000 stamps.....	5.00

A flat charge of 50 cents will be made on each order for registration, regardless of value, where this protection is desired. All mail orders will be returned by official permit mail, and postage stamps will not be affixed to covering envelopes. Address your order to Philatelic Sales Agency, Post Office Department, Washington 25, D.C.

(d) *Remittance.* Remittance should be by money order, cashier's check, or certified check payable to Philatelic Sales Agency. Postage stamps, and foreign or mutilated money are not acceptable. If you send cash, it is suggested that you register your letter.

§ 35.3 New stamp issues.

(a) *Notification.* Issuance of new stamps is announced by notices displayed in the lobbies of post offices, and through the press and philatelic periodicals.

(b) *First-day sale.* A post office selected because of some historical connection with the person or event commemorated is authorized to have exclusive sale of a new stamp on its first day of sale. All other post offices may sell the stamp the following day.

(c) *First-day covers.* (1) First-day covers are envelopes bearing a new stamp canceled on its first day of sale with a special die reading First Day of Issue, and a pictorial cancellation adding an interpretation of the meaning of the stamp, as illustrated below. If you want first-day cancellations of a new stamp, send addressed envelopes to the postmaster in the city where the new stamp is to be placed on sale, with remittance to cover the cost of stamps. (See § 35.1(d) of this chapter.)

(2) Cover envelopes should be of ordinary letter size and each must be properly addressed. Place an enclosure of postal card thickness in each envelope, and either turn in the flap or seal it. Endorse the envelope, enclosing the covers to the postmaster, First-Day Covers. Put a pencil notation in the upper right corner of each cover to show the number of postage stamps to be stuck there.

(3) With orders for first-day covers, do not include requests for uncanceled stamps.

(4) The Philatelic Sales Agency does not service first-day covers.

§ 35.4 Cancellations for philatelic purposes.

(a) *How stamps are canceled.* Postmasters will cooperate with stamp collectors by furnishing clean and legible postmarks, and they will give special attention to mail bearing an endorsement that it is of philatelic value or to a request for a light cancellation. Stamps must be canceled sufficiently to protect the postal revenue but this should be accomplished without excessive defacement, and with a minimum number of impressions.

(b) *Plain cards or slips of paper.* Postmarks will not be placed on plain slips of paper or plain cards (including those bearing postage stamps representing less than a lawful rate of postage) submitted for philatelic or other purposes.

(c) *Picture post cards (maximum cards).* Picture post cards with the stamp stuck on the face of the card rather than on the address side are known as maximum cards. Postmasters may cancel these cards and hand them back to the person presenting them. Maximum cards are considered to be collectors' items and must be given special care in cancelling.

§ 35.5 Inaugural covers.

(a) *Cachets authorized.* Official cachets are usually authorized when airmail service is inaugurated on a new airmail route, segment of a new route, or at a new stop point on an existing route, and when new highway post office routes are established. Notice of the new serv-

ice is published in the Postal Bulletin as far in advance by the inaugural date as practicable.

(b) *How to get inaugural cachets.* Send covers to receive inaugural cachets to the postmaster at the office where service is to be inaugurated. Include a letter requesting the postmaster to hold the covers for the inaugural service and to apply the cachet. After cachets have been applied, all covers will be transported to a designated post office for backstamping and then forwarded to their destinations.

(c) *How to prepare inaugural covers.*

(1) Covers should bear postage at the airmail rate for first-flight cachets or at the first-class rate for highway post office service cachets.

(2) Put an enclosure of medium weight in each envelope to obtain a better impression.

(3) Leave 1½ inches of clear space to the left of the innermost postage stamp or 4 inches to the left of the right edge of the cover, whichever is greater, for application of the postmark impression. Also allow a clear space of 2½ by 2½ inches to the left of the address and postmark area for application of the cachet. Cachets will not be applied if their application would overlap the postmark, nor will they be applied to the reverse side of the cover.

(4) *Restrictions.* Double postal cards and double post cards intended for return reply purposes are not acceptable for inaugural covers. No provision is made for point-to-point covers.

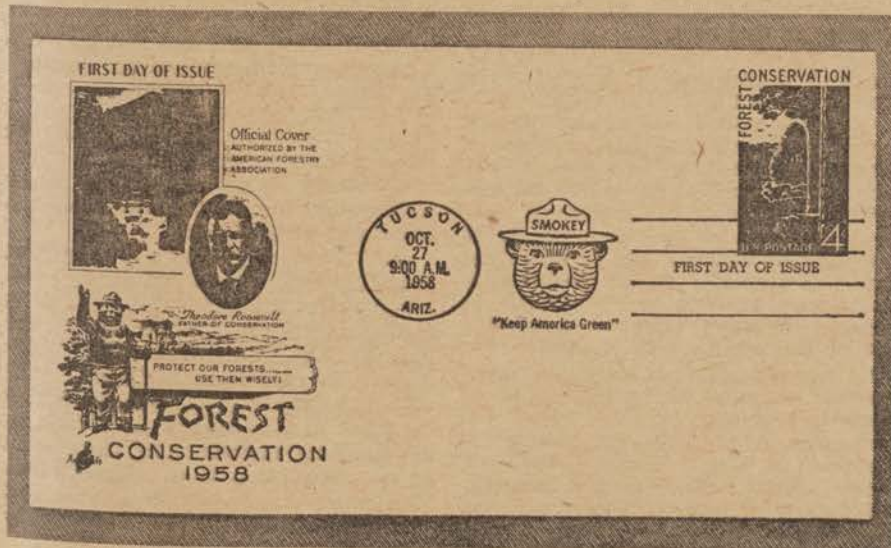
§ 35.6 Stamp exhibits.

(a) *Loan exhibits.* The Post Office Department has a set of valuable stamp exhibit frames which are available for display at stamp exhibitions and conventions. These are sent upon request national and international exhibits as well as to the conventions of the larger stamp societies. Requests should be addressed to the Special Assistant to the Postmaster General, Post Office Department, Washington 25, D.C.

(b) *Philatelic exhibit.* The Office of the Special Assistant to the Postmaster General maintains a comprehensive exhibit of United States postage stamps, containing die proofs of all domestic stamps since 1847. There are also approximately 40,000 stamps of other countries in this exhibit, from every postal administration in the world. Equipment used in the production of postage stamps, such as a plate and transfer roll, is shown to illustrate methods of manufacture. Philatelic publications are on file for the benefit of students and collectors.

§ 35.7 Stamp booklet.

The Post Office Department publishes a booklet entitled Postage Stamps of the United States, containing reproductions and information of interest to collectors on all United States stamps issued from 1847 to the latest revision date. The booklet, which is revised from time to time, and an annual supplement may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D.C.



NOTE: The corresponding Postal Manual Part is 145.

[SEAL] HERBERT B. WARBURTON,  
General Counsel.

[F.R. Doc. 59-5996; Filed, July 22, 1959;  
8:45 a.m.]

## Title 50—WILDLIFE

### Chapter I—Fish and Wildlife Service, Department of the Interior

#### SUBCHAPTER F—ALASKA COMMERCIAL FISHERIES

#### PART 109—COOK INLET AREA

##### Closed Waters

*Basis and purpose.* The important red salmon run into Fish Creek, tributary to Knik Arm in upper Cook Inlet, is being severely decimated by unduly heavy sport fishing pressure within the stream. Because of the present ready accessibility

of Fish Creek to the city of Anchorage, complete closure is required to prevent annihilation of the run.

Therefore, § 109.92 is amended by adding a new paragraph designated (c) to read as follows:

##### (c) Fish Creek.

Since immediate action is necessary if this closure is to accomplish its intended purpose, notice and public procedure on this amendment are impracticable and it shall become effective immediately upon publication in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.).

(Sec. 1, 43 Stat. 464, as amended; 48 U.S.C. 221)

Dated: July 21, 1959.

A. W. ANDERSON,  
Acting Director,  
Bureau of Commercial Fisheries.

[F.R. Doc. 59-6096; Filed, July 21, 1959;  
4:16 p.m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

##### [7 CFR Part 1028]

[Docket No. AO-314]

#### MILK IN CENTRAL ILLINOIS MARKETING AREA

##### Notice of Hearing on Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Illinois Hotel, 207 West Jefferson Street, Bloomington, Illinois, beginning at 10:00 a.m., on August 11, 1959, with respect to a proposed marketing agreement and order, regulating the handling of milk in the Central Illinois marketing area.

The public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof; and for the purpose of determining (1) whether the handling of milk in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce, (2) whether there is need for a marketing agreement or order regulating the handling of milk in the area, and (3) whether provisions specified in the proposals or some other provisions appropriate to the terms of the Agricultural Marketing Agreement Act of 1937, as amended, will tend to effectuate the declared policy of the Act.

The proposals, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Pure Milk Association, Chicago, Illinois:

Proposal No. 1 (Proposed Marketing Agreement and Order).

##### DEFINITIONS

##### § 1028.1 Meaning of terms.

(a) "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department" means the United States Department of Agriculture, or such other Federal agency authorized to perform the price reporting functions specified in this part.

(d) "Person" means any individual, partnership, corporation, association, or other business unit.

(e) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines; (1) to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and (2) to have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

(f) "Central Illinois marketing area" hereinafter called the "marketing area" means all of the territory within the boundaries of the following counties in the State of Illinois: McLean, Tazewell, Peoria, DeWitt, Piatt, Macon, Moultrie, Marshall, Scott, Fulton, Shelby, Morgan, Cass, Coles, Knox, Menard, Logan, Mason, Champaign, Woodford, Vermil-

ion, Stark, Iroquois, Ford, Livingston, Pike, Effingham, Douglas, Cumberland, Edgar, Clark, Kankakee, Grundy, LaSalle, Putnam, Bureau, Warren, McDonough, Schuyler and Brown, and including all territory wholly or partially within such boundaries which is occupied by Government (Municipal, State or Federal) installations, institutions or other establishments.

(g) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor from a plant store, or to a vending machine) of any item of Class I milk pursuant to § 1028.41 other than to a plant.

(h) "Plant" means the entire land, building, surroundings, facilities and equipment, whether owned or operated by one or more persons, maintained and operated at the same location primarily for the receiving, processing or other handling of milk or milk products. This definition shall not include any building, premises, facilities or equipment used primarily to hold or store bottled milk or milk products in finished form in transit for wholesale or retail distribution on routes.

(i) "Reload point" means any location at which milk moved from the farm in a tank truck is commingled with other milk before entering a plant, except that reloading operations on the premises of a plant shall be considered a part of the plant's operations.

(j) Subject to § 1028.61, "Pool plant" means: (1) Plant, other than the plant of a producer handler, in which milk is processed and packaged and from which not less than 25 percent of its total disposition of Class I milk during the month is made within the marketing area on a route(s); *Provided*, That the total quantity of Class I milk disposed of from such plant during the month either inside or outside the marketing area is not less than 50 percent of such plant's total receipt of milk eligible for sale in fluid form as Grade A milk within the marketing area; or (2) any plant or reload point from which during each of the months August through January 50 percent or more, and for the months of February through July 25 percent or more, of its total receipts for such month from farms of skim milk and butterfat eligible for sale in fluid form as Grade A milk within the marketing area is delivered to a plant(s) which has qualified pursuant to subparagraph (1) of this paragraph.

(k) "Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant.

(l) "Dairy farmer" means any person with respect to milk of his own production delivered to a plant.

(m) "Producer" means any person, except any person as defined in paragraph (o) of this section and any dairy farmer who is a producer under another Federal order, who produces milk eligible for sale in fluid form as Grade A milk within the marketing area which milk is delivered to a pool plant or diverted by a cooperative association for the account of the association to a nonpool plant. *Provided*, That any such milk so diverted shall be deemed to have been received by the cooperative association at the loca-

tion of the plant from which it was diverted.

(n) "Handler" means (1) any person who during the month operates a pool plant, or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area on a route(s), or (2) a cooperative association which diverts milk of its members from a pool plant to a nonpool plant.

(o) "Producer handler" means any person who processes milk from his own farm production, distributing all or a portion of such milk within the marketing area as Class I milk but who receives no other source milk or milk from other producers.

(p) "Producer milk" means only that skim milk and butterfat contained in milk which during the month was (1) received at a pool plant directly from producers, or (2) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in paragraph (m) of this section.

(q) "Other source milk" means all skim milk and butterfat contained in (1) receipts during the month in the form of products designated as Class I milk except producer milk and fluid milk products received from other pool plants, and (2) products designated as Class II milk from any source, except pool plants, which are repackaged, reprocessed or converted to another product in the plant during the month.

#### MARKET ADMINISTRATOR

##### § 1028.10 Designation.

The agency for the administration of this order shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

##### § 1028.11 Powers.

The market administrator shall have the following powers with respect to this order:

- (a) To administer its terms and provisions;
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations; and
- (d) To recommend amendments to the Secretary.

##### § 1028.12 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

- (a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;
- (b) Employ and fix the compensation of such persons as may be necessary to

enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds received for expense of administration, (1) the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred for marketing services, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this order, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose to handlers and producers, at his discretion, the name of any handler who, after the date on which he is required to perform such acts, has not made reports or payments as required under the order.

(g) Submit his books and records to examination by the Secretary, and furnish such information and reports as may be requested by the Secretary;

(h) Upon request, report, on or before the 15th day after the end of each month, to each cooperative association:

(1) The percentage of milk which was caused to be delivered by such association or by its members and which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in such class, and

(2) The percentage relationship which the total pounds of producer milk bears to the total pounds of milk classified in Class I, exclusive of skim milk or butterfat disposed of to another handler or to a nonpool plant, during each month for each handler to whom any producer milk was caused to be delivered by the cooperative association or by its members during each month.

(i) Verify all reports and payments of each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat from such handler depends;

(j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this order; and

(k) Publicly announce, by posting in his office and by other means he deems appropriate, on or before:

(1) The 5th day of each month, (i) the minimum price for Class I milk and Class I butterfat differential, both for the current month, and (ii) the minimum price for Class II milk and the Class II butterfat differential, both for the preceding month;

(2) The 11th day after the end of each month, the uniform price and the producer butterfat differential.

#### REPORTS, RECORDS AND FACILITIES

##### § 1028.20 Reports of receipts and utilization.

On or before the 8th day after the end of each month, each handler, except a producer-handler, shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in all receipts at each of his pool plants of (1) producer milk, including a handler's own farm production, (2) skim milk or butterfat in any form from pool plants, and (3) other source milk;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraphs (a) and (b) of this section, including a separate statement of disposition of Class I milk outside the marketing area;

(c) Inventories of products in fluid form on hand at the beginning and end of the month;

(d) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received;

(e) Name and address of each producer who discontinued deliveries of milk, and the date on which milk was last received from such producer; and

(f) Except as provided in paragraph (a) of this section, each handler who operates a nonpool plant shall report to the market administrator his total receipts of milk, his utilization of milk and milk products, including as a separate figure the quantity disposed of within the marketing area on routes, and such other information as the market administrator may prescribe.

##### § 1028.21 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator as follows:

(1) On or before the 20th day after the end of each month for each producer from whom milk was received (i) his name and address, (ii) the total pounds and butterfat content of milk received from such producer during the month, and (iii) the net amount of such handler's payment to the producer together with the price paid and the amount and nature of any deductions authorized in writing by such producer, or a cooperative association if the cooperative association is receiving payment for its producer members;

(2) On or before the 10th day after the request of the market administrator, each handler shall submit a schedule of transportation rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant. Any changes made in this schedule of transportation rates which are charged and paid for the

transportation of milk from the farm of each producer to such handler's plant. Any changes made in this schedule of transportation rates and the effective dates thereof shall be reported to the market administrator within 10 days;

(3) Such other information with respect to his sources and utilization of butterfat and milk as the market administrator may prescribe.

#### § 1023.22 Records and facilities.

Each handler shall keep adequate records of receipts and utilization of milk and milk products and shall, during the usual hours of business, make available to the market administrator or his representative such records, including financial records, and facilities as will enable the market administrator to verify or establish the correct date with respect to:

(a) The receipts and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk, skim milk, cream, and other milk products handled during the month;

(c) Payments to producers, including the amount and nature of deductions authorized by producers or a cooperative association and disbursements of any money so deducted; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream or other milk products on hand at the beginning and end of the month.

#### § 1023.23 Retention of records.

All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain; *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

#### CLASSIFICATION OF MILK

#### § 1023.30 Basis of classification.

All skim milk and butterfat at a pool plant, which is required to be reported pursuant to § 1023.20 shall be classified each month by the market administrator pursuant to the provisions of § 1023.31 through 1023.36.

#### § 1023.31 Classes of utilization.

The classes of utilization shall be as follows:

(a) *Class I milk*. Class I milk shall be all skim milk (including that used to produce concentrated milk and reconsti-

tuted or fortified skim milk) and butterfat (1) disposed of in fluid form as milk, skim milk, cream (fresh, frozen or sour), buttermilk, milk drinks (plain or flavored) and any mixture in fluid form of skim milk and cream; and (2) all skim milk and butterfat not accounted for as Class II milk.

(b) *Class II milk*. Class II milk shall be all skim milk and butterfat (1) used to produce a product other than those specified as Class I milk, (2) in inventory variation of milk, skim milk, cream or any Class I product, and (3) actual shrinkage but not to exceed 2 percent of receipts of producer milk and other source milk.

#### § 1023.32 Shrinkage.

The market administrator shall compute and assign shrinkage at the pool plant(s) of each handler as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler, and

(b) Prorate the total shrinkage of skim milk and butterfat, respectively computed pursuant to paragraph (a) of this section between the pounds of producer milk and other source milk.

#### § 1023.33 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified in one class shall be reclassified if verification by the market administrator reveals that such classification was incorrect.

#### § 1023.34 Transfers.

Skim milk and butterfat disposed of each month from a pool plant shall be classified:

(a) As Class I milk if transferred in the form of Class I products to a pool plant of another handler unless utilization in another class is agreed upon.

(b) As Class I milk if transferred in the form of Class I products to a producer-handler.

(c) As Class I milk if transferred in the form of products designated as Class I milk to a nonpool plant located more than 50 miles outside the marketing area.

(d) As Class I milk if transferred in the form of products designated as Class I milk to a nonpool plant located in, or not more than 50 miles outside the marketing area, unless the buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification, in which case the total receipts at the nonpool plant shall be classified in accordance with the provisions of this order and the skim milk or butterfat assigned to Class I milk by the transferor-handler shall not be less than the quantities of Class I milk determined by prorating the transferred milk in accordance with the classification of total receipts at the nonpool plant.

(e) As Class I milk if transferred in packaged form to any nonpool handler.

#### § 1023.35 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors the reports submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler; *Provided*, That if any of the water contained in the milk from which a product is made is removed, the pounds of skim milk used or disposed of in any product, other than half and half (12-14 percent butterfat) (milk and cream mixture), shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all the water originally associated with such solids, except that water removed from half and half shall be considered Class II.

#### § 1023.36 Allocation of skim milk and butterfat classified.

(a) The pounds of skim milk remaining in each class after making the following computations each month, with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month.

(1) Subtract from the total pounds of skim milk in Class II milk, the pounds of skim milk determined pursuant to § 1023.31(b)(3).

(2) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was not subject to the Class I pricing provisions of an order issued pursuant to the Act; *Provided*, That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk.

(3) Subtract pro rata from the pounds of skim milk remaining in Class I and Class II milk the pounds of skim milk in other source milk which was subject to the Class I pricing provisions of another order issued pursuant to the Act.

(4) Subtract the pounds of skim milk in fluid milk products received from pool plants of other handlers from the pounds of skim milk remaining in the class to which assigned;

(5) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(6) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount of excess so subtracted shall be called "overage".

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of producer milk.

(c) Add the pounds of skim milk and the pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the



percentage of butterfat in the producer milk allocated to each class.

**MINIMUM PRICES**

**§ 1028.40 Basic formula price.**

The basic formula price for each month to be used in determining the class prices shall be the higher of the price computed pursuant to paragraphs (a) and (b) of this section, rounded to the nearest cent.

(a) Determine the average of the basic, or field, prices paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or the Department:

- Borden Company, Mount Pleasant, Mich.
- Borden Company, Orfordville, Wis.
- Borden Company, New London, Wis.
- Carnation Company, Sparta, Mich.
- Carnation Company, Richland Center, Wis.
- Carnation Company, Oconomowoc, Wis.
- Pet Milk Company, Wayland, Mich.
- Pet Milk Company, Cooperville, Mich.
- Pet Milk Company, New Glarus, Wis.
- Pet Milk Company, Belleville, Wis.
- White House Milk Company, Manitowoc, Wis.
- White House Milk Company, West Bend, Wis.

(b) The price per hundredweight computed from the following formula:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by United States Department during the month: *Provided*, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the month, by the United States Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents, and adjust to the nearest full cent.

**§ 1028.41 Class prices.**

Subject to the provisions of § 1028.42 the minimum class prices per hundredweight to be paid by each handler for milk received at his pool plant from producers or from the pool plant of a cooperative association during the month shall be as follows:

(a) For that portion utilized as Class I milk:

(1) Except as provided in subparagraphs (2) and (3) of this section, the basic formula price for the preceding month plus \$0.90 for the months of March, April, May and June; \$1.10 for the months of July, December, January

and February; and \$1.30 during the months of August, September, October, and November.

(2) For plants located in the Illinois counties of Knox, Warren, Peoria, Woodford, Tazewell, McLean, Ford, Champagne, Vermilion, Fulton, Mason and DeWitt, the price computed in subparagraph (1) of this section shall be increased 6 cents.

(3) For plants located in the Illinois counties of Edgar, Douglas, Piatt, Moultrie, Macon, Logan, Menard, Cass, Schuyler, McDonough, Brown, Morgan, Scott, Pike, Shelby, Effingham, Coles, Cumberland, and Clark, the price computed in subparagraph (1) of this section shall be increased 12 cents.

(b) For that portion utilized as Class II milk: (1) For all plants, basic formula price computed for the month pursuant to § 1028.40.

**§ 1028.42 Butterfat differentials to handlers.**

If the average butterfat test of Class I milk or Class II milk is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such average butterfat test is above or below 3.5 percent, a butterfat differential calculated for each class of utilization as follows:

(a) For Class I milk, multiply by 0.125 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department during the preceding month, and round to the nearest one-tenth cent.

(b) For Class II milk, multiply by 0.115 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department during the month, and round to the nearest one-tenth cent.

**§ 1028.43 Computation of prices of skim milk and butterfat.**

The prices per hundredweight of skim milk and butterfat to be paid by each handler for producer milk in each class shall be computed as follows: For each class, respectively, the price per hundredweight of skim milk shall be the applicable class price for the month (§§ 1028.40 and 1028.41) less the result of multiplying the applicable class butterfat differential for the month (§ 1028.42) by 35. For each class, respectively, the price per hundredweight of butterfat shall be the applicable class price for the month plus the result of multiplying the applicable class butterfat differential for the month by 965.

**§ 1028.44 Use of equivalent prices.**

If for any reason a price specified by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is specified.

**§ 1028.45 Rates of compensatory payment on unpriced milk.**

The rate of compensatory payment per hundredweight shall be calculated as follows:

(a) For the months of February through July, from the Class I milk price, adjusted by the Class I butterfat differential, subtract the Class II milk price, adjusted by the Class II butterfat differential.

(b) For the months of August through January, from the Class I milk price, adjusted by the Class I butterfat differential, subtract the uniform price to producers, adjusted by the producer butterfat differential.

**§ 1028.46 Location differential credit to handlers on Class I milk.**

In computing the value of each handler's milk pursuant to § 1028.60, the following location differentials shall be credited with respect to each hundredweight of producer milk received at a reload point or pool plant described in § 1028.1(j)(2) and classified as Class I milk; 15 cents for distances not more than 10 miles outside the marketing area, and an additional 1.6 cents for each 10 miles (or major fraction thereof) beyond 10 miles outside the marketing area, distances to be determined by the market administrator by the shortest hard-surfaced highway.

**APPLICATION OF PROVISIONS**

**§ 1028.50 Producer-handler.**

Sections 1028.30 through 1028.36, 1028.50 through 1028.54, 1028.61, 1028.62, 1028.70 through 1028.79, 1028.80 through 1028.89, shall not apply to a producer-handler.

**§ 1028.51 Plants subject to other Federal orders.**

In the case of any plant which the Secretary determines disposes of a greater portion of its milk as Class I milk on retail or wholesale routes (including plant stores) in another marketing area regulated by another order or marketing agreement issued pursuant to the act than is disposed of as Class I milk on retail or wholesale routes (including plant stores) in the Central Illinois marketing area, the provisions of this order shall not apply, except as follows: The operator of such plants shall with respect to the total receipts and utilization of skim milk and butterfat, at the plant make reports to the market administrator at such time and in such manner as the market administrator may require, and allow verification of such reports by the market administrator.

**§ 1028.52 Handlers operating nonpool plants.**

Each handler who is the operator of a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the act, shall, on or before the 15th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk dis-

posed of in the form of products designated as Class I milk from such nonpool plant to retail or wholesale outlets (including deliveries by vendors and sales through plant stores) in the marketing area during the month, by the rate of compensatory payment calculated pursuant to § 1028.45: *Provided*, That any non-handler who upon audit can demonstrate to the market administrator that he paid producers a price equivalent to that which would have been paid if he had been subject to the terms of the order shall not be required to make compensatory payments.

#### DETERMINATION OF PRICES TO PRODUCERS

##### § 1028.60 Computation of the value of producer milk for each handler.

For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class by the applicable class price, and add together the resulting amounts;

(b) Add an amount computed as follows: Multiply the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1028.36(a)(2) by the rate of compensatory payment as determined pursuant to § 1028.45; and

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price.

##### § 1028.61 Computation of the uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1028.60 for the producer milk of all handlers who submit reports prescribed in § 1028.20 and who have made payments for the preceding month pursuant to § 1028.73;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the variation in the average butterfat content of such milk from 3.5 percent by the butterfat differential computed pursuant to § 1028.71(a) and multiply the result by the total hundredweight of such milk;

(c) (1) Deduct the amount of the plus differentials applicable pursuant to § 1028.63 (a) and (b) and

(2) Add the amount equal to the total value of the location differential computed pursuant to § 1028.71(b)

(d) Add an amount equivalent to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included under (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents.

##### § 1028.62 Notification of handlers.

On or before the 10th day after the end of each month, the market administrator shall mail to each handler, at his known address, a statement showing:

(a) The amount of his producer milk allocated to each class;

(b) The calculation of the amount and value of his producer milk in each class and the totals thereof;

(c) The uniform price computed pursuant to § 1028.61 and the producer butterfat differential computed pursuant to § 1028.71(a); and

(d) The amounts to be paid by such handler pursuant to §§ 1028.73, 1028.77 and 1028.78.

##### § 1028.63 Producer location adjustments.

(a) In making payments pursuant to § 1028.70 to producers or a cooperative association for milk received at a plant located in the area described in § 1028.41

(a) (2), the uniform price computed pursuant to § 1028.61 shall be increased 5 cents.

(b) In making payments pursuant to § 1028.70 to producers or a cooperative association for milk received at a plant located in the area described in § 1028.41 (a) (3), the uniform price computed pursuant to § 1028.61 shall be increased 10 cents.

#### PAYMENTS

##### § 1028.70 Time and method of payment for producer milk.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer for milk received during the month as follows:

(1) On or before the 25th day of each month to each such producer an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month.

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price, adjusted by the producer butterfat differential, to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing services deductions made pursuant to § 1028.78, (iii) plus or minus adjustment for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer or by the cooperative association marketing the producer's milk; (v) in case of co-op paying its members, only such deductions as are authorized by the co-operative; *Provided*, That if by such date such handler has not received full payment pursuant to § 1028.74 from the market administrator for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payments for their milk and which has so requested any

handler in writing, such handler shall on or before the second day prior to the dates on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association an amount not less than the amount due such producer-members as determined pursuant to paragraph (a) of this section.

##### § 1028.71 Producer butterfat differential.

(a) The uniform price to be paid each producer pursuant to § 1028.70 shall be increased or decreased for each one-tenth of one percent which the average butterfat content of his milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the average of the daily wholesale prices per pound of 92-score butter in the Chicago market as reported by the Department during the month in which the milk was received by 0.12, and adjusting to the nearest even one-tenth of one cent.

(b) In making payments to producers pursuant to § 1028.70 for milk received at a pool plant at which a location adjustment is applicable pursuant to § 1028.46, the uniform price per hundredweight shall be reduced by the zone rate for such plant.

##### § 1028.72 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1028.52, 1028.73, and 1028.75, and out of which he shall make all payments pursuant to §§ 1028.74 and 1028.75.

##### § 1028.73 Payments to producer-settlement fund.

On or before the 12th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of his producer milk is computed pursuant to § 1028.60 for the month, is greater than the amount owed by him for such milk at the uniform price, adjusted by the producer butterfat differential: *Provided*, That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is over-due.

##### § 1028.74 Payments out of producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 1028.60, for such month is less than the amount owed by him for such milk at the uniform price, adjusted by the producer butterfat differential. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

**§ 1028.75 Adjustment of accounts.**

Whenever audit by the market administrator of any reports, books, records or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amounts so due and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

**§ 1028.76 Payments.**

Any payments due any handler shall be offset by any payments due from such handler.

**§ 1028.77 Expense of administration.**

As his pro rata share of the expense of the administration of this order, each handler shall pay to the market administrator on or before the 15th day after the end of each month for such month 3 cents, or such lesser amount as the Secretary may prescribe, for each hundredweight of milk (a) received from producers, (b) received at a pool plant as Grade A other source milk and allocated to Class I, or (c) distributed as Class I milk in the marketing area from a nonpool plant.

**§ 1028.78 Marketing services.**

(a) *Deduction of marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 1028.70, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* (1) In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the requirements of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing the services set forth in paragraph (a) of this section, each handler, in lieu of the deductions specified in paragraph (a) of this section shall make the deductions from the payments made pursuant to § 1028.70 which are authorized by such producers and on or before the 15th day after the end of each month, pay over such deductions to the cooperative association rendering such services.

(2) Each handler subject to this regulation shall permit representatives of qualified cooperative associations to enter their premises in order to verify

weights, samples and tests of their members' milk.

**EFFECTIVE TIME, SUSPENSION, OR TERMINATION****§ 1028.80 Effective time.**

The provisions of this order, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

**§ 1028.81 Suspension or termination.**

The Secretary shall, whenever he finds that any or all provisions of this order, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the Act, terminate or suspend the operation of any or all provisions of this order or any amendment thereof.

**§ 1028.82 Continuing obligations.**

If, upon the suspension or termination of any or all provisions of this order, or any amendment thereof, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

**§ 1028.83 Liquidation.**

Upon the suspension or termination of the provisions of this order, except §§ 1028.23, 1028.78, and 1028.81 through 1028.83, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

**MISCELLANEOUS PROVISIONS****§ 1028.90 Agents.**

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this order.

**§ 1028.91 Separability of provisions.**

If any provision of this order, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this order, to other persons or circumstances shall not be affected thereby.

Proposed by Wareham Dairy Foods, Taylorville, Illinois:

*Proposal No. 2.* Include Christian and Sangamon Counties in the proposed marketing area.

Proposed by the Borden Company, Pekin Division:

*Proposal No. 3.* "Producer" means any person, except a "producer-handler", who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant, or (b) diverted from a pool plant to a non-pool plant for the account of either the operator of the pool plant or a cooperative association (1) any day during the months of March through August, and (2) on not more than one-half the days on which the milk was delivered from a farm during any of the months of September through February: *Provided*, That milk diverted pursuant to this section shall be deemed to have been received at the location of the plant from which diverted.

*Proposal No. 4.* "Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of skim milk and cream (except frozen cream, aerated cream products, ice cream mix, evaporated or condensed milk, sterilized products packaged in hermetically sealed containers, frozen dessert mix, or other fluid product used for human consumption the base of which is milk or a derivative of milk, unless such product shall be labeled as Grade A).

*Proposal No. 5.* Subject to the conditions set forth in § 1028.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product (except as provided in paragraph (b) of this section), and (2) not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than a fluid milk product; (2) disposed of to wholesale bakeries, candy manufacturers, soup companies, or for livestock feed; (3) dumped after prior notification to and opportunity for verification by the Market Administrator; (4) contained in inventory of fluid milk products on hand at the end of the month; (5) in shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 1028.9) but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively; and (6) in shrinkage of other source milk.

*Proposal No. 6.* Amend § 1028.46(a) by inserting the following as subparagraph (1) and renumbering subparagraph (1) through (6) as subparagraphs (2) through (7):

(1) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk that were received in the form of fluid milk products in containers not larger than a gallon, that are subject to the Class I pricing provisions of another order issued pursuant to the Act, and that are disposed of as Class I in the same form as received.

*Proposal No. 7.* Amend § 1028.51 by deleting all of proponent's § 1028.51 and substituting therefor the following:

**§ 1028.51 Class prices.**

Subject to the provisions of §§ 1028.52 and 1028.56, the class prices per hundred-weight for the month shall be as follows:

(a) Class I milk price: Except as provided in paragraphs (b) and (c) of this section, the Class I milk price shall be the price for Class I milk established under Federal Order No. 41, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area, plus 8 cents.

(b) For plants located in Illinois counties of Knox, Warren, Peoria, Woodford, Tazewell, McLean, Ford, Champaign, Vermillion, Fulton, Mason and De Witt, the price computed in paragraph (a) of this section shall be increased 6 cents.

(c) For plants located in Illinois counties of Edgar, Douglas, Piatt, Moultrie, Macon, Logan, Menard, Cass, Schuyler, McDonough, Brown, Adams, Hancock, Morgan, Scott, Pike, Shelby, Effingham, Coles, Cumberland, and Clark, the price computed in paragraph (a) of this section shall be increased 12 cents.

(d) Class II milk price: The Class II milk price shall be the butter-powder formula computed for the month pursuant to paragraph (b) of § 1028.50.

*Proposal No. 8.* Amend § 1028.80 by deleting all of proponent's § 1028.80 and substituting therefor the following:

**§ 1028.80 Time and method of payment for producer milk.**

Each handler shall make payment as follows:

(a) On or before the fifteenth day after the end of each month during which the milk was received, to each producer for milk received from him and for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, at not less than the uniform price computed in accordance with § 1028.71, subject to the butterfat differential computed pursuant to § 1028.81 and less location differential deductions pursuant to § 1028.81(b).

(b) On or before the twelfth day after the end of each month during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payments for its member producers and exercises such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

(ED. NOTE: Section and paragraph references specified in connection with proposals 3 through 8 relate to the pertinent sections and paragraphs of proposal No. 1 as originally numbered by proponent PMA.)

Proposed by Hays Dairy Products, Waterman, Illinois:

*Proposal No. 9.* Include Whiteside, Henry, Lee, De Kalb, Carroll and Mercer Counties in the proposed marketing area.

Proposed by Prairie Farms of Western Illinois:

*Proposal No. 10.* Include Hancock and Adams Counties in the proposed marketing area.

Proposed by Sealtest Foods, Central Division, National Dairy Products Corp:

*Proposal No. 11.*

## DEFINITIONS

**§ 1028.1 Act.**

"Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

**§ 1028.2 Secretary.**

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

**§ 1028.3 Department of Agriculture.**

"Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by Executive order to perform the price reporting functions of the United States Department of Agriculture.

**§ 1028.4 Person.**

"Person" means any individual, partnership, corporation, association or any other business unit.

**§ 1028.5 Central Illinois Marketing Area.**

"Central Illinois marketing area", hereinafter called the "marketing area" means all the territory within the boundaries of the counties of Bureau, Cass, Champaign, Christian, Coles, De Witt, Douglas, Ford, Fulton, Greene, Hancock, Henry, Iriquois, Kankakee, Knox, La Salle, Livingston, Logan, McDonough, McLean, Macon, Marshall, Mason, Menard, Mercer, Moultrie, Morgan, Peoria, Pike, Piatt, Putnam, Sangamon, Schuyler, Scott, Stark, Tazewell, Warren, and Woodford, all in the State of Illinois, including all municipalities within such boundaries, and including all the territory within such boundaries occupied by government (municipal, State or Federal) reservations, installations, institutions or other establishments.

**§ 1028.6 Cooperative associations.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

**§ 1028.7 Producer.**

"Producer" means any person, except a "producer-handler", who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant, or (b) diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association: *Provided*, That milk diverted pursuant to this section shall be deemed to have been received at the location of the plant from which diverted.

**§ 1028.8 Distributing plant.**

"Distributing plant" means a plant which is approved by the appropriate

health authority for the processing or packaging of Grade A milk from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors), or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

**§ 1028.9 Supply plant.**

"Supply plant" means a plant from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1028.10(a).

**§ 1028.10 Pool plant.**

"Pool plant" means: (a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts, or 25,000 pounds, whichever is less, is so disposed of to such outlets in the marketing area.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 40 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 55 percent of the receipts of Grade A milk at such plant during the immediately preceding period of September through November, such plant may, upon written application to the market administrator on or before February 1 of any year, be designated as a pool plant for the months of February through July of such year.

**§ 1028.11 Nonpool plant.**

"Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

**§ 1028.12 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more distributing or supply plants;

(b) Any cooperative association with respect to the milk of producers diverted by the association for the account of such association from a pool plant to a nonpool plant in accordance with § 1028.7.

**§ 1028.13 Producer-handler.**

"Producer-handler" means any person who operates a dairy farm and a distributing plant from which Class I milk is distributed in the marketing area, but receives no milk from sources other than his own production.

**§ 1028.14 Producer milk.**

"Producer milk" means only that skim milk and butterfat contained in milk (a) received at a pool plant directly from producers, or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 1028.7.

**§ 1028.15 Fluid milk product.**

"Fluid milk product" means skim milk, buttermilk, milk drinks (plain or flavored), cream, or any mixture in fluid form of skim milk and cream (except aerated cream products, yogurt, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

**§ 1028.16 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, (2) producer milk, or (3) inventory at the beginning of the month; and

(b) Products other than fluid milk products which are reprocessed and converted to another product in the plant during the month.

**§ 1028.17 Chicago butter price.**

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

**MARKET ADMINISTRATOR****§ 1028.20 Designation.**

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

**§ 1028.21 Powers.**

The market administrator shall have the following powers with respect to this part.

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

**§ 1028.22 Duties.**

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who

handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1028.87:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 1028.88, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who within 10 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1028.30 and 1028.31, or payments pursuant to §§ 1028.80, 1028.84, 1028.86, 1028.87, and 1028.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Verify all reports and payments of each handler by audit, if necessary, of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(i) Prepare and disseminate to the public such statistics and such information reasonably necessary to the proper administration of the order as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) On or before the 5th day of each month the minimum price for Class I milk pursuant to § 1028.51(a) and the Class I butterfat differential, pursuant to § 1028.52(a) both for the current month; and the minimum price for Class II milk, pursuant to § 1028.51(b), and the Class II butterfat differential, pursuant to § 1028.51(b) both for the preceding month; and

(2) On or before the 10th day after the end of each month the uniform price pursuant to § 1028.71 and the producer butterfat differential pursuant to § 1028.81.

**REPORTS, RECORDS AND FACILITIES****§ 1028.30 Reports of receipts and utilization.**

On or before the 10th day after the end of each month, each handler, except a producer-handler, shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other pool plants;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 1028.7;

(e) Inventories of fluid milk products on hand at the beginning and end of the month;

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section; and

(g) Such other information with respect to his utilization of butterfat and skim milk reasonably necessary for the proper administration of this order as the market administrator may prescribe.

**§ 1028.31 Other reports.**

Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(a) On or before the 23d day after the end of the month for each of his pool plants his producer payroll for such month which will show for each producer: (1) The total pounds of milk received from such producer, (2) the days on which milk was received from such producer, if less than a full month, (3) the average butterfat content of such milk, and (4) the net amount of each handler's payment to each producer, together with the price paid and the amount and nature of any deductions;

(b) Such other information reasonably necessary to the proper functioning of this part, as is prescribed by the administrator.

**§ 1028.32 Records and facilities.**

Each handler shall keep adequate records of receipts of utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or to his representative such records and facilities as will enable the market administrator to:

(a) Verify the receipts and utilization of all skim milk and butterfat, and, in case of errors or omissions, ascertain the correct figure;

(b) Weight, sample and test butterfat content of all milk and milk products handled;

(c) Verify payments to producers; and

(d) Make such examinations of operations, equipment, and facilities, as are reasonably necessary to the proper administration of this part or any amendments thereto.

**§ 1028.33 Retention of records.**

All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c(15) (A) of the Act or a court action specified in such notice the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give

further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

#### CLASSIFICATION

##### § 1028.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 1028.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1028.41 through 1028.46.

##### § 1028.41 Classes of utilization.

Subject to the conditions set forth in § 1028.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product (except as provided in paragraph (b) of this section) and (2) not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than a fluid milk product; (2) disposed of to wholesale bakeries, candy manufacturers, soup companies, or for livestock feed; (3) dumped after prior notification to and opportunity for verification by the market administrator; (4) contained in inventory of fluid milk products on hand at the end of the month; (5) in shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 1028.7) but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively; and (6) in shrinkage of other source milk.

##### § 1028.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in producer milk and other source milk.

##### § 1028.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

##### § 1028.44 Transfers.

Skim milk or butterfat disposed of each month from a pool plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk product to the pool plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in their reports submitted for the month to the market administrator pursuant to

§ 1028.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 1028.46 and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *And provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest Class I utilization to the producer milk of both handlers;

(b) As Class I milk, if transferred to a producer-handler in the form of a fluid milk product; and

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant unless:

(1) The transferring or diverting handler claims classification in Class II milk in a written statement submitted to the market administrator by the operators of both the pool plant and the nonpool plant on or before the 7th day after the end of the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) An equivalent amount of skim milk and butterfat had been used at the nonpool plant during the month in the indicated utilization.

##### § 1028.45 Computation of the skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for the pool plant(s) of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler.

##### § 1028.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1028.45 the market administrator shall determine the classification of producer milk received at the pool plant(s) of each handler each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in Class I milk disposed of as cream (sweet or sour), half and half, skim milk, flavored milk and skim milk drinks, and buttermilk, all in consumer-packaged form on routes, which was received during the month in the same product and same packages from a plant fully regulated pursuant to Order No. 3 (Part 903 of this chapter) regulating the handling of milk in the St. Louis, Missouri, marketing area.

(2) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 1028.41(b)(5);

(3) Subtract from the remaining pounds of skim milk in each class, in

series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing provisions of another order issued pursuant to the Act;

(4) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk other than that received in the form of fluid milk products.

(5) Subtract from the remaining pounds of skim milk in Class II milk an amount equal to such remainder, or the product obtained by multiplying the pounds of skim milk in producer milk by 0.05, whichever is less;

(6) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk which was not subtracted pursuant to subparagraph (1) of this paragraph, and which is subject to the Class I pricing provisions of another order issued pursuant to the Act;

(7) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (5) of this paragraph;

(8) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(9) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from the pool plants of other handlers according to the classification of such products determined pursuant to § 1028.44(a);

(10) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (2) of this paragraph, and if the remaining pounds of skim in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount of excess so subtracted shall be called "overage";

(b) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (a) of this section; and

(c) Determine the weighted average butterfat content of producer milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

#### MINIMUM PRICES

##### § 1028.50 Basic formula price.

The basic formula price shall be the highest of the prices per hundredweight for milk of 3.5 percent butterfat content computed pursuant to paragraphs (a) and (b) of this section, rounded to the nearest whole cent:

(a) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following milk plants at which prices have been reported to the market administrator or to the U.S. Department

of Agriculture on or before the 5th day after the end of the month:

- Borden Co., Mount Pleasant, Mich.
- Borden Co., New London, Wis.
- Borden Co., Orfordville, Wis.
- Carnation Co., Berlin, Wis.
- Carnation Co., Chilton, Wis.
- Carnation Co., Oconomowoc, Wis.
- Carnation Co., Richland Center, Wis.
- Carnation Co., Sparta, Mich.
- Pet Milk Co., Belleville, Wis.
- Pet Milk Co., Coopersville, Mich.
- Pet Milk Co., Hudson, Mich.
- Pet Milk Co., New Glarus, Wis.
- Pet Milk Co., Wayland, Mich.
- White House Milk Co., Manitowoc, Wis.
- White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed from the following formula:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture, during the delivery period: *Provided*, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period, by the United States Department of Agriculture; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents and adjust to the nearest full cent.

**§ 1028.51 Class Prices.**

Subject to the provisions of § 1028.52 and § 1028.53 the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus the following amount for the delivery periods indicated:

- August, September, October, November -----
- December, January, February, July -----
- March, April, May, June -----

(b) *Class II milk price.* The Class II milk price shall be the average of the basic (or field) prices reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the period from the 16th day of the preceding month through the 15th day of the current month at the following plants or places from which prices have been reported to the market administrator or to the United States Department of Agriculture:

**PRESENT OPERATOR AND LOCATION**

- Kraft Foods Co., Milledgeville, Ill.
- Kraft Foods Co., Stockton, Ill.
- Kraft Foods Co., Manlius, Ill.
- Kraft Foods Co., Toulon, Ill.

- Wateka Milk Products Co., Pontiac, Ill.
- Hansen Dairy Co., San Jose, Ill.
- Minonk Dairy Products Co., Minonk, Ill.

**§ 1028.52 Butterfat differentials to handlers.**

For milk containing more or less than 3.5 percent butterfat content, the class prices for the month calculated pursuant to § 1028.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.125.

(b) *Class II price.* Multiply the Chicago butter price for the current month by 0.115.

**§ 1028.53 Location differentials to handlers.**

With respect to skim milk and butterfat contained in milk received from producers at a pool plant as defined in paragraph (b) of § 1028.10 located more than 70 but less than 80 miles from the nearest of the City Hall in Peoria, Illinois, the City Hall in Champaign, Illinois, and the City Hall in Springfield, Illinois, which is shipped to a pool plant as defined in paragraph (a) of § 1028.10, and is classified as Class I milk and Class II milk the class prices shall be reduced 16 cents per hundredweight, and for each additional 10 miles in excess of 80 miles the price shall be reduced an additional 1.6 cents.

**§ 1028.54 Use of equivalent prices.**

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is specified.

**APPLICATION OF PROVISIONS**

**§ 1028.60 Producer-handler.**

Sections 1028.40 through 1028.46, 1028.50 through 1028.53, 1028.70, 1028.71 and 1028.80 through 1028.88, shall not apply to a producer-handler.

**§ 1028.61 Plants subject to other Federal orders.**

The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant is qualified as a pool plant pursuant to § 1028.10 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Central Illinois marketing area than in the marketing area regulated pursuant to such order: *Provided*, That the operator of a distributing plant or a supply plant which is exempt from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market ad-

ministrator may require (in lieu of the reports required pursuant to § 1028.30) and allow verification of such reports by the market administrator.

**§ 1028.62 Handlers operating nonpool plants.**

None of the provisions from § 1028.44 through § 1028.52, inclusive, or from § 1028.70 through § 1028.85, inclusive, shall apply in the case of a handler in his capacity as the operator of a nonpool plant except that such handler shall, on or before the 13th day after the end of each month pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including sales by vendors and plant stores) in the marketing area during the month, by the rate determined pursuant to § 1028.63.

**§ 1028.63 Rate of payment on unpriced milk.**

The rate of payment per hundredweight to be made by handlers on unpriced other source milk allocated to Class I milk shall be any plus amount calculated as follows:

(a) During the months of February through June, subtract from the Class I price adjusted by the Class I butterfat and location differentials applicable at a pool plant of the same location as the nonpool plant applying such other source milk, the Class II price adjusted by the Class II butterfat differential; and

(b) During the months of July through January subtract from the Class I price, f.o.b. such nonpool plant, the uniform price to producers adjusted by the Class I butterfat differential.

**DETERMINATION OF UNIFORM PRICE**

**§ 1028.70 Computation of value of milk for each handler.**

The value of producer milk received during each month by each handler shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 1028.46(a)(10) and the corresponding step of paragraph (b) by the applicable class prices;

(c) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat remaining in Class II after the calculation pursuant to § 1028.45(a)(9) and the corresponding step of paragraph (b) for the preceding month, or the hundredweight of milk subtracted from Class I pursuant to § 1028.46(a)(8) and the corresponding step of paragraph (b) for the current month, whichever is less; and

(d) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class

I milk pursuant to § 1028.46(a) (3) and (4) and the corresponding step of paragraph (b) by the rate of payment on unpriced milk determined pursuant to § 1028.63 at the nearest nonpool plant(s) from which an equivalent amount of other source milk or butterfat was received: *Provided*, That if the source of any such fluid milk product received at a pool plant is not clearly established, such product shall be considered to have been received from a source at the location of the pool plant where it is classified.

#### § 1028.71 Computation of uniform price.

For each of the months the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content f.o.b. pool plants located within 70 miles of the City Hall of Peoria, Illinois, the City Hall of Champaign, Illinois, or the City Hall of Springfield, Illinois, as follows:

(a) Combine into one total the values computed pursuant to § 1028.70 for all handlers who made the reports prescribed in § 1028.30 for such month except those in default of payments, required pursuant to § 1028.84 for the preceding month.

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 1028.82;

(d) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for producer milk.

#### PAYMENT FOR MILK

#### § 1028.80 Time and method of payment for producer milk.

Each handler shall make payment as follows:

(a) On or before the 18th day after the end of each month during which the milk was received, to each producer for milk received from him and for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, an amount equal to not less than the uniform price computed in accordance with § 1028.71, subject to the butterfat differential computed pursuant to § 1028.81 and less location differential deductions pursuant to § 1028.82, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (1) Less marketing service deductions made pursuant to § 1028.88, (2) plus or minus adjustments for errors

made in previous payments made to such producer, and (3) less deductions authorized by such producer: *Provided*, That if by such date such handler has not received full payment pursuant to § 1028.85 from the market administrator for such month, he may reduce pro rata his payments to producers by not more than the amount of such payment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipts of the balance due from the market administrator.

(b) On or before the 15th day after the end of each month during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative is authorized to collect such payments for its member-producers and exercises such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

#### § 1028.81 Butterfat differentials to producers.

The applicable uniform prices to be paid each producer pursuant to § 1028.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the total pounds of butterfat in the producer milk allocated to Class I and Class II milk during the month pursuant to § 1028.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

#### § 1028.82 Location differentials to producers.

With respect to skim milk and butterfat contained in milk received from producers at a pool plant as defined in paragraph (b) of § 1028.10 located more than 70 but less than 80 miles from the nearer of the City Hall in Peoria, Illinois, the City Hall in Champaign, Illinois, and the City Hall in Springfield, Illinois, which is classified as Class I milk and Class II milk, the class prices shall be reduced 16 cents per hundredweight, and for each additional 10 miles in excess of 80 miles the price shall be reduced an additional 1.6 cents.

#### § 1028.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1028.62, 1028.84, and 1028.86, and out of which he shall make all payments to handlers pursuant to §§ 1028.85 and 1028.86.

#### § 1028.84 Payments to the producer-settlement fund.

On or before the 16th day after the end of each month, each handler shall pay to the market administrator the amount by which the value of milk for such handler pursuant to § 1028.70 for such month exceeds the obligation pursuant to § 1028.80 of such handler to

producers for milk received during the month.

#### § 1028.85 Payments out of the producer-settlement fund.

On or before the 18th day after the end of each month the market administrator shall pay to each handler the amount by which the obligation, pursuant to § 1028.80, of such handler to producers for milk received during the month exceeds the value of milk for each such handler computed pursuant to § 1028.70: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1028.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

#### § 1028.86 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due; and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

#### § 1028.87 Expense of administration.

As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator, on or before the 15th day after the end of each month ---- cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant which is allocated to Class I pursuant to § 1028.46, other than that allocated to Class I pursuant to subparagraph (1) of paragraph (a) of § 1028.46, and the corresponding provisions under paragraph (b) of § 1028.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the Act.

#### § 1028.88 Marketing services.

(a) Each handler making payments to producers pursuant to § 1028.80 shall deduct ---- cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers (excepting such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 18th day after the end of the month. Such money shall be used by the market ad-



ministrator to verify weights, samples, and tests of milk received by handlers from such producers during the delivery period, and to provide such producers with market information. Such services shall be performed by the market administrator or by an employee of the United States responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 18th day after the end of each month, pay over such deductions to the association rendering such services.

#### § 1028.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c(15)(A) of the Act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, or make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart

to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction of set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

#### EFFECTIVE TIME, SUSPENSION OR TERMINATION

##### § 1028.90 Effective time.

The provisions of this subpart, or any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

##### § 1028.91 Suspension or termination.

The Secretary shall, whenever he finds this subpart, or any provision hereof, obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or any such provision of this subpart.

##### § 1028.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations hereunder the final accrual or ascertainment of which require further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

##### § 1028.93 Liquidation.

Upon the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all accounts, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

Copies of this notice may be procured from the Hearing Clerk, Room 112, Administration Building, United States De-

partment of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 20th day of July 1959.

ROY W. LENNARTSON,  
Deputy Administrator,  
Agricultural Marketing Service.

[F.R. Doc. 59-6075; Filed, July 22, 1959;  
8:51 a.m.]

## FEDERAL AVIATION AGENCY

[ 14 CFR Part 602 ]

[Airspace Docket No. 59-NY-11]

### ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN CONTINENTAL CONTROL AREA

#### Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 602 of the Regulations of the Administrator, as hereinafter set forth.

Scheduled air carrier jet service will be inaugurated between New York, N.Y. and New Orleans, La., in the near future. The existing coded jet route structure is satisfactory for the proposed operation, except with regard to the portion between Spartanburg, S.C., and Flat Rock, Va., because of a potential traffic conflict with high altitude military air operations. Accordingly, the Federal Aviation Agency proposes to establish a new coded jet route between Spartanburg, S.C., and Gordonsville, Va. This route will not only bypass much of the high altitude military traffic but will also improve the coded jet route structure between New York and Spartanburg.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for exami-

nation at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958.

(72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

In consideration of the foregoing, it is proposed to amend Part 602 as follows: Section 602.569 is added to read:

§ 602.569 VOR/VORTAC jet route No. 69 (Spartanburg, S.C., to Gordonsville, Va.).

From the Spartanburg, S.C., VOR to the Gordonsville, Va., VOR.

Issued in Washington, D.C. on July 17, 1959.

D. D. THOMAS,  
Director, Bureau of  
Air Traffic Management.

[F.R. Doc. 59-6043; Filed, July 22, 1959;  
8:45 a.m.]

#### [ 14 CFR Part 602 ]

[Airspace Docket No. 59-FW-17]

### EXTENSION OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN CONTINENTAL CONTROL AREA

#### Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 602.558 of the

Regulations of the Administrator, as hereinafter set forth.

Jet Route No. 58 presently extends from San Francisco, Calif., to Dallas, Tex. Scheduled air carrier jet service between Dallas, Tex., and New Orleans, La., will be inaugurated in the near future. Such service will require the use of a Jet Route in the interest of safety and for air traffic control purposes. The Federal Aviation Agency proposes to extend Jet Route No. 58 from Dallas, Tex., to New Orleans, La., via the Alexandria, La., VOR. The proposed extension would provide a direct route between Dallas and New Orleans and, in addition, would bypass the heavy concentration of military air traffic in the vicinity of Lake Charles, La.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, P.O. Box 1689, Fort Worth 1, Tex. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with

this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958.

(72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

In consideration of the foregoing, it is proposed to amend § 602.558 (24 F.R. 2650) as follows:

1. Section 602.558 VOR/VORTAC jet route No. 58 (San Francisco, Calif., to Dallas, Tex.).

(a) Delete "(San Francisco, Calif., to Dallas, Tex.)" and substitute therefor "(San Francisco, Calif., to New Orleans, La.)."

(b) Delete "to the Dallas, Tex., VOR" and substitute therefor, "Dallas, Tex., VOR; Alexandria, La., VOR; to the New Orleans, La., VOR."

Issued in Washington, D.C. on July 17, 1959.

D. D. THOMAS,  
Director, Bureau of  
Air Traffic Management.

[F.R. Doc. 59-6044; Filed, July 22, 1959;  
8:45 a.m.]

## NOTICES

### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

[No. 60-11]

#### OREGON

#### Small Tract Classification and Opening

JULY 15, 1959.

1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F.R. 2473), as amended, I hereby classify the following-described reversioned Oregon and California Railroad grant lands in Douglas County, Oregon, as suitable for lease for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 632a), as amended, subject to valid existing rights:

WILLAMETTE MERIDIAN, OREGON

T. 26 S., R. 2 W.,

Sec. 14: That portion of the SW ¼, described as tracts Nos. 2 to 30 incl., shown on a plat now on file in the Portland Land Office, Bureau of Land Management, 809 NE. Sixth Avenue, Portland 12, Oregon, and entitled "Susan Creek Home Sites."

2. Classification of the above-described land by this order segregates it from all appropriation under the public land laws, including the mining laws.

Only 29 tracts are by this order opened to leasing under the Small Tract Act, as amended.

3. The tracts available for lease are located on either side of Susan Creek, which is a tributary of the North Umpqua River. The tracts are approximately 25 miles east of Roseburg, Oregon, via the Roseburg-Diamond Lake Highway, and ½ mile northerly from said highway over an all-season road. The topography of the tracts is almost level to gently south sloping, and also sloping toward Susan Creek, which flows southerly through the tracts. The elevation averages about 1,000 feet above sea level. The soil is clay loam mixed with rock and gravel. The vegetative cover consists of a growth of Douglas fir, pine, and cedar, with an understory of vine maple, native shrubs, and grasses.

A powerline and a telephone line parallel the Roseburg-Diamond Lake Highway ½ mile south of the tracts. Domestic water may be obtained from Susan Creek after purification processing. An elementary school and general store are located at the settlement of Glide, downstream about 10 miles. The nearest all-purpose marketing center is Roseburg, Oregon. The weather is typical of the west slope of the Cascade Mountains. Precipitation is 35 inches or more, some of which is in the form of snow during

the winter. There is no evidence of metallic or nonmetallic minerals.

4. The 29 individual tracts have been marked on the ground, and vary in size from 0.20 to 0.46 of an acre. A plat showing the location of each of the tracts can be secured for \$1.00 from the Manager of the Land Office, 809 NE. Sixth Avenue, Portland 12, Oregon; or from the District Manager, Bureau of Land Management, 2583 W. Harvard Avenue, P.O. Box 231, Roseburg, Oregon.

The annual rental of each tract is \$45, except for Tract No. 14, which is \$40. Access to the tracts will be from an existing road on adjoining public land. The United States reserves for itself, its contractors and permittees, the right to enter on the leased areas to administer the land for sustained-yield timber management purposes under the act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a).

5. Leases will be issued for a term of 20 years. Advance rental payment for the first year of the lease will be required before the issuance of a lease. Subsequent rentals will be paid annually in advance. To maintain their rights under their lease, lessees will be required to construct substantial improvements on their tract within the first 5-year period of the lease. Failure to do so will result in cancellation of the lease.

Leases will be subject to renewal at the discretion of the Bureau of Land Management for periods of 10 to 20 years provided the lessee complies with the conditions and stipulations contained in the original lease within the periods allowed; and such renewal leases will be subject to such terms and conditions as are deemed necessary in the light of the circumstances existing at the time of renewal.

6. Persons who have previously acquired a tract under the Small Tract Act are not qualified to lease a tract unless they can make a showing satisfactory to the Bureau of Land Management that the lease of another tract is warranted in the circumstances.

7. Upon allowance of an application and before commencement of construction, the lessee must confer with the District Manager concerning plans and specifications of improvements. The improvements referred to in paragraph 5 above must meet the following requirements:

(a) Buildings must be suitable for year around use and must be placed on a permanent foundation consisting of concrete, brick, pumice blocks, or stone masonry. Pitch of the roof and the size and spacing of rafters and ceiling joists must be adequate to withstand heavy snow packs. Chimneys must be constructed from ground level and shall consist of pumice or concrete blocks, bricks or stone masonry, or comparable fire-resistant materials.

(b) All buildings must be constructed in a workmanlike manner of attractive, properly finished materials in harmony with surroundings.

(c) Every dwelling must have a floor space of not less than 500 square feet and have at least two doors as a means of access.

(d) All dwellings must be provided with sanitation facilities in accordance with or better than required by the laws of the State of Oregon. All lessees must comply with the laws of the State of Oregon as to fire protection, building construction, sanitation, and public health; and any Douglas County health and sanitation requirements supplemental thereto.

(e) The dwelling must have interior sanitary facilities with all sewages and waste water being disposed of through a septic tank of not less than 500 gallons capacity which meet the specifications and approval of the Oregon State Board of Health. Under no conditions will exterior latrines or garbage dumps be allowed, nor will any dumping of any refuse in any streams or on the adjoining Federal lands be permitted.

(f) Prior to initiation of construction, tract development plans and specifications must be submitted to the District Manager for his written approval.

(g) Any open fires shall conform to the State Safety Fire Code.

(h) Without special written approval from the District Manager, no building shall be placed closer than 15 feet from the boundaries of the leased lot areas.

(i) The grounds and buildings shall be maintained in a neat and orderly manner.

(j) Garbage shall be disposed of only at dumps established for such purpose and approved by the Douglas County Health Department.

(k) The leased area will be subject to the disposal of materials and forest products under the act of August 28, 1937 (50 Stat. 874).

(l) The keeping or raising of domestic livestock will not be permitted on a tract.

8. The 29 tracts, numbered 2 to 30 inclusive, which are shown on the plat filed in the Land Office, Portland, Oregon; and in the District Manager's Office, Bureau of Land Management, 2583 W. Harvard Avenue, P.O. Box 231, Roseburg, Oregon, are now open to filing of drawing-entry cards (Form 4-775) only by persons entitled to veterans' preference. In brief, persons entitled to such preference are: (a) Honorably discharged veterans who served in the armed forces of the United States for a period of at least 90 days after September 15, 1940, (b) surviving spouse or minor orphan children of such veterans, and (c) with the consent of the veteran, the spouse of the living veteran.

The 90-day requirement does not apply to veterans who were discharged on account of wounds or disability incurred in the line of duty, or to the surviving spouse or minor children of veterans killed in the line of duty. Drawing-entry cards (Form 4-775) are available upon request from the Manager of the Land Office, or from the District Manager, Roseburg, Oregon.

Drawing-entry cards will be accepted if filed out in compliance with the instructions on the form and filed with the Manager of the Land Office prior to 10 a.m., October 15, 1959. A drawing will be held on that date, or shortly thereafter. Any person who submits more than one card will be declared ineligible to participate in the drawing. Tracts will be assigned to the entrants in the order in which their names are drawn. All entrants will be notified of the results of the drawing.

Successful drawees will be allowed 15 days from receipt of notice in which to execute the lease forms (Form 4-776) accompanying the notice, in accordance with instructions, and return them with payment of a filing fee of \$10 plus the advance rental specified above, and evidence of military service.

Any tracts for which lease forms have not been filed and accompanied by the required payments within the 15-day period will immediately thereafter become available to alternate drawees in the order in which their cards were drawn.

9. Inquiries concerning these lands shall be addressed to Manager, Land Office, 809 NE. Sixth Avenue, Portland 12, Oregon.

RUSSELL E. GETTY,  
Acting State Supervisor.

[F.R. Doc. 59-6057; Filed, July 22, 1959; 8:47 a.m.]

[Miscellaneous NM 6]

## NEW MEXICO

### Order Providing for Opening of Public Lands; Amendment

JULY 17, 1959.

An order providing for opening of public lands, New Mexico Miscellaneous No. 6, dated March 23, 1959, published in the FEDERAL REGISTER, Tuesday, March 31, 1959, Vol. 24, No. 62, page 2501 is hereby corrected as follows:

The following described land is deleted:

T. 21 N., R. 5 W., New Mexico Principal Meridian, Sec. 36, N $\frac{1}{2}$ .

The land described as "T. 7 S., R. 26 E., New Mexico Principal Meridian, Sec. 5, SE $\frac{1}{4}$ SW $\frac{1}{4}$ ." is corrected to read "T. 7 S., R. 26 E., New Mexico Principal Meridian, Sec. 5, NE $\frac{1}{4}$ SW $\frac{1}{4}$ ."

E. R. SMITH,  
State Supervisor.

[F.R. Doc. 59-6058; Filed, July 22, 1959; 8:48 a.m.]

## ALASKA

### Notice of Proposed Withdrawal and Reservation of Lands

The Department of the Navy has filed an application, Serial Number A.048872 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws including the mining and mineral leasing laws. Shall be subject to Tract 2 of Public Land Order 17 of July 21, 1942. The applicant desires the land for protection of existing and contemplated defense installations.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Anchorage Operations Office, Mailing: 334 East Fifth Avenue, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

#### WOODY ISLAND

Beginning at Corner No. 1 of U.S.S. 484, thence:  
S. 34°57' E., 2.77 chains to Corner No. 2, U.S. Survey No. 484,  
S. 54°54' W., 2.17 chains to Corner No. 3, U.S. Survey No. 484,  
S. 41°41' E., 5.34 chains to Corner No. 4, U.S. Survey No. 484,  
N. 88°10' E., 2.79 chains to Corner No. 5, U.S. Survey No. 484,  
S. 55°25' W., 4.77 chains to Corner No. 1, U.S. Survey No. 603 Tract B.

S. 76°45' W., 2.21 chains to Corner No. 4, U.S. Survey No. 603.  
S. 76°45' W., 4.14 chains,  
N. 46°40' W., 2.60 chains,  
N. 1°16' W., 4.00 chains,  
N. 26°43' E., 3.80 chains,  
N. 60°24' E., 4.86 chains to point of beginning.

The tract described contains 7.33 acres.

L. T. MAIN,  
Operations Supervisor,  
Anchorage.

[F.R. Doc. 59-6059; Filed, July 22, 1959;  
8:48 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12697, 12698, FCC 59M-914]

### CONTINENTAL BROADCASTING CORP. (WHOA) AND JOSE R. MADRAZO

#### Notice of Conference

In re applications of Continental Broadcasting Corporation (WHOA), San Juan, Puerto Rico, Docket No. 12697, File No. BP-10489; Jose R. Madrazo, Guaynabo, Puerto Rico, Docket No. 12698, File No. BP-11480; for construction permits.

Notice is hereby given that a further prehearing conference will be held in the above-entitled proceeding at 10:00 a.m. on Thursday, July 23, 1959, in Washington, D.C.

Dated: July 16, 1959.

Released: July 17, 1959.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] MARY JANE MORRIS,  
Secretary.

[F.R. Doc. 59-6076; Filed, July 22, 1959;  
8:51 a.m.]

[Docket No. 12881; FCC 59-719]

### STANLEY M. HAUSER

#### Order Designating Application for Hearing on Stated Issues

In the matter of Stanley M. Hauser, 27 West 84th Street, New York 24, New York, Docket No. 12881; application for renewal of radiotelegraph and radiotelephone first class operator licenses Nos. T1-2-1093; P1-2-6990.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 15th day of July 1959;

The Commission having under consideration the application of Stanley M. Hauser, 27 West 84th Street, New York 24, New York, for renewal of his radiotelegraph and radiotelephone first class operator licenses Nos. T1-2-1093 and P1-2-6990; and

It appearing that the Commission, in pursuance of its authority under section 303(1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United

States as it finds qualified and pursuant to § 1.71 of the Commission's rules directed Stanley M. Hauser to supplement his application for renewal of his radiotelegraph and radiotelephone first class operator licenses by furnishing answers to certain specified questions, under oath; and

It further appearing that Stanley M. Hauser, by letter dated May 26, 1959, refused to answer any of the questions he had been directed to answer; and

It further appearing that in the light of his refusal to answer the questions, the Commission is unable to determine that Stanley M. Hauser possesses the requisite qualifications to be the holder of a radio operator license.

It is ordered, Pursuant to section 303(1) of the Communications Act of 1934, as amended, and § 1.71 of the Commission's rules that the above-entitled application is hereby designated for hearing at the Commission offices in Washington, D.C., at a time and before an Examiner to be specified by subsequent order, upon the following issues to which such hearing shall be confined:

(1) To determine whether Stanley M. Hauser failed to answer lawful questions with respect to his qualifications to be a licensee which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether Stanley M. Hauser possesses the necessary qualifications to hold a radio operator license.

Released: July 20, 1959.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] MARY JANE MORRIS,  
Secretary.

[F.R. Doc. 59-6077; Filed, July 22, 1959;  
8:51 a.m.]

[Docket No. 12903; FCC 59-720]

### RUDOLPH WILLIAM JONES

#### Order Designating Application for Hearing on Stated Issues

In the matter of Rudolph William Jones, 115 Ashland Place, Brooklyn 1, New York, Docket No. 12903; application for renewal of radiotelegraph second-class operator license No. T2-2-1586.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 15th day of July 1959;

The Commission having under consideration the application of Rudolph William Jones, 115 Ashland Place, Brooklyn 1, New York, for renewal of his radiotelegraph second-class operator license No. T2-2-1586; and

It appearing that the Commission, in pursuance of its authority under section 303(1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United States as it finds qualified and pursuant to § 1.71 of the Commission's rules directed Rudolph William Jones to supplement his application for renewal of his radiotelegraph second-class operator

license by furnishing answers to certain specified questions, under oath; and

It further appearing that Rudolph William Jones, by letters dated April 16 and June 4, 1959, refused to answer any of the questions he had been directed to answer; and

It further appearing that in the light of his refusal to answer the questions, the Commission is unable to determine that Rudolph William Jones possesses the requisite qualifications to be the holder of a radio operator license.

It is ordered, Pursuant to section 303(1) of the Communications Act of 1934, as amended, and § 1.71 of the Commission's rules that the above-entitled application is hereby designated for hearing at the Commission offices in Washington, D.C. at a time and before an Examiner to be specified by subsequent order, upon the following issues to which such hearing shall be confined:

(1) To determine whether Rudolph William Jones failed to answer lawful questions with respect to his qualifications to be a licensee which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether Rudolph William Jones possesses the necessary qualifications to hold a radio operator license.

Released: July 20, 1959.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] MARY JANE MORRIS,  
Secretary.

[F.R. Doc. 59-6078; Filed, July 22, 1959;  
8:51 a.m.]

[Docket No. 12882; FCC 59-718]

### HAROLD O. TOWNSEND

#### Order Designating Application for Hearing on Stated Issues

In the matter of Harold O. Townsend, 324 Brentwood Road, Bayshore, New York, Docket No. 12882; application for renewal of radiotelephone first class operator license No. P1-2-6668.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 15th day of July 1959;

The Commission having under consideration the application of Harold O. Townsend, 324 Brentwood Road, Bayshore, New York, for renewal of his radiotelephone first class operator license No. P1-2-6668; and

It appearing that the Commission, in pursuance of its authority under § 303(1) of the Communications Act of 1934, as amended, to issue radio operator licenses to such citizens of the United States as it finds qualified and pursuant to § 1.71 of the Commission's rules directed Harold O. Townsend to supplement his application for renewal of his radiotelephone first class operator license by furnishing answers to certain specified questions, under oath; and

It further appearing that Harold O. Townsend, by letters dated April 19, and

June 1, 1959, refused to answer any of the questions he had been directed to answer; and

It further appearing that in the light of his refusal to answer the questions, the Commission is unable to determine that Harold O. Townsend possesses the requisite qualifications to be the holder of a radio operator license.

*It is ordered,* Pursuant to section 303 (1) of the Communications Act of 1934, as amended, and § 1.71 of the Commission's rules that the above-entitled application is hereby designated for hearing at the Commission offices in Washington, D.C., at a time and before an Examiner to be specified by subsequent order, upon the following issues to which such hearing shall be confined:

(1) To determine whether Harold O. Townsend failed to answer lawful questions with respect to his qualifications to be a licensee which the Commission had directed him to answer under oath;

(2) To determine in the light of the evidence adduced under Issue 1 whether Harold O. Townsend possesses the necessary qualifications to hold a radio operator license.

Released: July 20, 1959.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] MARY JANE MORRIS,  
*Secretary.*

[F.R. Doc. 59-6079; Filed, July 22, 1959;  
8:51 a.m.]

[Docket No. 12938; FCC 59M-913]

**KVFC, INC. (KVFC)**

**Order Scheduling Prehearing  
Conference**

In re application of KVFC, Incorporated (KVFC), Cortez, Colorado, Docket No. 12938, File No. BP-11847; for construction permit.

*It is ordered,* This 16th day of July 1959, that a pre-hearing conference, pursuant to § 1.111 of the Commission's rules, will be held in the above-entitled matter at 10:00 a.m., July 30, 1959, in the Commission's offices in Washington, D.C.

Released: July 17, 1959.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] MARY JANE MORRIS,  
*Secretary.*

[F.R. Doc. 59-6080; Filed, July 22, 1959;  
8:51 a.m.]

[Docket No. 12908; FCC 59M-919]

**LAIRD BROADCASTING CO., INC.  
(KHAK)**

**Order Scheduling Hearing**

In re application of Laird Broadcasting Company, Inc. (KHAK), Cedar Rapids, Iowa, Docket No. 12908, File No. BP-11855; for construction permit for standard broadcast station.

A prehearing conference in the above-entitled matter having been held on July

16, 1959, and it appearing from the record made therein that certain agreements were reached which properly should be formalized in an Order;

*It is ordered,* This 16th day of July 1959 that:

(1) Exhibits to be offered in evidence as part of the direct cases will be under oath and shall be exchanged among the parties and copies thereof supplied the Hearing Examiner on August 11, 1959;

(2) Exhibits to be offered as rebuttal evidence will be under oath and shall be exchanged among the parties and copies thereof supplied the Hearing Examiner on August 21, 1959;

(3) Notification of witnesses to be called for cross-examination shall be given on August 28, 1959;

*It is further ordered,* That hearing herein is scheduled to commence on September 8, 1959, at 10:00 a.m. in the offices of the Commission, Washington, D.C.

Released: July 17, 1959.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] MARY JANE MORRIS,  
*Secretary.*

[F.R. Doc. 59-6081; Filed, July 22, 1959;  
8:51 a.m.]

**FEDERAL POWER COMMISSION**

[Docket No. G-18937]

**BALTIC OPERATING CO.**

**Order Suspending Proposed Revised  
Tariff Sheets and Providing for  
Hearing**

JULY 15, 1959.

Baltic Operating Company (Baltic) on June 15, 1959, tendered for filing Fourth Revised Sheets Nos. 4, 8, and 9, and Fifth Revised Sheet No. 6 to its FPC Gas Tariff, First Revised Volume No. 1, to become effective as of June 23, 1959, proposing an annual increase in its rates and charges of \$4,224, or 12.8 percent, based on the test year ended December 31, 1958, to its two customers, United Gas Service Company and Baxter Springs Gas Company.

In support of the proposed increase, Baltic states that Cities Service Gas Company filed increased rates which would result in an annual increase charge to Baltic of \$4,251. Cities Service's proposed rate increase in Docket No. G-18799 was suspended until November 23, 1959, by order issued June 19, 1959.

The proposed changes provided in Baltic's Fourth Revised Sheets Nos. 4, 8, and 9, and Fifth Revised Sheet No. 6 to its FPC Gas Tariff, First Revised Volume No. 1, have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, and services contained in Baltic's FPC Gas Tariff, First Revised

Volume No. 1, as proposed to be amended by Fourth Revised Sheets Nos. 4, 8, and 9, and Fifth Revised Sheet No. 6, and that this proposed revised tariff be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the rates, charges, classifications, and services contained in Baltic's FPC Gas Tariff, First Revised Volume No. 1, as proposed to be amended by Fourth Revised Sheets Nos. 4, 8, and 9, and Fifth Revised Sheet No. 6.

(B) Pending such hearing and decision thereon, Baltic's Fourth Revised Sheets Nos. 4, 8, and 9, and Fifth Revised Sheet No. 6 to its FPC Gas Tariff, First Revised Volume No. 1, is suspended until December 16, 1959, and until such further time thereafter as it may be made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

MICHAEL J. FARRELL,  
*Acting Secretary.*

[F.R. Doc. 59-6046; Filed, July 22, 1959;  
8:46 a.m.]

[Project No. 2082]

**CALIFORNIA OREGON POWER CO.**

**Notice Fixing Hearing**

JULY 15, 1959.

The Commission's order issued May 29, 1959, scheduled a hearing to be held on August 4, 1959 in the above-designated matter.

Said hearing will be held at 10:00 a.m., P.s.t., August 4, 1959, in the Mills School Auditorium, Klamath Falls, Oregon.

MICHAEL J. FARRELL,  
*Acting Secretary.*

[F.R. Doc. 59-6047; Filed, July 22, 1959;  
8:46 a.m.]

[Docket No. G-12391]

**KANSAS-NEBRASKA NATURAL GAS  
CO., INC.**

**Order Accepting and Approving Proposed Stipulation Limiting Issues for Hearing and Fixing Date of Hearing**

JULY 17, 1959.

On March 14, 1957, Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) filed First Revised Sheets Nos. 4, 5 and 9 to its FPC Gas Tariff, First Revised Volume No. 1, proposed to become effective on May 1, 1957, and providing increased rates and charges for

sales of natural gas, subject to the jurisdiction of the Commission. By order issued April 12, 1957, the Commission ordered that a public hearing be held upon a date to be fixed thereafter, and that, pending such hearing and decision thereon, the proposed increased rates and charges be suspended until October 1, 1957. Thereafter, on that date, the proposed increased rates and charges were permitted to take effect, subject to refund, by order issued October 10, 1957.

At the request of Kansas-Nebraska, before the matter was set for hearing, a conference of all interested parties, including the Commission's staff, was held on January 28 and 29, 1959. As a result of the conference, a stipulation, dated March 3, 1959, was entered into, limiting the issues to be heard in this proceeding. On April 8, 1959, Kansas-Nebraska filed a motion requesting that the stipulation be accepted by the Commission and that the issues to be heard herein be limited as set forth therein.

By mutual agreement of all parties with appropriate reservations, it was stipulated that the matters to be heard in this proceeding be limited by accepting the overall cost of service, in the amount of \$14,946,272, as set forth in a study of Kansas-Nebraska's costs prepared by the Commission's staff, with the exception that the return on investment and the reflected income tax effect thereon, included in said study would remain in issue. It was also agreed that the proper allocation to jurisdictional customers of the total cost of service should remain in issue. By the reservation of the return and cost allocation issues, we understand the parties intended to retain in issue the proper rates related to such cost of service.

It is noted that the stipulation does not state what effect it may have upon the cost of service to be used in determining rates for the refund period. It appears, however, that the overall cost of service in the amount of \$14,946,272 includes purchase gas costs based upon increased contract prices which were renegotiated during the refund period which commenced October 1, 1957. The renegotiations were prompted by the court invalidation of the State of Kansas minimum price statute.<sup>1</sup> Consequently, if the same increased rates were to be allowed by the Commission for the refund period as for the future, the company might receive allowances for the refund period not justified by equivalent expenditures. Accordingly, in accepting the stipulation for the limited purposes of this order, we will keep open for further consideration the question concerning Kansas-Nebraska's actual purchase gas cost to be allowed for the refund period.<sup>2</sup>

The Commission finds:

(1) It is appropriate and in the public interest to accept the stipulation agreement entered into as aforesaid for the purpose of limiting the issues to be heard in this proceeding and Kansas-

Nebraska's motion to that effect should be granted, as provided herein.

(2) This proceeding should be set for hearing as provided herein.

The Commission orders:

(A) The Proposed Stipulation Limiting Issues for Hearing, dated March 3, 1959, entered into by the parties hereto, and submitted with the aforesaid motion, is hereby accepted and approved.

(B) The public hearing directed to be held by our order issued April 12, 1957, herein, shall convene on September 22, 1959, at 10:00 a.m., e.d.t., in a public hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

(C) The issues upon which evidence shall be received shall be limited to those of the appropriate rate of return, the return on investment, the income tax allowable thereon, the appropriate allocation to jurisdictional customers of the total cost of service, and the proper rates related to such cost of service. For the purpose of establishing rates for the future, the total cost of service shall be deemed to be \$14,946,272, as shown in the aforementioned Commission staff's study, and as modified by any change in the rate of return and applicable income tax reflecting change in return on investment based thereon. For the purpose of establishing rates for the refund period the stipulated cost of service may be further amended to reflect legally effective purchase gas contract prices during that period.

(D) The procedure to be followed shall be: Kansas-Nebraska shall serve by mail its exhibits and prepared testimony, upon all parties and the staff, on or before August 14, 1959; the Commission's staff and all intervenors shall serve by mail their exhibits and prepared testimony, upon all parties, on or before September 4, 1959; at the hearing the order of procedure shall be that normally followed in section 4(e) proceedings under the Act, with Kansas-Nebraska going forward with its case-in-chief first and being required to maintain the burden of proof. Upon the opening of the hearing, nevertheless, it will be essential for the staff to introduce in exhibit form the above identified cost of service study upon which the aforementioned stipulation is based.

By the Commission.

MICHAEL J. FARRELL,  
Acting Secretary.

[F.R. Doc. 59-6048; Filed, July 22, 1959;  
8:46 a.m.]

[Docket No. G-18448]

## NATURAL GAS STORAGE COMPANY OF ILLINOIS

### Notice of Application and Date of Hearing

JULY 16, 1959.

Take notice that on May 4, 1959, Natural Gas Storage Company of Illinois (Applicant) filed in Docket No. G-18448

an application, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing:

(1) The construction and operation of two additional 660 B.H.P. compressor engines, with appurtenant facilities, at Applicant's Herscher storage project in Kankakee County, Illinois;

(2) Utilization of the Mt. Simon reservoir for top storage operation; and

(3) Increase of the presently authorized maximum day gas withdrawal by 75,000 Mcf to a total of 575,000 Mcf from the Mt. Simon and Galesville reservoirs at Herscher and the integrally operated Cooks Mills storage project.

The subject application is on file with the Commission and open to public inspection.

The proposed facilities will be utilized in conjunction with the existing facilities for injection of gas replacements into the Mt. Simon and Galesville reservoirs as quickly as possible after gas withdrawals, and for withdrawal operations from the Galesville reservoir.

The additional peak capacity is to be allocated to present customers in accordance with the procedure set forth in Applicant's FPC Gas Tariff, Original Volume No. 1.

The estimated total cost of the proposed facilities is \$362,000, to be paid from funds on hand and from short-term bank loans.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 25, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 17, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL,  
Acting Secretary.

[F.R. Doc. 59-6050; Filed, July 22, 1959;  
8:46 a.m.]

<sup>1</sup> Cities Service Gas Co. v. Kansas Corporation Commission, 355 U.S. 391.

<sup>2</sup> In this connection we are particularly mindful of the proceedings now pending before us in Docket No. R-168.

[Docket No. G-18195]

**McGRATH & SMITH ET AL.**

**Notice of Application and Date of Hearing**

JULY 16, 1959.

Take notice that on March 31, 1959, McGrath & Smith (Operator) et al.,<sup>1</sup> (Applicants) filed in Docket No. G-18195 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to El Paso Natural Gas Company (El Paso) from three leases in the Spraberry Field, Upton County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The specific leases involved are the J. D. Christy "A" Lease, the J. D. Christy "B" Lease and the First National Bank of San Angelo Lease. Applicants propose to make the subject sales pursuant to a contract dated November 3, 1952, between Humble Oil & Refining Company (Humble) and El Paso, to which contract Applicant has acquired signatory status by certain assignments from Humble. This assigned contract has been accepted for filing and designated McGrath & Smith (Operator), et al. FPC Gas Rate Schedule No. 1 and Supplements 1-4, inclusive thereto.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 20, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 12, 1959. Failure of any party to appear at and participate in the hearing shall

be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL,  
*Acting Secretary.*

[F.R. Doc. 59-6049; Filed, July 22, 1959; 8:46 a.m.]

[Docket No. G-18550]

**UNITED FUEL GAS CO.**

**Notice of Application and Date of Hearing**

JULY 16, 1959.

Take notice that on May 18, 1959, supplemented on June 18, 1959, United Fuel Gas Company (Applicant) filed in Docket No. G-18550 an application, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas pipeline facilities to be attached to Applicant's system in the Kenova area of West Virginia as the first step in a five-year rehabilitation plan for this part of said system, all as more fully set forth in the application and supplement, which are on file with the Commission and open to public inspection.

The facilities for which authorization is sought herein are:

(1) One 2,000 horsepower compressor unit and four 1,100 horsepower compressor units, and appurtenances, to be installed at the existing Kenova compressor station;

(2) Approximately 4.8 miles of 16-inch transmission pipeline (designated BM-109) to extend from the Kenova station to Applicant's existing Ceredo compressor station; and

(3) One additional 2,000 horsepower compressor unit to be installed at the Ceredo compressor station.

Applicant states that the facilities proposed herein, together with replacement facilities to be applied for in future applications, will enable Applicant to transport its available gas supplies to storage and to market in a more efficient manner than is now possible through existing old facilities which are rapidly becoming unserviceable.

The estimated cost of the compressor and pipeline facilities proposed in this application is \$3,568,300, to be financed by Applicant's parent, The Columbia Gas System, Inc.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 25, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commis-

sion, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 17, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

MICHAEL J. FARRELL,  
*Acting Secretary.*

[F.R. Doc. 59-6051; Filed, July 22, 1959; 8:46 a.m.]

**GENERAL SERVICES ADMINISTRATION**

**HYOSCINE HELD IN NATIONAL STOCKPILE**

**Proposed Disposition**

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 53 Stat. 811, as amended, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 4,070 ounces of hyoscine now held in the national stockpile.

The Office of Civil and Defense Mobilization has made a revised determination, pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act, that, because of obsolescence of hyoscine for certain uses in time of war, there is no longer any need for stockpiling this quantity of hyoscine.

General Services Administration proposes to offer said hyoscine for sale, on a competitive basis, at intervals of not less than nine months, with not more than approximately 1,070 ounces to be offered for sale at any one time.

This plan of disposition has been fixed with due regard to the protection of producers, processors, and consumers against avoidable disruption of their usual markets as well as the protection of the United States against avoidable loss on disposal.

It is proposed to make the hyoscine covered by this notice available for sale beginning six months after date of publication of this notice in the FEDERAL REGISTER.

Dated: July 16, 1959.

FRANKLIN FLOETE,  
*Administrator of General Services.*

[F.R. Doc. 59-6067; Filed, July 22, 1959; 8:50 a.m.]

<sup>1</sup>The co-owners of the working interests in the subject leases and their percentum of ownership are stated to be:

	Percent
R. Searle McGrath et al.	10.0
Pomeroy Smith, Limited '58	30.0
Neil E. Salsich, No. 2, Ltd.	25.0
Carl J. Westlund	25.0
Oscar Bourg	7.5
Bob Franklin	2.5
	100.0

## CIVIL AERONAUTICS BOARD

[Docket No. 9476]

### UNITED STATES OVERSEAS AIRLINES, INC., v. GREAT LAKES AIRLINES, INC.

#### Notice of Postponement of Hearing

In the matter of the formal complaint of United States Overseas Airlines, Inc., against Great Lakes Airlines, Inc., Currey Air Transport, Ltd., Trans-Alaskan Airlines, Inc., Transcontinental Airlines Agency System, Skycoach System and Irving E. Hermann and Ida Mae Hermann.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that the hearing in the above-entitled matter now assigned to be held the 28th of July 1959, at 10:00 a.m., e.d.s.t., in Room 911, Universal Building, Washington, D.C., is postponed to August 11, 1959, at 10:00 a.m. (Local Time) in Room 810, U.S. Post Office and Court House, 312 North Spring Street, Los Angeles, California, before Examiner John A. Cannon.

Dated at Washington, D.C., July 17, 1959.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F.R. Doc. 59-6074; Filed, July 22, 1959;  
8:50 a.m.]

## OFFICE OF CIVIL AND DEFENSE MOBILIZATION

GERHARD D. BLEICKEN

### Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b) (6) of the Defense Production Act of 1950, as amended.

Vice President and Secretary, John Hancock Mutual Life Insurance Co. Boston, Mass.

Director, High Vacuum Equipment Corporation, Hingham, Mass.

Director, Kinetics Corporation, Hingham, Mass.

Trustee, B & M Real Estate Trust, Hingham, Mass.

This amends statement published February 10, 1959 (24 F.R. 993).

Dated: July 9, 1959.

GERHARD D. BLEICKEN.

[F.R. Doc. 59-6039; Filed, July 22, 1959;  
8:45 a.m.]

OTTO L. NELSON

### Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b) (6) of the Defense Production Act of 1950, as amended.

#### Addition

Chairman, Temporary State Commission on Governmental Operations of the City of New York.

This amends statement published January 31, 1959 (24 F.R. 716).

Dated: July 10, 1959.

Maj. Gen. OTTO L. NELSON (USA Ret.).

[F.R. Doc. 59-6040; Filed, July 22, 1959;  
8:45 a.m.]

SAM M. EWING

### Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b) (6) of the Defense Production Act of 1950, as amended.

No changes since last statement, published January 28, 1959 (24 F.R. 618).

Dated: July 9, 1959.

SAM M. EWING.

[F.R. Doc. 59-6041; Filed, July 22, 1959;  
8:45 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1237]

### MUTUAL TRUST

#### Notice of Filing of Application for Exemptions

JULY 17, 1959.

Mutual Trust ("Applicant"), a registered open-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (the Act) for an order of the Commission temporarily exempting the Applicant from certain provisions of section 15(a) of the Act to the extent that such provisions may require stockholder approval of an Investment Advisory Contract.

Applicant is a common law trust, organized under an Agreement and Declaration of Trust dated November 2, 1944, as amended, which issues Shares of Beneficial Interest. It is registered under the Act as an open-end, diversified, managed investment trust. As of November 28, 1958, Applicant had net assets of approximately \$9,886,201 applicable to its Shares of Beneficial Interest outstanding and had approximately 5,000 shareholders, including those who acquired Beneficial Interests pursuant to periodic purchase plans.

Security Management, Incorporated, a Missouri corporation (the Investment Adviser), has acted as Investment Adviser to the Applicant since 1950 pursuant to an Agreement dated September 22, 1950, between the Trustees of the Applicant and Security Management, Incorporated (the Agreement). The Agreement is subject to renewal annually by the shareholders or Trustees and has been renewed by the Trustees for the

fiscal year ending November 30, 1959, and would normally expire on that date if not again renewed. The Agreement contains the required statutory provision that it will terminate automatically in the event of its assignment.

Voting control of the Investment Adviser is owned by A. E. Weltner & Co., a Missouri corporation, all of the authorized and outstanding 200 shares of Common Stock, par value \$10 per share, of the Investment Adviser being beneficially owned by A. E. Weltner & Co., Inc. The authorized capitalization of A. E. Weltner & Co., Inc. consists of 1,000 shares of 5 percent Cumulative Preferred Stock, par value \$100 per share, of which 872 shares are issued and outstanding and owned by one person, and 1,000 shares of common stock, par value \$10 per share, of which 600 shares are issued and outstanding. Of the 600 issued and outstanding shares of Common Stock, which is the only voting security, 448 shares were owned by A. E. Weltner.

On February 23, 1959 A. E. Weltner died. Under the terms of his will, all of the Common Stock of A. E. Weltner & Co., Inc. owned by him passed to his wife, Mrs. Edna Weltner. Mrs. Weltner has never been active in the business of the Investment Adviser.

Section 15(a) of the Act provides, in part, that it shall be unlawful for any person to serve or act as Investment Adviser of a registered investment company except pursuant to a written contract which has been approved by a vote of a majority of the outstanding voting securities of such registered company. Under the Agreement and Declaration of Trust, dated November 2, 1944, as amended, under which the Applicant was organized, each shareholder has one vote for each share registered in his name on the books of the Trustees with respect to matters on which and meetings at which shareholders are entitled to vote.

Section 15(a) also requires that any Investment Advisory Contract must provide for its automatic termination in the event of its assignment by the Investment Adviser.

"Assignment" is defined by section 2(a) (4) of the Act to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

Applicant requests that the Commission grant the Applicant a temporary exemption from the provisions of section 15(a) of the Act so as to permit the Applicant and the Investment Adviser to continue operation of the Agreement from February 23, 1959 to January 19, 1960, the date of the next regular shareholders' meeting of Mutual Trust. Prior to January 19, 1960, in connection with the regular shareholders' meeting of Mutual Trust, the Trustees of the Applicant propose to solicit the approval of shareholders of the Applicant with respect to continuance of the Agreement and all of the terms and provisions thereof, or to approve a new Investment Advisory Contract, such continuance or new contract, as the case may be, to be effective on or prior to January 19, 1960.



Section 6(c) of the Act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 28, 1959 at 5:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, 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 or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the application may be granted as provided in Rule O-5 of the rules and regulations promulgated under the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 59-6062; Filed, July 22, 1959;  
8:49 a.m.]

## INTERSTATE COMMERCE COMMISSION

### FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 20, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

#### LONG-AND-SHORT HAUL

FSA No. 35561: *Caustic soda from McIntosh, Ala., to Rome, Ga.* Filed by Southern Railway Company (No. 140-A), for itself. Rates on liquid caustic soda, in tank-car loads from McIntosh, Ala., to Rome, Ga.

Grounds for relief: Market competition.

Tariff: Supplement 97 to Southern Freight Association tariff I.C.C. 1536.

FSA No. 35562: *Vegetables—Kansas points to southern territory.* Filed by Western Trunk Line Committee, Agent (No. A-2076), for interested rail carriers. Rates on vegetables, in carloads of varying minimum from points in Kansas to points in southern territory.

Grounds for relief: Market competition.

Tariff: Supplements 53 and 54 to Western Trunk Lines tariff I.C.C. A-4016.

FSA No. 35563: *Scrap iron or steel—Pittsburgh district points to Calvert, Ky.* Filed by O. E. Schultz, Agent (ER No.

No. 143—7

2504), for interested rail carriers. Rates on scrap iron or steel, in carloads from Pittsburgh, Pa., district points to Calvert, Ky.

Grounds for relief: Rail-barge competition.

Tariff: Supplement 131 to Trunk Line Territory Tariff Bureau tariff I.C.C. A-1079.

FSA No. 35564: *Express rates in the United States.* Filed by the Railway Express Agency, Incorporated (No. 1-59). Rates on commodities moving on less-carload express rates from, to, and between points in the United States.

Grounds for relief: Short-line distance formula and grouping.

FSA No. 35566: *Fine coal—Percy and Sparta, Ill., to Rome, Ga.* Filed by O. W. South, Jr., Agent (SFA No. A-3825), for interested rail carriers. Rates on bituminous fine coal, in carloads from Percy and Sparta, Ill., to Rome, Ga.

Grounds for relief: Market competition with mines located on the Illinois Central Railroad Company.

Tariff: Supplement 16 to Illinois Freight Association tariff I.C.C. 765.

#### AGGREGATE OF INTERMEDIATES

FSA No. 35565: *Express rates in the United States.* Filed by Railway Express Agency, Incorporated (No. 2-59).

Rates on commodities moving on less-carload express rates from, to, and between points in the United States.

Grounds for relief: Maintenance of single-factor through rates which exceed the aggregates of the intermediate rates.

By the Commission.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-6071; Filed, July 22, 1959;  
8:50 a.m.]

[Notice 154]

### MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 20, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62073. By order of July 15, 1959, the Transfer Board approved the transfer to Balto-Hedges Towing, Inc., doing business as Bishop Towing Company and Emergency Towing Service, Minneapolis, Minn., of certificate in No. MC 113733, issued July 8, 1954, to Lewis Hedges, doing business as Bishop Towing Co., Minneapolis, Minn., author-

izing the transportation of: Wrecked or disabled motor vehicles, and tractors for replacement or wrecked or disabled tractors, in truck-away service between Minneapolis, and St. Paul, Minn., on the one hand, and, on the other, points in Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin. Leonard T. Juster, 311 Produce Bank Building, Minneapolis 3, Minn., for applicants.

No. MC-FC 62153. By order of July 15, 1959, the Transfer Board approved the transfer to Ray Churchill, Barre, Vt., of Certificate No. MC 112886 Sub 2, issued March 4, 1953, to Vermont Transport Company, Inc., Barre, Vt., authorizing the transportation of: Rough, dressed, or carved granite and marble, from points in Rutland Township, Rutland County, Vt., and Berlin and Barre Townships, Washington County, Vt., to Philadelphia, Pa.; and rough, dressed, or carved granite, from the above-specified origin points to Wilmington, Del. Richard E. Davis, 25 Keith Avenue, Barre, Vt., for applicants.

No. MC-FC 62210. By order of July 15, 1959, the Transfer Board approved the transfer to Bob Wootan Moving and Storage Co., Inc., of Jackson, Miss., of Certificate No. MC 114747 issued April 15, 1955, in the name of Robert S. Wootan, doing business as Bob Wootan Moving and Storage of Jackson, Miss., authorizing the transportation of meats, meat products, and meat by-products, dairy products, and articles distributed by meat packing houses, between points in Mississippi within 100 miles of Jackson, Miss. Phineas Stevens, 900 Milner Building, Jackson, Miss., for applicants.

No. MC-FC 62211. By order of July 15, 1959, the Transfer Board approved the transfer to Bob Wootan Moving and Storage Co., Inc., of Jackson, Miss., of Certificate No. MC 38619 issued August 29, 1944 in the name of Mrs. Wm. Rednour doing business as Wm. Rednour Transfer & Storage Company of New Orleans, La., authorizing the transportation of household goods, over irregular routes, between New Orleans, La., on the one hand, and, on the other, Memphis, Tenn., and points in Alabama, Arkansas, Georgia, Mississippi and Florida on and north of U.S. Highway 90. Phineas Stevens, 700 Petroleum Building, Jackson, Miss., for applicants.

No. MC-FC 62216. By order of July 15, 1959, the Transfer Board approved the transfer to Robert A. Carroll and Richard J. Carroll, a Partnership, doing business as Carroll The Mover, Quincy, Mass., of the operating rights in Certificate No. MC 89111 Sub 5, issued September 4, 1956, to W. W. Welch, Inc., authorizing the transportation of household goods, over irregular routes, between points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, and between points in the states named above, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Ohio, Michigan, Indiana, Illinois, West Virginia, North Carolina, and South Carolina, and between points in Maine, on the one hand, and, on the other, points in Massachu-

setts and New Hampshire. Theodore E. Shasta, 60 State Street, Boston 9, Mass., for applicants.

No. MC-FC 62308. By order of July 15, 1959, the Transfer Board approved the transfer to Charles D. Merrick, Torrington, Wyo., of the operating rights in Certificate No. MC 96351, issued January 17, 1957, to Paul N. Merrick, Torrington, Wyo., authorizing the transportation, over irregular routes, of livestock, household goods, hay, grain feed, lumber, bridge materials, farm products, insecticides, grain and potato bags, new and used farm machinery, and livestock, from and to specified points in Wyoming, Nebraska, and Colorado. Stanley K. Hathaway, Call Building, Torrington, Wyo., for applicants.

No. MC-FC 62332. By order of July 13, 1959, the Transfer Board approved the transfer to Kato Theatre Service, Inc., of Elizabethtown, Ky., of Certificate No. MC 108329 issued May 27, 1954, in the name of James R. Mays and Landis R. Mays, a partnership, doing business as Kato Theatre Service, of Elizabethtown, Ky., authorizing the transportation of motion picture films, projector equipment and supplies, and advertising matter, over irregular routes, between Indianapolis, Ind., on the one hand, and, on the other, 61 specified counties in Kentucky; and substitution in MC 108329 Sub 2; Earl C. Frankenberg, 1104 Kentucky Home Life Building, Louisville 2, Kentucky for applicants.

No. MC-FC 62361. By order of July 15, 1959, the Transfer Board approved the transfer to Leonard J. Spanick and Alice Hunt Spanick, a Partnership, doing business as Pointe Van & Storage Co., of the operating rights in Certificate No. MC 59725, issued September 14, 1940, to B. J. Townes, doing business as American Van Service, authorizing the transportation of household goods, over irregular routes, between points in Wayne, Oakland, and Macomb Counties, Mich., on the one hand, and, on the other, points in Illinois, Indiana, Ohio, Pennsylvania, and New York. Edmund N. Brady, 2150 Guardian Building, Detroit 26, Mich., for applicants.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-6072; Filed, July 22, 1959;  
8:50 a.m.]

## DEPARTMENT OF LABOR

### Wage and Hour Division

#### LEARNER EMPLOYMENT CERTIFICATES

##### Issuance to Various Industries

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), Administrative Order No. 485 (23 F.R. 200) and Administrative Order No. 507 (23 F.R. 2720), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than

the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Bannon Mills, Inc., Seventh and Union Streets, Lebanon, Pa.; effective 7-18-59 to 7-17-60 (infants' and children's knit goods).

Blue Bell, Inc., Madison, Va.; effective 7-14-59 to 7-13-60 (little boys' play clothing).

Cotton City Wash Frocks, Inc., 52 Twelfth Street, Fall River, Mass.; effective 7-13-59 to 7-12-60 (misses' and women's cotton wash dresses).

Dillon Manufacturing Co., Dillon, S.C.; effective 7-9-58 to 7-8-60 (ladies' cotton house dresses).

Morris Freezer and Co., Inc., 1200 West Main Street, and West Spring Street, Wytheville, Va.; effective 7-19-59 to 7-18-60 (boys' woven shirts).

Greenwood Manufacturing Co., 331 Waller Avenue, Greenwood, S.C.; effective 7-21-59 to 7-20-60 (ladies' dresses, housecoats).

Heath Springs Manufacturing Co., Heath Springs, S.C.; effective 7-12-59 to 7-11-60 (children's wear).

Hunter-Sadler Co., Strauss Street, Tupelo, Miss.; effective 7-16-59 to 7-15-60 (men's and boys' jackets).

Industrial Garment Manufacturing Co., Route No. 2, Palestine, Tex.; effective 7-9-59 to 7-8-60 (men's cotton work pants).

Katz Underwear Co., Sixth Street Plant; Sunrise Avenue Plant, Honesdale, Pa.; effective 7-23-59 to 7-22-60 (women's and misses' nightgowns and pajamas).

Kinston Manufacturing Co., Inc., Kinston, Ala.; effective 7-13-59 to 7-12-60 (men's and boys' outerwear; boys' pants).

M & G Sportswear, Inc., Union Mill No. 2, Fall River, Mass.; effective 7-9-59 to 7-8-60 (children's sportswear and outerwear).

Rhea Manufacturing Co., Colquitt Division, Colquitt, Ga.; effective 7-12-59 to 7-11-60 (dresses).

Wildwood Clothing Co., Inc., 112 East Schellenger Avenue, Wildwood, N.J.; effective 7-20-59 to 7-19-60 (ladies' shorts, slacks, etc.).

Wood Garment Manufacturing Co., Inc., Crane, Mo.; effective 7-23-59 to 7-22-60 (men's dress trousers; men's and boys' Ivy Leagues, dungarees).

Wood Garment Manufacturing Co., Inc., Republic, Mo.; effective 7-23-59 to 7-22-60 (men's dress pants).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Benld Garment Co., 815 East Central Avenue, Benld, Ill.; effective 7-9-59 to 7-8-60; 10 learners (ladies' dresses).

Delta Shirt Manufacturing Co., Inc., Bayard, N. Mex.; effective 7-13-59 to 7-12-60; 10 learners (boys' clothing).

New Castle Manufacturing Co., Inc., New Castle, Va.; effective 7-13-59 to 7-12-60; 10

learners (children's and ladies' woven pajamas and gowns).

So-Rite Lingerie, Bright Building, Keyser, W. Va.; effective 7-13-59 to 7-12-60; 10 learners (ladies' pajamas and dusters).

West Union Garment Co., Inc., West Union, W. Va.; effective 7-11-59 to 7-10-60; 10 learners (brassieres, sun halters).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Bolivar Manufacturing Corp., Bolivar, Mo.; effective 7-13-59 to 1-12-60; 53 learners (ladies' shorts and slacks).

Heath Springs Manufacturing Co., Heath Springs, S.C.; effective 7-12-59 to 1-11-60; 50 learners (children's wear).

L and S Dress Co., West Mill Street, Elysburg, Pa.; effective 7-9-59 to 1-8-60; 10 learners (ladies' and misses' dresses).

Shane Manufacturing Co., 1501 West Franklin Street, Evansville, Ind.; effective 7-9-59 to 12-8-59; 150 learners (boys' short and long pants; short and long sleeved shirts; Eton coats; zipper jackets).

Spring Hope Manufacturing Co., Inc., Spring Hope, N.C.; effective 7-13-59 to 1-12-60; 20 learners (children's sport shirts).

W. E. Stephens Manufacturing Co., Inc., Watertown, Tenn.; effective 7-12-59 to 1-11-60; 10 learners (men's work and sport shirts; ladies' sportswear).

Temple Manufacturing Co., Temple, Okla.; effective 7-15-59 to 1-14-60; 50 learners (men's and boys' single pants).

Tennessee Textile Corp., Maryville, Tenn.; effective 7-13-59 to 1-12-60; 26 learners (men's cotton work trousers and shirts).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

Adams-Millis Corp., Bodenhamer Street, Kernersville, N.C.; effective 7-14-59 to 7-13-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Gaby Hosiery Mills, Inc., Mill Street, Dandridge, Tenn.; effective 7-7-59 to 7-6-60; five learners for normal labor turnover purposes (seamless).

Granite Hosiery Mills, 838 South Main Street, Mt. Airy, N.C.; effective 7-8-59 to 7-7-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Mayo Knitting Mill, Inc., Chestnut Street, Tarboro, N.C.; effective 7-22-59 to 7-21-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Parkdale Hosiery Mill, Catawba, N.C.; effective 7-13-59 to 7-12-60; three learners for normal labor turnover purposes (seamless).

Walton Knitting Mills, Inc., Hickory, N.C.; effective 7-7-59 to 7-6-60; five learners for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Alabama Textile Products Corp., Crestview, Ala.; effective 7-13-59 to 7-12-60; 5 percent of the total number of factory production workers for normal labor turnover purposes in the production of men's shorts.

Leola Undergarment Co., Inc., Leola, Pa.; effective 7-7-59 to 7-6-60; five learners for normal labor turnover purposes (ladies' slips).

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.50 to 522.55, as amended).

Runnymede Mills, Inc., 103 First Street, Tarboro, N.C.; effective 7-13-59 to 7-12-60; 10 learners for normal labor turnover purposes (slippers).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Consolidated Cigar Corporation of Puerto Rico, Caguas, P.R.; effective 6-25-59 to 6-24-60; 137 learners for normal labor turnover purposes in the occupations of: (1) cigar making, packing, each for a learning period of 320 hours at the rates of 65 cents an hour for the first 160 hours and 75 cents an hour for the remaining 160 hours; (2) sorting, selecting, sizing and tying, each for a learning period of 240 hours at the rate of 65 cents an hour; (3) machine stripping, in-

spectors, each for a learning period of 160 hours at the rate of 65 cents an hour (cigars).

Shelen, Inc., 18 San Vicente Street, Mayaguez, P.R.; effective 6-29-58 to 12-28-59; 20 learners for plant expansion purposes in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 60 cents an hour for the first 320 hours and 70 cents an hour for the remaining 160 hours (elastic girdles).

Superior Embroidery Co., Inc., 19 Morell Campos Street, Mayaguez, P.R.; effective 6-22-59 to 12-21-59; 80 learners for plant expansion purposes in the occupations of: (1) embroidery machine operators for a learning period of 480 hours at the rates of 53 cents an hour for the first 240 hours and 62 cents an hour for the remaining 240 hours; (2) handcutting of applique on embroidery panels for a learning period of 240 hours at the rates of 53 cents an hour for the first 160 hours and 62 cents an hour for the remaining 80 hours (machine embroidery).

Each learner certificate has been issued upon the representations of the employer which, among other things,

were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 15th day of July 1959.

ROBERT G. GRONEWALD,  
Authorized Representative  
of the Administrator.

[F.R. Doc. 59-6060; Filed, July 22, 1959; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—JULY

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during July. Proposed rules, as opposed to final actions, are identified as such.

3 CFR	Page	7 CFR—Continued	Page	13 CFR	Page
<i>Proclamations:</i>		957	5413	121	5628
3301	5327	958	5711		
3302	5707	959	5599	<b>14 CFR</b>	
3303	5773	969	5824	4b	5629, 5688
<i>Executive orders:</i>		973	5414	10	5629, 5688
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