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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Agriculture

Effective upon publication in the FEDERAL REGISTER, subparagraph (1) of paragraph (a) of § 6.111 is amended as set out below.

§ 6.111 **Department of Agriculture.**

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal Service. This authority is not applicable to positions in the Agricultural Research Service, or positions in the Statistical Reporting Service, or poultry inspection and tobacco inspection positions in the Agricultural Marketing Service. After April 1, 1963, this authority is not applicable to agricultural commodity grader (meat) positions in the Agricultural Marketing Service.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 62-11371; Filed, Nov. 14, 1962; 8:54 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Expenses of Walnut Control Board and Rates of Assessment for 1962–63 Marketing Year

Notice was published in the FEDERAL REGISTER on October 20, 1962 (27 F.R. 10299), that there was under consideration a proposal regarding expenses of the Walnut Control Board and rates of assessment for the 1962–63 marketing year which began August 1, 1962. The proposal was based on the recommendation of the Walnut Control Board and other available information pursuant to the amended marketing agreement and order (7 CFR Part 984, 27 F.R. 9094), regulating the handling of walnuts grown in California, Oregon, and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

The notice afforded interested persons opportunity to file written data, views, or arguments pertaining thereto with the Department for consideration prior to approval of a budget of expenses and the establishment of assessment rates for the 1962–63 marketing year. The prescribed time has expired and no such communication has been received.

After consideration of all relevant matters presented, including those in the notice, it is hereby found that expenses of the Control Board in the amount of $108,200 are reasonable and likely to be incurred by the Board during the 1962–63 marketing year and rates of assessment of 0.10 cent per pound of merchantable inshell walnuts and 0.20 cent per pound of merchantable shelled walnuts are necessary to provide funds to meet authorized Board expenses.

Therefore, the expenses of the Control Board and rates of assessment for the marketing year beginning August 1, 1962, are established as follows:

§ 984.314 **Expenses of the Walnut Control Board and rates of assessment for the 1962–63 marketing year.**

(a) *Expenses.* In accordance with § 984.68, the expenses that are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1962, will amount to $108,200, and the Board is authorized to incur such expenses.

(b) *Rates of assessment.* The rates of assessment fixed for said marketing year, payable by each handler in accordance with § 984.69, shall be 0.10 cent per pound for merchantable inshell walnuts and 0.20 cent per pound for merchantable shelled walnuts.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that: (1) the relevant provisions of said amended marketing agreement and this part require that rates of assessment fixed for a particular marketing year shall be applicable to all assessable walnuts from the beginning of such year; and (2) the current marketing year began on August 1, 1962, and the rates of assessment herein fixed will automatically apply to all assessable walnuts beginning with such date.

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

Dated: November 9, 1962.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 62-11347; Filed, Nov. 14, 1962; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER K—HUMANE SLAUGHTER OF LIVESTOCK

PART 180—DESIGNATION OF METHODS

New Mechanical Gunshot Method of Humane Slaughter

Pursuant to the authority conferred by the Humane Slaughter Act of August 27, 1958 (7 U.S.C. 1901 et seq.), § 180.16(b)(1)(ii) of the regulations relating to humane slaughter of livestock (9 CFR 180.16(b)(1)(ii)) is hereby amended to read as follows:

§ 180.16 **Mechanical; gunshot.**

(b) *Facilities and procedure*—(1) *General requirements for shooting facilities; operator.* * * *

(ii) To assure uniform unconsciousness of the animal with every discharge where small-bore firearms are employed, it is necessary to use one of the following type projectiles: Hollow pointed bullets; frangible iron plastic composition bullets; or powdered iron missiles. When powdered iron missiles are used, the firearms shall be in close proximity with the skull of the animal when fired. Firearms must be maintained in good repair. For purposes of protecting employees, inspectors and others, it is desirable that all firearms be equipped with safety devices to prevent injuries from accidental discharge. Aiming and discharging of firearms should be directed away from operating areas.

(Sec. 4, 72 Stat. 863; 7 U.S.C. 1904)

The amendment designates as a humane method, slaughter by gunshot using finely powdered iron as a missile. Conventional type small-bore firearms are used when the missiles are discharged. The gun is fired while very near the skull of the animal being stunned. When fired in this position, the powdered iron missile retains its original mass, penetrates the skull of the animal and produces insensibility by a combination of physical brain destruction and changes in intracranial pressure.

The amendment provides industry with an additional humane slaughter method, which will be acceptable for purposes of section 3 of the Act. It makes available a new measure of safety for operating and inspection personnel involved in livestock slaughtering operations. In order to be of maximum benefit to affected persons, the additional method should be made available for adoption by the industry as soon as pos-

sible. The designation of the additional method was recommended by the Advisory Committee established under the Act. The Department has given the matter careful consideration and it does not appear that new information would be made available to the Department by public rule-making procedure.

Therefore, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of November 1962.

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 62-11369; Filed, Nov. 14, 1962; 8:54 a.m.]

Chapter II—Agricultural Marketing Service (Packers and Stockyards Division), Department of Agriculture

PART 203—STATEMENTS OF GENERAL POLICY UNDER PACKERS AND STOCKYARDS ACT

Meat Packer Sales Promotion Programs

On August 16, 1962, the Agricultural Marketing Service published in the FEDERAL REGISTER (27 F.R. 8173), pursuant to section 3(a)(3) of the Administrative Procedure Act (5 U.S.C. 1002(a)(3)), a statement concerning sales promotion programs sponsored or conducted by meat packers subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), which involve the giving of gifts, premiums or other things of value to owners, officers, agents, or employees of retail food store customers of such packers. Certain questions have arisen concerning the scope and application of the said statement of August 16, 1962. In order to clarify the purpose and intent of such statement and to afford the maximum guidance to the public, § 203.3, Part 203, Chapter II, Title 9, Code of Federal Regulations is revised to read as follows:

§ 203.3 Statement with respect to meat packer sales promotion programs.

(a) During the past several years, a number of packers subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have sponsored meat and meat food product sales promotion programs under which valuable gifts ranging from articles of clothing to automobiles and outboard boats and motors have been offered and given to their retail food store customer accounts and to the employees of such customer accounts. Many of the promotion programs in question have been based upon a "point system" whereby so-called "participating customer accounts" were credited with points for each unit of a promotion item purchased from a sponsoring packer during a specified period of time. At the end of such specified time, the accumulated points were redeemed by persons connected with the customer accounts for prizes and gifts selected from a gift catalog supplied by the sponsoring packer.

(b) Investigation by the Packers and Stockyards Division of the Agricultural Marketing Service has disclosed that sales promotion programs of the type in question, which are based on the giving of gifts to retail food store customer accounts or to the employees or agents or such customer accounts, constitute a marketing practice under which sellers tend to compete in the sale of their products on the basis of inducements offered to their customers in the form of personal gifts, rather than on the basis of the merits and prices of the competing products, and may result in (1) the lessening of competition by unduly hampering sales of competing products, and (2) the making or giving of undue or unreasonable preferences or advantages.

(c) It is the view of the Agricultural Marketing Service that sales promotion programs, which are found in fact to produce any of the enumerated or similar results, constitute violations of section 202 of the Packers and Stockyards Act (7 U.S.C. 192), and that packers subject to the Act should voluntarily discontinue sponsoring or conducting any such program. In the future, if any packer sponsors or conducts a sales promotion program of the type in question, consideration will be given by the Agricultural Marketing Service to the issuance of a complaint charging the packer with violation of section 202 of the Act. In the formal administrative proceeding initiated by any such complaint, the Judicial Officer of the Department will determine, after full hearing, whether the packer has violated the Act and should be ordered to cease and desist from continuing such violation.

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

(Secs. 202, 407; 42 Stat. 169; 7 U.S.C. 192, 228)

Done at Washington, D.C., this 14th day of November 1962.

ROY W. LENNARTSON,
Acting Administrator,
Agricultural Marketing Service.

[F.R. Doc. 62-11436; Filed, Nov. 14, 1962; 11:34 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 62-SO-66]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Control Zone

The purpose of this amendment to § 601.2231 of the regulations of the Administrator is to alter the Vero Beach, Fla., control zone.

The Vero Beach control zone is designated, in part, with reference to the Vero Beach radio beacon. Since this facility has been decommissioned, the control zone extension based on this navigational aid is no longer required for air traffic control purposes. Therefore, action is taken herein to delete reference to the radio beacon in the description of the Vero Beach control zone and to revoke the control zone extension based on this facility. Controlled airspace requirements for this area will be reviewed at a later date under the CAR Amendment 60-21/60-29 implementation program.

Since the change effected by this amendment is less restrictive in nature than the present requirements, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) § 601.2231 (14 CFR 601.2231) is amended to read:

§ 601.2231 Vero Beach, Fla., control zone.

Within a 5-mile radius of Vero Beach Municipal Airport (latitude 27°39'15" N., longitude 80°24'55" W.).

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

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

Issued in Washington, D.C., on November 8, 1962.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 62-11332; Filed, Nov. 14, 1962; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

PART 10—DEFINITIONS AND STANDARDS FOR FOOD

PART 121—FOOD ADDITIVES

Miscellaneous Amendments

Effective on the date of publication of this document in the FEDERAL REGISTER, Part 10 is revised to read as hereinafter set forth, and all prior amendments are hereby revoked.

This revision is made solely for editorial and codification purposes. No material changes are made in the text of the regulations. The major amendments are as follows:

1. Section 1.11a is redesignated as § 1.14.
2. Section 1.14 is removed to Part 10 as § 10.3.
3. Section 3.12 is removed to Part 10 as § 10.5.
4. Section 3.36 is removed to Part 10 as § 10.2.
5. Sections 10.2 and 10.3 are renumbered as §§ 10.6 and 10.7, respectively.
6. The present text of § 121.8 (a) and (b), with minor modifications, is transferred to Part 10 as § 10.4, and § 121.8 of the food additive regulations is revised to read as set forth below.

I. As revised, Part 10—Definitions and Standards for Food, reads as follows:

Sec.

10.1 Definitions and interpretations.
10.2 Procedure for establishing food standards under the Federal Food, Drug, and Cosmetic Act.
10.3 Conformity to definitions and standards of identity.
10.4 Food additives proposed for use in foods for which definitions and standards of identity are established.
10.5 Temporary permits for interstate shipment of experimental packs of food varying from the requirements of definitions and standards of identity.
10.6 General methods for water capacity and fill of containers.
10.7 General statements of substandard quality and substandard fill of container.

AUTHORITY: §§ 10.1 to 10.7 issued under secs. 401, 701, 52 Stat. 1046, 1055 as amended; 21 U.S.C. 341, 371.

CROSS REFERENCE: For other regulations in this chapter concerning definitions and standards for foods, see also §§ 1.13, 3.1, 3.17, 3.38, and Parts 14 through 53, inclusive.

§ 10.1 Definitions and interpretations.

(a) The definitions and interpretations of terms contained in section 201 of the act shall be applicable also to such terms when used in regulations promulgated under the act.

(b) If a regulation prescribing a definition and standard of identity for a food has been promulgated under section 401 of the act and the name therein specified for the food is used in any other regulation under section 401 or any other provision of the act, such name means the food which conforms to such definition and standard, except as otherwise specifically provided in such other regulation.

(c) No provision of any regulation prescribing a definition and standard of identity or standard of quality or fill of container under section 401 of the act shall be construed as in any way affecting the concurrent applicability of the general provisions of the act and the regulations thereunder relating to adulteration and misbranding. For example, all regulations under section 401 contemplate that the food and all articles used as components or ingredients thereof shall not be poisonous or deleterious and shall be clean, sound, and fit for food. A provision in such regulations for the use of coloring or flavoring does not authorize such use under circumstances or in a manner whereby damage or inferiority is concealed or whereby the food is made to appear better or of greater value than it is.

§ 10.2 Procedure for establishing food standards under the Federal Food, Drug, and Cosmetic Act.

Section 401 of the Federal Food, Drug, and Cosmetic Act provides for the formulation of definitions and standards of identity and standards of quality and fill of container for foods. This procedure is condensed as follows:

(a) If the petitioner shows that he is an interested person and furnishes reasonable grounds for his proposal, it is the duty of the Commissioner to publish the proposal and afford opportunity for other interested persons to comment on it. After a study of all the facts available and of the comments received, the Commissioner will act upon the proposal and publish an order, to which objection may be taken by persons who would be adversely affected. Thus the issues in controversy are singled out for a public hearing.

(b) Practical administration of the law requires that there be a substantial showing of merit before any proposal is published. In passing on proposals submitted by petitioners for initiating actions, it will be the policy of the Food and Drug Administration to consider that reasonable grounds have been furnished when:

(1) The proposal includes or is accompanied by a statement of the facts that the petitioner asserts he is in a position to substantiate by evidence in the event the proceedings lead to a public hearing.

(2) The facts declared furnish substantial support of the proposal and warrant a conclusion that the proposal is reasonable.

(3) The proposal, if adopted, would promote honesty and fair dealing in the interest of consumers.

(c) Opportunity will be given to amend petitions regarded as inadequate.

§ 10.3 Conformity to definitions and standards of identity.

In the following conditions, among others, a food does not conform to the definition and standard of identity therefor:

(a) If it contains an ingredient for which no provision is made in such definition and standard;

(b) If it fails to contain any one or more ingredients required by such definition and standard;

(c) If the quantity of any ingredient or component fails to conform to the limitation, if any, prescribed therefor by such definition and standard.

§ 10.4 Food additives proposed for use in foods for which definitions and standards of identity are established.

(a) Where a petition is received for the issuance or amendment of a regulation establishing a definition and standard of identity for a food under section 401 of the act, which proposes the inclusion of a food additive in such definition and standard of identity, the provisions of the regulations in Part 121 of this chapter shall apply with respect to the information that must be submitted with respect to the food additive. Since section 409(b)(5) of the act requires that the Commissioner publish notice of a petition for the establishment of a food-additive regulation within 30 days after filing, notice of a petition relating to a definition and standard of identity shall also be published within that time limitation if it includes a request, so designated, for the establishment of a regulation pertaining to a food additive.

(b) If a petition for a definition and standard of identity contains a proposal for a food-additive regulation, and the petitioner fails to designate it as such, the Commissioner, upon determining that the petition includes a proposal for a food-additive regulation, shall so notify the petitioner and shall thereafter proceed in accordance with the regulations in Part 121 of this chapter.

§ 10.5 Temporary permits for interstate shipment of experimental packs of food varying from the requirements of definitions and standards of identity.

(a) The Food and Drug Administration recognizes that appropriate investigations of potential advances in food technology sometimes require tests in interstate markets of the advantages to and acceptance by consumers of variations in foods from applicable definitions and standards of identity prescribed under section 401 of the act.

(b) It is the purpose of the Administration to permit such tests where they are necessary to the completion or conclusiveness of an otherwise adequate investigation and where the interests of consumers are adequately safeguarded. The Administration will therefore refrain from recommending regulatory proceedings under the act on the charge that a food does not conform to an applicable standard, if the person who introduces or causes the introduction of the food into interstate commerce holds an effective permit from the Commissioner providing specifically for those variations in respect to which the food fails to conform to the applicable definition and standard of identity.

(c) Any person desiring a permit may file with the Commissioner a written application in triplicate containing as part thereof the following:

(1) Name and address of the applicant.

(2) A statement of whether or not the applicant is regularly engaged in producing the food involved.

(3) A reference to the applicable definition and standard of identity (citing applicable section of regulations).

(4) A full description of the proposed variation from the standard.

(5) The basis upon which the food so varying is believed to be wholesome and nondeleterious.

(6) The amount of any new ingredient to be added; the amount of any ingredient, required by the standard, to be eliminated; any change of concentration not contemplated by the standard; or any change in name that would more appropriately describe the new product under test. If such new ingredient is not a commonly known food ingredient, a description of its properties and basis for concluding that it is not a deleterious substance.

(7) The purpose of effecting the variation.

(8) A statement of how the variation is of potential advantage to consumers.

(9) The labeling proposed to be used for the food so varying.

(10) The period during which the applicant desires to introduce such food into interstate commerce, with a statement of the reasons supporting the need for such period.

(11) The probable amount of such food that will be distributed.

(12) The areas of distribution.

(13) The address at which such food will be manufactured.

(14) A statement of whether or not such food has been or is to be distributed in the State in which it was manufactured.

(15) If it has not been or is not to be so distributed, a statement showing why.

(16) If it has been or is to be so distributed, a statement of why it is deemed necessary to distribute such food in other States.

(d) The Commissioner may require the applicant to furnish samples of the food varying from the standard and to furnish such additional information as may be deemed necessary for action on the application.

(e) If the Commissioner concludes that the variation may be advantageous to consumers and will not result in failure of the food to conform to any provision of the act except section 403 (g), a permit shall be issued to the applicant for interstate shipment of such food. The terms and conditions of the permit shall be those set forth in the application with such modifications, restrictions, or qualifications as the Commissioner may deem necessary and state in the permit.

(f) The terms and conditions of the permit may be modified at the discretion of the Commissioner or upon application of the permittee during the effective period of the permit.

(g) The Commissioner may revoke a permit for cause, which shall include but not be limited to the following:

(1) That the permittee has introduced a food into interstate commerce contrary to the terms and conditions of the permit.

(2) That the application for a permit contains an untrue statement of a material fact.

(3) That the need therefor no longer exists.

(h) During the period within which any permit is effective, it shall be deemed to be included within the terms of any guaranty or undertaking otherwise effective pursuant to the provisions of section 303(c) of the act.

(i) If an application is made for an extension of the permit, it shall be accompanied by a description of experiments conducted under the permit, tentative conclusions reached, and reasons why further experimental shipments are considered necessary.

(j) Notice of the granting or revocation of any permit shall be published in the FEDERAL REGISTER.

§ 10.6 General methods for water capacity and fill of containers.

For the purposes of regulations promulgated under section 401 of the act:

(a) The term "general method for water capacity of containers" means the following method:

(1) In the case of a container with lid attached by double seam, cut out the lid without removing or altering the height of the double seam.

(2) Wash, dry, and weigh the empty container.

(3) Fill the container with distilled water at 68° Fahrenheit to 3/16 inch vertical distance below the top level of the container, and weigh the container thus filled.

(4) Subtract the weight found in subparagraph (2) of this paragraph from the weight found in subparagraph (3) of this paragraph. The difference shall be considered to be the weight of water required to fill the container.

In the case of a container with lid attached otherwise than by double seam, remove the lid and proceed as directed in subparagraphs (2) to (4) of this paragraph, except that under subparagraph (3) of this paragraph, fill the container to the level of the top thereof.

(b) The term "general method for fill of containers" means the following method:

(1) In the case of a container with lid attached by double seam, cut out the lid without removing or altering the height of the double seam.

(2) Measure the vertical distance from the top level of the container to the top level of the food.

(3) Remove the food from the container; wash, dry, and weigh the container.

(4) Fill the container with water to 3/16 inch vertical distance below the top level of the container. Record the temperature of the water, weigh the container thus filled, and determine the weight of the water by subtracting the weight of the container found in subparagraph (3) of this paragraph.

(5) Maintaining the water at the temperature recorded in subparagraph (4) of this paragraph, draw off water from the container as filled in subparagraph (4) of this paragraph to the level of the food found in subparagraph (2) of this paragraph, weigh the container with remaining water, and determine the weight of the remaining water by subtracting the weight of the container found in subparagraph (3) of this paragraph.

(6) Divide the weight of water found in subparagraph (5) of this paragraph by the weight of water found in subparagraph (4) of this paragraph, and multiply by 100. The result shall be considered to be the percent of the total capacity of the container occupied by the food.

In the case of a container with lid attached otherwise than by double seam, remove the lid and proceed as directed in subparagraphs (2) to (6) of this paragraph, except that under subparagraph (4) of this paragraph, fill the container to the level of the top thereof.

§ 10.7 General statements of substandard quality and substandard fill of container.

For the purposes of regulations promulgated under section 401 of the act:

(a) The term "general statement of substandard quality" means the statement "Below Standard in Quality Good Food—Not High Grade" printed in two lines of Cheltenham bold condensed caps. The words "Below Standard in Quality" constitute the first line, and the second immediately follows. If the quantity of the contents of the container is less than 1 pound, the type of the first line is 12-point, and of the second, 8-point. If such quantity is 1 pound or more, the type of the first line is 14-point, and of the second, 10-point. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, is on a strongly contrasting, uniform background, and is so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

(b) The term "general statement of substandard fill" means the statement "Below Standard in Fill" printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement is in 12-point type; if such quantity is 1 pound or more, the statement is in 14-point type. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle; but if the statement specified in paragraph (a) of this section is also used, both statements (one following the other) may be enclosed within the same rectangle. Such statement or statements, with en-

closing lines, are on a strongly contrasting, uniform background, and are so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

II. In Part 121, § 121.8 is revised to read as follows:

§ 121.8 Food additives in standardized foods.

(a) The inclusion of food ingredients in Part 121 does not imply that these ingredients may be used in standardized foods unless they are recognized as optional ingredients in applicable food standards. Where a petition is received for the issuance or amendment of a regulation establishing a definition and standard of identity for a food under section 401 of the act, which proposes the inclusion of a food additive in such definition and standard of identity, the provisions of the regulations in this part shall apply with respect to the information that must be submitted with respect to the food additive. Since section 409(b)(5) of the act requires that the Secretary publish notice of a petition for the establishment of a food-additive regulation within 30 days after filing, notice of a petition relating to a definition and standard of identity shall also be published within that time limitation if it includes a request, so designated, for the establishment of a regulation pertaining to a food additive.

(b) If a petition for a definition and standard of identity contains a proposal for a food-additive regulation, and the petitioner fails to designate it as such, the Commissioner, upon determining that the petition includes a proposal for a food-additive regulation, shall so notify the petitioner and shall thereafter proceed in accordance with the regulations in this part.

(c) A regulation will not be issued allowing the use of a food additive in a food for which a definition and standard of identity is established, unless its issuance is in conformity with section 401 of the act or with the terms of a temporary permit issued under § 10.5 of this chapter. When the contemplated use of such additive complies with the terms of a temporary permit, the food additive regulation will be conditioned on such compliance and will expire with the expiration of the temporary permit.

Notice and public procedure and delayed effective date are not necessary prerequisites to the promulgation of this order, and I so find, since the amendments are solely editorial and procedural in nature.

(Secs. 401, 701, 52 Stat. 1046, 1055 as amended; 21 U.S.C. 341, 371)

Dated: November 8, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-11346; Filed, Nov. 14, 1962; 8:50 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

CHOLINE XANTHATE

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Dawe's Laboratories, Inc., 4800 South Richmond Street, Chicago 32, Illinois, has concluded that the food additive regulations should be amended to provide for the use of choline xanthate as a component of poultry feed. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the food additive regulations are amended by adding to Subpart C the following new section:

§ 121.231 Choline xanthate.

Choline xanthate may be safely used as a component of animal feed as an added source of choline to supplement the diet of poultry.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

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

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 8, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-11344; Filed, Nov. 14, 1962; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

DISODIUM EDTA (DISODIUM ETHYLENEDIAMINETETRAACETATE)

The Commissioner of Food and Drugs, having evaluated data submitted in a petition filed by Geigy Chemical Corporation, P.O. Box 430, Yonkers, New York, and other revelant material, has concluded that § 121.1056 should be amended to provide for the use of disodium EDTA as a color preservative in frozen white potatoes. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.1056(b)(1) is amended by inserting therein, immediately after "Dressing, nonstandardized", a new item reading as follows:

§ 121.1056 Disodium EDTA (disodium ethylenediaminetetraacetate).

* * * * * *

(b) * * *

(1) * * *

Food	Limitation (parts per million)	Use
* * *	* * *	* * *
Frozen white potatoes including cut potatoes.	100	Promote color retention.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

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

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 8, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-11345; Filed, Nov. 14, 1962; 8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2814]

[Sacramento 050712]

CALIFORNIA

Withdrawal for Forest Service Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Or-

der No. 10355 of May 26, 1952, it is ordered as follows:

The minerals in the following described lands in the Inyo National Forest are hereby withdrawn from prospecting, location, entry and purchase under the mining laws of the United States in aid of programs of the Forest Service for utilization of the surface as recreation areas, as indicated:

MOUNT DIABLO MERIDIAN

INYO NATIONAL FOREST

Saddlebag Reservoir

T. 1 N., R. 24 E.,
Sec. 12, SE¼SE¼NE¼ and S½NE¼SE¼NE¼.
T. 1 N., R. 25 E.,
Sec. 7, NE¼ lot 29, S½ lot 29.

Tioga Junction

T. 1 N., R. 25 E.,
Sec. 19, lots 26, 27, 32, and 33.

Tioga Lake

T. 1 N., R. 25 E.,
Sec. 19, lot 41;
Sec. 30, W½ lot 25, E½ lot 26, and lot 33.

Ellery Lake

T. 1 N., R. 25 E.,
Sec. 20, lot 3 and E½NW¼.

Upper Lee Vining Creek

T. 1 N., R. 25 E.,
Sec. 14, S½NW¼SW¼ and SW¼SW¼.

The areas described aggregate 503.66 acres.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

NOVEMBER 8, 1962.

[F.R. Doc. 62-11338; Filed, Nov. 14, 1962; 8:48 a.m.]

[Public Land Order 2815]

[Oregon 010267]

OREGON

Partly Revoking Public Water Reserve No. 107

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The Executive order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Department of the Interior Interpretation No. 131 of June 15, 1930, is hereby revoked so far as it affects the following described lands:

WILLAMETTE MERIDIAN

T. 40 S., R. 37 E.,
Sec. 23, W½SE¼.

Containing 80 acres.

2. The lands are located about 17 miles northeast of Denio, Oregon, in the extreme southeast corner of Harney County.

3. Subject to valid existing rights and equitable claims, the requirements of applicable law, rules and regulations, and the provisions of any existing withdrawals, the lands are hereby opened to filing of applications, selections and locations. All valid applications and selections under the nonmineral public land laws presented prior to 10:00 a.m. on December 14, 1962, 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.

4. The lands have been open to applications and offers under the mineral leasing laws, and to location for metalliferous minerals. They will be open to location for nonmetalliferous minerals under the United States mining laws at 10:00 a.m. on December 14, 1962.

5. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims, must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

6. The State of Oregon has waived the preference right of application granted to certain States by subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oregon.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

NOVEMBER 8, 1962.

[F.R. Doc. 62-11339; Filed, Nov. 14, 1962; 8:48 a.m.]

[Public Land Order 2816]

[New Mexico 0315721]

NEW MEXICO

Revoking Public Land Orders No. 722 of May 23, 1951, and No. 1401 of March 29, 1957, Which Withdrew Lands for Use of the Department of the Navy

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. Public Land Orders No. 722 of May 23, 1951, and No. 1401 of March 29, 1957, which withdrew the following described lands in New Mexico for use of the Department of the Navy, in connection with experimental work, and for military purposes, respectively, are hereby revoked:

NEW MEXICO PRINCIPAL MERIDIAN

T. 2 S., R. 1 W.,
Sec. 33.
T. 3 S., R. 1 W.,
Secs. 4, 5, 8, 9, and 17;
Sec. 20, N½;
Sec. 21, NW¼ and W½NE¼.

The areas described, including the public and nonpublic lands, aggregate 4,454.95 acres, of which approximately 20 acres are nonpublic lands.

2. This revocation is made in furtherance of an exchange with the State of New Mexico under the provisions of the act of June 15, 1926 (44 Stat. 746), by which the offered lands will benefit a Federal land program. This restoration is, therefore, not subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852), granting to States a preference right of application upon the revocation of an order of withdrawal.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

NOVEMBER 8, 1962.

[F.R. Doc. 62-11340; Filed, Nov. 14, 1962; 8:48 a.m.]

[Public Land Order 2817]

[Wyoming 0210676]

WYOMING

Partly Revoking Public Water Reserve No. 107, and Stock Driveway No. 128

By virtue of the authority vested in the President, by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, and by virtue of the authority contained in section 10 of the act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300), as amended, it is ordered as follows:

The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Department of the Interior Interpretation No. 99 of July 9, 1929, and the Departmental orders of March 18, 1920, December 28, 1922, and May 6, 1932, establishing Stock Driveway Withdrawal No. 128, Wyoming No. 13, and any other order or orders which withdrew lands for public water reserve or stock driveway purposes are hereby revoked so far as they affect the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 42 N., R. 86 W.,
Sec. 4, SW¼SE¼ and SE¼SW¼
Sec. 9, E½NW¼.

The areas described aggregate approximately 160 acres.

This revocation is made in furtherance of an exchange under section 8 of the act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), by which the offered lands will benefit a Federal land program. This restoration is, therefore, not subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (43 U.S.C. 851, 852), granting to States a preference right of application upon the revocation of an order of withdrawal.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

NOVEMBER 8, 1962.

[F.R. Doc. 62-11341; Filed, Nov. 14, 1962; 8:48 a.m.]

Title 45—PUBLIC WELFARE

Chapter IV—Office of Vocational Rehabilitation, Department of Health, Education, and Welfare

PART 401—THE VOCATIONAL REHABILITATION PROGRAM

Subpart B—State Plans and Grants for Vocational Rehabilitation

ADDITIONAL ALLOTMENTS FOR FISCAL YEAR 1963

Correction

In F.R. Doc. 62–11130, appearing at page 10833 of the issue for Wednesday, November 7, 1962, the phrase "in any" appearing in the eighth line of § 401.50a (b) (1) should read "if any".

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER L—SECURITY OF WATERFRONT FACILITIES

[CGFR 62–39]

PART 125—IDENTIFICATION CREDENTIALS FOR PERSONS REQUIRING ACCESS TO WATERFRONT FACILITIES OR VESSELS

U.S. Coast Guard Port Security Cards

It is hereby found that compliance with the notice of proposed rule making, public rule making procedures thereon, and effective date requirements of the Administrative Procedure Act is contrary to the public interest since this amendment of 33 CFR Part 125 is to give effect to Executive Order 10173, as amended, and in the public interest should be placed in effect as soon as possible.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Executive Order 10173, as amended, § 125.17 is amended to read as follows; and shall become effective upon date of publication in the FEDERAL REGISTER:

§ 125.17 Persons eligible for Coast Guard Port Security Cards.

(a) Only the following persons may be issued Coast Guard Port Security Cards:

(1) Persons regularly employed on vessels or on waterfront facilities.

(2) Persons having regular public or private business connected with the operation, maintenance, or administration of vessels, their cargoes, or waterfront facilities.

(b) A holder of a Merchant Mariner's Document, Validated for Emergency Service, shall not be issued a Port Security Card, unless he surrenders the Merchant Mariner's Document to the Coast Guard. In this connection, see § 125.09.

(40 Stat. 220, as amended; 50 U.S.C. 191; E.O. 10173, 15 F.R. 7005, 3 CFR, 1950 Supp.; E.O. 10277, 16 F.R. 7537, 3 CFR, 1951 Supp.; E.O. 10352, 17 F.R. 4607, 3 CFR, 1952 Supp.)

Dated: November 6, 1962.

[SEAL] D. McG. MORRISON,
Vice Admiral, U.S. Coast Guard,
Acting Commandant

[F.R. Doc. 62–11355; Filed, Nov. 14, 1962; 8:51 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 13860 (RM–199, RM–225, RM–243); FCC 62–1169]

PART 3—RADIO BROADCAST SERVICES

Table of Assignments, Television Broadcast Stations in Nebraska and Kansas

1. This proceeding has been directed to the resolution of conflicting proposals to assign VHF channels for educational and commercial purposes in the States of Nebraska, Kansas, Colorado, and Wyoming. The initial notice of proposed rule making was released on December 5, 1960 (FCC 60–1426), a further notice on February 13, 1961 (FCC 61–175), and a third notice of proposed rule making on October 23, 1961 (FCC 61–1229). Formal comments, reply comments, and letters were filed by interested parties, members of the public, and various public officials in response to the three notices and the matters contained therein. The detailed proposals now before us for consideration are contained in these notices. In general the following matters have been the subject of inquiry:

(a) The establishment of a state-wide educational television network for the State of Nebraska by the assignment and reservation of 5 VHF channels;

(b) The establishment of a state-wide educational television network for the State of Kansas by the assignment and reservation of 5 VHF channels and one UHF channel;

(c) The assignment of a VHF channel to Albion, Nebraska and to Superior, Nebraska on a nonreserved basis as advocated by Bi-States Company;

(d) The assignment of a second VHF channel to the Scottsbluff, Nebraska area as advocated by Terry Carpenter;

(e) The assignment of Channel 11 to Julesburg, Colorado on a nonreserved basis as advocated by Frontier Broadcasting Company.

The Nebraska network. 2. To achieve state-wide coverage for the proposed educational network, the Nebraska Council for Educational Television (NCET) has proposed the reservation of 5 VHF channels in Nebraska, to supplement the service of KUON–TV, Channel 12 in Lincoln, which has been an operating educational station since 1956. According to NCET some 90 percent of the state's area and population would be within range of an educational station upon effectuation of the plan. The five additional channels sought are in Alliance, North Platte, Kearney, Bassett and Albion, Nebraska. At the present time NCET is the licensee of three UHF translators at York, Grand Island and Kearney-Holdredge, Nebraska. These translators rebroadcast the programs of KUON–TV at Lincoln to provide requested in-school instruction to schools located outside the present range of KUON–TV.

3. The proposed network would serve as a significant factor in several areas of Nebraska education. Of immediate value to the state would be televised in-school instructional programs for local schools. The need for such programs is depicted as being particularly acute in a state which has more school districts, and hence more small and isolated schools, than any other in the country. Moreover, the need for specialized in-school programming is accentuated by a shortage of skilled teachers. According to NCET, approximately 6,000 of the state's 8,500 elementary school teachers do not have college degrees. In addition many teachers return to the classroom after several years absence, and the burden of conventional retraining could be substantially relieved by the use of educational television. Programs particularly directed to the farmers of the state, as well as programs of more general adult interest, are other areas where the proposed network could serve usefully. The substantial showing of need for a state-wide educational network in Nebraska has not been questioned by any of the parties to this proceeding, and we are convinced of the necessity to further the plans of NCET by providing sufficient reservations for a state-wide educational television system.

4. With respect to the proposed Nebraska network, the areas of controversy in this rule making have centered around the requests to reserve presently assigned Channel 13 in Alliance, to drop in Channel 8 in Albion and to drop in Channel 4 in Kearney. No opposition has been expressed to the reservation of channels at Bassett or North Platte and, as discussed further herein, we have determined to assign and reserve Channel 7 at Bassett and to reserve presently assigned Channel 9 at North Platte. Opposition to the remaining reservations at Alliance, Albion and Kearney have come from commercial interests. We shall consider first the request of Terry Carpenter, Inc., to assign a second VHF channel to the Scottsbluff-Gering-Terrytown, Nebraska, area—which conflicts, in part, with the proposed reservation of Channel 13 at Alliance.

The Scottsbluff-Alliance-Laramie conflicts. 5. Terry Carpenter, Inc., former licensee of standard broadcast station KTCI in Terrytown, Nebraska, has requested the assignment of a second VHF channel to the Scottsbluff-Gering-Terrytown, Nebraska area.[1] KSTF, Channel 10, is the only local television station in operation in Scottsbluff, and Carpenter has urged either the addition of Channel 8 (and its simultaneous deletion from

[1] Scottsbluff has a population of 13,377 and Scottsbluff County a population of 33,809 (1960 Census figures).

Laramie, Wyoming where it is assigned for non-commercial educational use) or the shift of Channel 13 from Alliance, Nebraska to Scottsbluff. No other parties supported the Carpenter proposals and there has been no expression of interest in building a second station in Scottsbluff by anyone other than Terry Carpenter, Inc. Neither Channel 8 in Laramie or Channel 13 in Alliance is in use or applied for.

6. On March 26, 1962, counsel for Terry Carpenter, Inc., filed a notice in this proceeding that due to the recent illness of Terry Carpenter, Terry Carpenter, Inc. is no longer able to undertake the responsibility of applying for a VHF channel in Terrytown should one be assigned, and is therefore withdrawing from any further participation in this proceeding. Terry Carpenter, Inc., stated, nevertheless, "it feels that it would be in the public interest for western Nebraska to have an additional commercial channel in order to make available a choice of programs."

7. Upon evaluation of the two alternate proposals considered herein to assign a second VHF channel to the Scottsbluff area, the Commission is of the opinion that neither should be adopted. While we do not doubt the desirability of providing for multiple services and additional local originations in the Scottsbluff region, we are reluctant to assign a second VHF channel to the area when there are apparently no applicants for the facility and such an assignment can only be made at the expense of needed VHF educational assignments elsewhere. Implementation of one suggested alternative—the deletion of Channel 13 from Alliance and its assignment to Scottsbluff—would necessitate removing the most useful VHF channel for educational purposes in western Nebraska.[2] Adoption of the second proposal would require the deletion of reserved Channel 8 from Laramie, Wyoming. Although Channel 11 could be assigned and reserved at Laramie, Wyoming, public officials and the University of Wyoming have opposed this proposal because minimum mileage separation requirements would, in their view, considerably limit the selection of transmitter locations from which their planned educational station could serve both Laramie and Cheyenne, Wyoming. Given these circumstances, we do not believe that either alternative should be pursued in order to provide for the possible future implementation of a second commercial VHF service in Scottsbluff. As a result, we have determined to reserve for noncommercial educational use Channel 13 in Alliance, Nebraska and to leave undisturbed presently reserved Channel 8 in Laramie, Wyoming.

The Julesburg proposal. 8. As a counterproposal to the assignment of Channel 8 to Scottsbluff and Channel 11 to Laramie proposed by Terry Carpenter, Frontier Broadcasting Corp. suggested the nonreserved assignment of Channel 11 to Julesburg, Colorado. Mileage separation requirements preclude the simultaneous assignment of Channel 11 to Julesburg and Laramie. Our decision not to assign Channel 11 for education to Laramie opens up the possibility of assigning Channel 11 to Julesburg. We have determined, however, not to make this assignment. Julesburg is a small community of 1,840 (1960 Census) in a sparsely settled area. Several translator stations are licensed to serve the area and, in addition, Julesburg is less than 50 miles from Sterling, Colorado, to which Channel 3 is assigned. Our decision, in Docket 14483, to leave Channel 3 in Sterling provides the possibility of television service being brought to Julesburg. Frontier has stated that it is interested in building a station in Sterling and has applied for a construction permit. It no longer is interested in the assignment of Channel 11 to Julesburg if, as we have determined, Channel 3 is to remain assigned to Sterling. In the absence of a present demand for Channel 11 either at Julesburg or elsewhere, we believe it best to leave to future determination the question of where the channel should be assigned.

The reservation of Channel 9 at North Platte, Nebraska. 9. Channel 9 is now assigned to North Platte but is unused and not applied for. Reservation of the channel will enable the proposed network to serve the southwestern portion of Nebraska. But for the question of whether Channel 9 should be assigned to Superior (discussed further in Paragraph 22 and there denied) no objections to this reservation have been voiced, and the assignment is therefore adopted.

The Albion conflict. 10. The assignment of Channel 8 to Albion, Nebraska, has been urged by both NCET and the Bi-States Company (licensee of KHOL–TV, Kearney, Nebraska and KHPL–TV, Hayes Center, Nebraska). The dispute over the channel poses the question whether the noncommercial educational assignment of the channel, as requested by NCET, would serve the public interest more than the commercial use of the facility in the manner proposed by Bi-States. Channel 8 may be assigned to Albion in compliance with the Commission's mileage separation requirements as, according to Bi-States, sites exist in the area west-northwest of Albion which meet the required separations, although the Albion reference point is slightly less than 190 miles from the Brookings, South Dakota cochannel assignment. Albion, located in the east central portion of the state, is a community of only 1,982 and Boone County in which it is situated has a population of 9,134 (1960 Census).

11. In support of the non-reserved assignment of Channel 8, Bi-States has stated that some 220,000 people would receive a Grade B or better service from the operation of a television station in Albion. Moreover, of this number it is alleged that some 78,000 would for the first time be within range of a Grade B signal and 45,000 would receive their second service. Bi-States intends to apply for a television station at Albion if Channel 8 is assigned, and it states that it plans to erect a station which will duplicate some of the programming of KHOL–TV, but which will also be equipped for local originations.

12. Bi-States' primary argument is that its proposed operation would bring the first reliable television service to a large area to the north and west of Albion and thus fulfill the first priority of the Sixth Report. Parts of this area are now as much as 100 miles from the closest operating station, and according to Bi-States, the entire area is "underserved". Public support for this viewpoint has been expressed from such communities as Albion, O'Neill, Columbus and Page, Nebraska, in letters to the Commission; and although signals are received in these areas through the use of tall antennas, boosters, and translators, reception is marginal and there appears to be considerable public demand for a reliable commercial service rather than an educational service.

13. The Nebraska Council for Educational Television, on the other hand, has urged that Channel 8 be assigned and reserved for noncommercial educational use at Albion as a link in its proposed state-wide educational television network. The Council has not attempted to refute the data of the Bi-States Company as to the area north and west of Albion now without a reliable signal, but it argues that an educational station at Albion would bring the same first service that Bi-States proposes to provide, albeit a noncommercial service. The use of Channel 8 at Albion for education is, according to the Council, "imperative to the successful effectuation of an educational television network on a state-wide basis," and would serve about 12 percent of the total population to be reached by the network. There have been numerous expressions of support for the educational network filed by NCET from Nebraska educators, members of the Nebraska legislature, and members of the public.

14. It is apparent there is no ready or easy resolution of the conflict presented herein. On behalf of the reservation of Channel 8 at Albion, it may be said that the educational needs of the State are indeed acute and that a VHF channel has advantages for economical wide-area coverage and access to private homes for adult education and broad public support. Favoring the non-reserved assignment of the channel is the absence of a reliable commercial signal for a substantial area and the small likelihood of wide-area commercial service being provided other than through some form of VHF satellite operation such as this assignment would permit.

15. The possibility that UHF channels could be used to bring a service to this white area is, of course, open to commercial operators as well as to the educators, but it is not an alternative which can, for a commercial station, be easily pursued at this time. There is no evidence of any UHF set circulation in the area, though there are several VHF

[2] Channel 9 could be assigned to Lakeside, Nebraska, as suggested in the Third Notice to serve as an educational station for western Nebraska. But the proximity of KSTF on Channel 10 in Scottsbluff would limit the range of a Channel 9 station and restrict reception of a usable educational signal in Scottsbluff.

translators in operation.[3] Moreover, as far as commercial operators in thinly-populated areas are concerned, the effects of the all-channel receiver legislation are not likely to be felt for a considerable period of time. In the meantime it is doubtful that those now receiving Grade B signals from one to four existing VHF stations and who would be within range of a UHF station in Albion—and upon whom a commercial operator would depend heavily for support—would convert existing receiving equipment, even if it might be expected that those in "white areas" would equip themselves with the means of receiving dependable UHF signals.

16. Although resort to the UHF band to bring an educational service to the Albion area is burdened with the same problem of receiver incompatibility as would face a commercial operator, the disadvantages are not nearly so critical. For one thing, parts of the area proposed to be served by the Albion educational station would receive some VHF service from the educational facilities proposed to be located at Kearney and Bassett and from the presently operating station at Lincoln. Establishment of a UHF station at Albion to serve the remaining area would enable NCET to cover substantially the same area as with a VHF channel, while providing an interconnecting link with the rest of the network. The use of the UHF band for a regular educational station or for translators has proven satisfactory in other areas—and NCET recognizes this fact, as it is now operating a 100 watt UHF translator to rebroadcast the programs of KUON–TV to Grand Island and Hastings and 10 watt translators to serve Kearney and York, Nebraska. Though a regular UHF station or translator would primarily serve the in-school needs of the State and would not be widely received by the public, NCET has stressed the urgent need for in-school educational television instruction in Nebraska. This need UHF can service as dependably as VHF, although the coverage of a particular station may not be as extensive. Passage of the all-channel receiver legislation will, we expect, enable the general public, in time, to share in and support UHF educational broadcasting. But meanwhile, particularly at the critical stage of initial operation, it is not as imperative for educational broadcasters as for commercial operators to find large numbers of people capable, in short order, of viewing their programs.

17. We have determined, therefore, to assign Channel 8 to Albion on an unreserved basis and to deny NCET's request that the channel be withdrawn from commercial use. At the same time, in order to make possible the establishment of an educational service in the Albion area, we shall assign Channel 25 to Albion and reserve it for noncommercial educational use. The same considerations leading to our disposition of the Albion conflict govern (as discussed further herein) the controversy over whether a VHF channel should be assigned to Superior, Nebraska, as advocated by Bi-States, rather than utilized for education in Kansas or Nebraska.

Superior-Kearney Channel 4 conflict. 18. The assignment of Channel 4 to Superior conflicts with the original proposal of NCET to assign this channel to Kearney for educational use, as well as with the plans of the Committee on Education of the Legislative Council of the State of Kansas to assign Channel 4 for noncommercial educational use to Grainfield, Kansas. Channel 4 can be assigned to only one of the three locations. The Kearney conflict was resolved when NCET agreed to the assignment of Channel 3 to the Kearney area rather than to Bassett and the drop in of Channel 7 at Bassett for educational use. These assignments which satisfy the plans of Nebraska for their network have not been opposed and we have determined therefore to conclude the assignment and reservation of Channel 7 at Bassett and the assignment and reservation of Channel 3 at Lexington, Nebraska. NCET has requested that Channel 3 be designated a Kearney assignment, but mileage separation requirements would restrict location of the transmitter to an area about 25 miles southwest of Kearney. From this site a principal city signal could be put back over Kearney only by constructing a full power station with a 1,000′ transmitter. In order to permit leeway for future plans we think it more reasonable to assign the channel to Lexington, where the transmitter will, in any event, be located.[4] Assignment of Channel 3 to Lexington, Nebraska, only leaves unresolved the conflict between the Bi-States proposal and the educational plans of Kansas, to which we now turn.

The Kansas educational network. 19. The educational problems facing Kansas are similar in nature to those of Nebraska. Large areas of the state are sparsely inhabited, and as a result there are numerous small, isolated schools. A Survey and Report prepared for the State of Kansas indicates the following:

> There are approximately 2,800 school districts in Kansas. Over 1,900 of these districts operate nothing but Elementary Schools. There are over 900 one-room schools in the state. Of the 567 High Schools in Kansas 427 have enrollments of less than 150, and over half of these have no more than 60 students, and with many less than half of that. It is obviously impossible to organize an adequate modern curriculum with such restricted resources as must obtain in such small isolated school units.[5]

20. Educational authorities interviewed in the State thought that educational television would be of greatest use in the following areas: "Science (all levels but principally schools), Modern Languages (all levels but principally schools), teacher training (adult and college levels), medical teaching (adult and professional levels), agricultural information (adult and college levels), general extension (adult level), and cultural events (adult level)."[6] The Director of the study added one further category, programs for the preschool child. Except for the controversy over whether a VHF channel should be assigned to Superior, Nebraska, rather than used for education in Kansas, there has been no disagreement that an educational television network is needed. As discussed further herein, we are finalizing the assignment and reservation of Channel 11 to Topeka, Kansas, Channel 8 to Hutchinson, Kansas, Channel 3 to Lakin, Kansas, Channel 9 to Lincoln, Kansas, and Channel 21 to Chanute, Kansas. However, the request of the Kansas Committee to assign and reserve Channel 4 at Grainfield, Kansas, will be denied because of the Superior, Nebraska conflict, but we shall assign Channel 33 to Oakley, Kansas and reserve the channel for noncommercial educational use.

The Bi-States Superior proposal. 21. Superior, Nebraska, a town of 2,935, is located approximately 100 miles southwest of Lincoln, Nebraska on the Kansas-Nebraska border. Operation of a VHF television station from Superior would provide coverage to an area with characteristics similar to that involved in the Albion commercial proposal. According to Bi-States 254,943 persons would be within the Grade B contour of the Superior station. Of this number it is alleged that some 60,000 would for the first time be within range of a Grade B signal from a regular television station and some 28,000 would receive their second Grade B service. All of the "white area" to be served by the proposed Superior station is located in Kansas and, as in the area north and west of Albion, numerous VHF translators are located throughout the region. Bi-States has urged the unreserved assignment of Channel 4 to Superior and desires to erect a station which will rebroadcast the programs of KHOL–TV, Kearney, and, like its proposed Albion station, will be equipped to provide local originations. As in the case of Albion, we have determined to assign a VHF channel to Superior on a nonreserved basis. This decision will necessitate denying Kansas the use of one of the VHF channels requested for its educational network. We believe, however, that for the reasons given with respect to the Albion conflict the public interest requires that, where possible, we provide first commercial VHF signals for large areas of the country now without such service. While this will require the Kansas educators to turn to the UHF band in place of one

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[3] VHF translators are licensed, for instance, in O'Neill, Creighton, Plainview, Neligh, Elgin, Burwell, and Ord, Nebraska. All of these towns would be within the predicted Grade B contour of an Albion station.

[4] Location of the Channel 3 facility at Lexington in order to serve Kearney may be complicated by the attempts of the three Omaha stations (including KMTV, Channel 3 in Omaha) to locate on a single tower 15 miles west of Omaha in the direction of Lexington. The location of a Sterling, Colorado, Channel 3 station to the west of Lexington is a further complicating factor. We see no need to pass on these questions, however, as the Omaha proposal is dependent on air space clearance and is not an actual proposal before us.

[5] A Survey and Report Concerned With the Feasibility of an Educational Television Network for the State of Kansas, Prepared for the Committee on Education of the Legislative Council of the State of Kansas by John C. Schwarzwalder, et al. at p. 21. Hereafter cited as "Schwarzwalder Report."

[6] Schwarzwalder Report, p. 78.

of the requested VHF assignments, we do not believe this will present a fatal obstacle to achievement of their educational goals. The Kansas plan recognizes the usefulness of UHF (as evidenced by the request to use a UHF channel at Chanute, Kansas; see paragraph 25, infra.) in the absence of available VHF assignments. For the same reasons given with respect to the Albion conflict we believe the public interest will be served by the course here adopted. The choice of which VHF channel (4 or 9) to assign to Superior presents other problems.

The choice of a VHF channel for Superior. 22. Although either Channel 4 or 9 may be assigned to Superior on a nonreserved basis, Bi-States has supported the assignment of Channel 4 rather than 9, and it appears that the assignment of Channel 4 will provide for a more efficient distribution of the available VHF facilities. To assign 9 to Superior would require deletion of 9 from North Platte, Nebraska. The Nebraska Council has requested that the channel be reserved for educational use at North Platte although Channel 12 could be dropped in at North Platte for education. The assignment of 9 to Superior would also prohibit the use of this channel at Lincoln, Kansas, to serve north central Kansas with an educational signal. KTIV, Channel 4, Sioux City, Iowa, and WDAF–TV, Channel 4, Kansas City, Missouri, have objected to the assignment of Channel 4 to Superior because of the increased interference to which they allege they will be subjected from the proposed Superior station. Although the assignment of Channel 4 to Superior complies with the minimum mileage separation rules, each urges the assignment of Channel 9 rather than 4, claiming that this assignment will cause less interference to existing stations. We have considered the pleadings of KTIV and WDAF–TV in this regard but have determined to assign the remaining VHF channels in such a way as to provide for the greatest number of possible VHF assignments rather than to minimize interference to existing stations by precluding future assignments. Although this may cause some interference to KTIV and WDAF–TV now, we believe in the long run the public interest will be better served. Moreover, it is likely that any "white area" created by interference to KTIV will receive service from the Albion Channel 8 assignment and there has been no claim that other services are not available in the area which may be deprived of the WDAF–TV signal. Since the assignment of Channel 4 to Superior, Nebraska, precludes use of this channel for education in northwestern Kansas, we have decided to assign and reserve Channel 33 for non-commercial educational use at Oakley, Kansas.

*The assignment of Channel *8 to Hutchinson, Kansas.* 23. To serve the south central portion of the state, the Kansas Committee has recommended the shift of Channel 8 from Manhattan, Kansas to Hutchinson and its reservation for noncommercial educational use. Kansas State College held a construction permit for Channel 8 in Manhattan but the authorization was cancelled October 17, 1962, and there is no obstacle to this shift.[7]

*The assignment of Channel *11 to Topeka, Kansas.* 24. The reassignment of Channel 11 from Lawrence to Topeka has also been requested to serve the northeastern section of Kansas. The University of Kansas has had an application on file for Channel 11 in Lawrence since 1953, but has stated in a letter to the Kansas Committee that in order to facilitate development of the state network it will not impose an objection to shift of the channel to Topeka. Should the network fail to materialize, however, the University states that it will take steps to return the channel to Lawrence. As there is no other objection to this move, we are adopting the reassignment and reservation of Channel 11 from Lawrence to Topeka.

The assignment of a UHF Channel to Chanute, Kansas. 25. The Kansas Committee has suggested the reassignment of Channel 16 from Wichita to Chanute, Kansas, to serve the southeastern section of the state. It appears that there are no available VHF channels in this area. Channel 16 was utilized in Wichita as a commercial station from 1953 to 1956, and according to Robert S. Lomax of Wichita, approximately 100,000 homes were converted, with many sets specifically equipped with strips to receive Channel 16. Lomax states that he represents a "group of prominent Wichita businessmen who are attempting to apply soon for" Channel 16 and for this reason opposes the reassignment of the channel. Since another low UHF channel may be readily assigned to Chanute, we are acceding to the request of Lomax and retaining Channel 16 in Wichita. Instead we shall assign Channel 21 to Chanute and reserve it for noncommercial educational use by deleting Channel 21 from Ottawa, Kansas, and Channel 20 from Independence, Kansas.

The assignment of Channel 3 to Lakin, Kansas. 26. The reserved assignment of Channel 3 to Lakin, Kansas, to serve the southwestern area of the state with an educational signal has not been objected to by any parties to this proceeding. We hereby conclude this assignment.

The assignment of Channel 9 to Lincoln, Kansas. 27. The assignment of Channel 9 to Lincoln, Kansas, for education requires deletion of this channel from Garden City, Kansas. KAKE–TV and Radio, Inc., has applied for Channel 9 in Garden City (BPCT–2901) but does not oppose shift of the channel if Channel 13 is assigned to Garden City so it may apply for the channel. Channel 13 may be dropped into Garden City in compliance with the mileage separation rules. KAKE–TV is the licensee of Channel 10 in Wichita and desires to build a satellite station in Garden City to rebroadcast the programs of KAKE–TV and bring a third VHF television service to the area. Garden City is also served by KGLD–TV, Channel 11 in Garden City, a satellite of KARD–TV, Channel 3 in Wichita, and by KTVC, Channel 6 in Ensign, Kansas.

28. KTVC filed reply comments supporting the educational use of Channel 9 but objecting to further VHF assignments for commercial use in the Garden City area. The gist of KTVC's argument is that the area cannot support another television station and that if KAKE–TV is permitted to establish its proposed satellite in Garden City, the ability of KTVC to remain as the only independent station with local program originations in the Garden City region will be seriously jeopardized.

29. KTVC has filed a petition to deny against the above-mentioned KAKE–TV application, raising substantially these same points. In view of this, we believe it reasonable to assign Channel 13 to Garden City (with the shift of Channel 9 to Lincoln), thereby continuing the allocation of two VHF channels in Garden City and leaving KTVC's objection to further service in the area to be resolved upon consideration of the application and related pleadings. The public interest question of whether additional service should be authorized for the area is more amenable to resolution in an adjudicatory setting rather than in a rule-making proceeding, and a hearing (if it should be determined that one is required) may be ordered on the KAKE–TV application when it is amended to specify Channel 13.

Implementation of the nonreserved assignments. 30. As described, herein, the question of whether to assign VHF channels to Albion and Superior on a nonreserved basis rather than to make them unavailable for commercial operators has been a difficult one which we have resolved, at this time, in favor of commercial use of the assignments. We recognize, however, the acute needs of education in Kansas and Nebraska and would emphasize that should channels 4 and 8 at Superior and Albion not be utilized by commercial interests within a reasonable time then consideration would have to be given to any requests to reserve the channels for educational use, either at the cities to which they are assigned, or elsewhere.

Summary and order. 31. Adoption of the assignments discussed herein will make possible the following: (1) A statewide educational network for Nebraska through the assignment of reserved VHF educational channels at Alliance, North Platte, Bassett, Lexington, and Lincoln, Nebraska; and, the assignment of reserved Channel 25 to serve the Albion, Nebraska, area.

(2) A statewide educational network for Kansas through the assignment of reserved VHF educational channels at Hutchinson, Lakin, Topeka, and Lincoln, Kansas, and reserved UHF channels at Chanute and Oakley, Kansas.

(3) Needed commercial VHF services from Albion and Superior, Nebraska.

[7] Tulsa Broadcasting Company, licensee of KTUL–TV, Channel 8, in Tulsa, Oklahoma, in late filed comments objected to the assignment of Channel 8 to Hutchinson unless restrictions were placed on the use of the Hutchinson facility in order to permit the requested move of KTUL–TV (BPCT–2941) closer to Tulsa. Good cause has not been shown for the acceptance of these comments and they are hereby dismissed. In any event, the comments contain no persuasive reasons for limiting the Hutchinson assignment.

32. All of the assignments granted herein contemplate location of the transmitters to comply with § 3.610 of the Commission's rules (the minimum mileage separation requirements) although the distances from city-to-city reference points may not now comply with applicable separations.

33. Authority for the actions taken and the amendments adopted herein is found in sections 4(i), 303(r), and 307(b) of the Communications Act of 1934, as amended.

34. In view of the foregoing: *It is ordered,* That effective December 17, 1962, § 3.606 of the rules of the Commission, Table of Assignments, Television Broadcast Stations, is amended as set forth below; and that all pleadings, petitions, or comments not granted to the extent indicated or inconsistent with the action taken are denied.

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

Adopted: November 8, 1962.

Released: November 9, 1962.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Acting Secretary.

[1] Commissioners Bartley and Ford absent.

Section 3.606 is amended, insofar as the communities named are concerned, as follows:

1. Amended to read as follows:

City	*Channel No.*
Alliance, Nebr	*13—, 21
North Platte, Nebr	2—, *9+
Lexington, Nebr	*3+, 23—
Hutchinson, Kans	*8, 12, 18
Manhattan, Kans	23+
Lawrence, Kans	17—
Topeka, Kans	*11, 13+, 42, *48+
Chanute, Kans	*21, 50—
Garden City, Kans	11+, 13—

2. Amended to delete the entries for:

Ottawa, Kans.
Independence, Kans.

3. Added to the Table under the State of Nebraska:

City	*Channel No.*
Bassett, Nebr	*7—
Albion, Nebr	8+, *25
Superior, Nebr	4+

4. Added to the Table under the State of Kansas:

City	*Channel No.*
Lincoln, Kans	*9
Lakin, Kans	*3
Oakley, Kans	*33

[F.R. Doc. 62-11365; Filed, Nov. 14, 1962; 8:53 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

SUBSTANTIATION OF CERTAIN ENTERTAINMENT, GIFT AND TRAVEL EXPENSES

Notice of Hearing on Proposed Regulations

Proposed regulations under section 274 (d) of the Code, relating to substantiation of certain entertainment, gift and travel expenses, were published in the FEDERAL REGISTER for November 8, 1962.

A public hearing on the provisions of these proposed regulations will be held on Tuesday, December 4, 1962, at 10:00 a.m., e.s.t., in the Auditorium, Smithsonian Institution, Museum of Natural History, Tenth and Constitution Avenue, Northwest, Washington, D.C.

Persons who plan to attend the hearing are requested to notify the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., by November 30, 1962.

[SEAL] MAURICE LEWIS,
Director, Technical Planning Division, Internal Revenue Service.

[F.R. Doc. 62-11364; Filed, Nov. 14, 1962; 8:53 a.m.]

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Proposed Interest on Life Insurance Policy Dividends and Constructive Receipt of Income

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN.
Commissioner of Internal Revenue.

The Income Tax Regulations (26 CFR Part 1) under sections 61 and 451 of the Internal Revenue Code of 1954, relating to interest on insurance policy dividends and the constructive receipt of income, respectively, are amended as follows:

PARAGRAPH 1. Paragraph (d) of § 1.61-7 is amended to read as follows:

§ 1.61-7 Interest.

* * * * *

(d) *Bonds sold between interest dates; amounts received in excess of original issue discount; interest on life insurance.* When bonds are sold between interest dates, part of the sales price represents interest accrued to the date of the sale and must be reported as interest income. Amounts received in excess of the original issue discount upon the retirement or sale of a bond or other evidence of indebtedness may under some circumstances constitute capital gain instead of ordinary income. See section 1232 and the regulations thereunder. Interest payments on amounts payable as employees' death benefits (whether or not section 101(b) applies thereto) and on the proceeds of life insurance policies payable by reason of the insured's death constitute gross income under some circumstances. See section 101 and the regulations thereunder for details. Where accrued interest on unwithdrawn insurance policy dividends is credited annually and is subject to withdrawal annually by the insured, such interest credits constitute gross income to the taxpayer as of the year of credit. However, if under the terms of the insurance policy the interest on unwithdrawn policy dividends is subject to withdrawal only on the anniversary date of the policy (or some other date specified therein), then such interest shall constitute gross income to the taxpayer for the taxable year in which such anniversary date (or other specified date) falls.

PAR. 2. Paragraphs (a) and (b) of § 1.451-2 are amended to read as follows:

§ 1.451-2 Constructive receipt of income.

(a) *General rule.* Income although not actually reduced to a taxpayer's possession is constructively received by him in the taxable year during which it is credited to his account, set apart for him, or otherwise made available so that he may draw upon it at any time, or so that he could have drawn upon it during the taxable year if notice of intention to withdraw had been given. However, income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions. Thus, if a corporation credits its employees with bonus stock, but the stock is not available to such employees until some future date, the mere crediting on the books of the corporation does not constitute receipt. In the case of interest, dividends, or other earnings (whether or not credited) payable in respect of any deposit or account in a bank, building and loan association, savings and loan association, or similar institution, the following are not substantial limitations or restrictions on the taxpayer's control over the receipt of such earnings:

(1) A requirement that the deposit or account, and the earnings thereon, must be withdrawn in multiples of even amounts;

(2) The fact that the taxpayer would, by not withdrawing the earnings until a later date, receive a higher rate of earnings than would be payable if the earnings are withdrawn during the taxable year;

(3) A requirement that the earnings may be withdrawn only upon a withdrawal of all or part of the deposit or account;

(4) A requirement that a notice of intention to withdraw must be given in advance of the withdrawal. In any case when the rate of earnings payable in respect of such a deposit or account depends on the amount of notice of intention to withdraw that is given, earnings at the maximum rate are constructively received during the taxable year regardless of how long the deposit or account was held during the year or whether, in fact, any notice of intention to withdraw is given during the year. However, if in the taxable year of withdrawal the depositor or account holder receives a lower rate of earnings because he failed to give the required notice of intention to withdraw, he shall be allowed an ordinary loss in such taxable year in an amount equal to the difference between the amount of earnings previously included in gross income and the amount of earnings actually received. See section 165 and the regulations thereunder.

(b) *Examples of constructive receipt.* Interest coupons which have matured and are payable but which have not been cashed are constructively received in the taxable year during which the coupons mature, unless it can be shown that there are no funds available for payment of the interest during such year. Dividends on corporate stock are constructively received when unqualifiedly made subject to the demand of the shareholder. However, if a dividend is declared payable on December 31 and the corporation followed its usual practice of paying the dividends by checks mailed so that the shareholders would not receive them until January of the following year, such dividends are not considered to have been constructively received until January.

Generally, the amount of dividends or interest credited on savings bank deposits or to shareholders of organizations such as building and loan associations or cooperative banks is income to the depositors or shareholders for the taxable year when credited. However, if any portion of such dividends or interest is not subject to withdrawal at the time credited, such portion is not constructively received and does not constitute income to the depositor or shareholder until the taxable year in which the portion first may be withdrawn. Accordingly, if, under a bonus or forfeiture plan, a portion of the dividends or interest is accumulated and may not be withdrawn until the maturity of the plan, the crediting of such portion to the account of the shareholder or depositor does not constitute constructive receipt. However, in this case such credited portion is income to the depositor or shareholder in the year in which the plan matures. Accrued interest on unwithdrawn insurance policy dividends is gross income to the taxpayer for the first taxable year during which such interest may be withdrawn by him.

[F.R. Doc. 62-11359; Filed, Nov. 14, 1962; 8:52 a.m.]

[26 CFR Part 212]

FORMULAS FOR DENATURED ALCOHOL AND RUM

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

In order to provide for the use of alternate denaturants in completely denatured alcohol and in specially denatured alcohol Formula No. 40, and to authorize the use of certain formulas of specially denatured alcohol in the manufacture of synthetic resins, the regulations in 26 CFR Part 212 are amended as follows:

PARAGRAPH 1. Sections 212.11 and 212.12 are amended to provide for the use of deodorized kerosene, and gasoline as alternate denaturants in the formulation of completely denatured alcohol. As amended, §§ 212.11 and 212.12 read as follows:

§ 212.11 Formula No. 18.

To every 100 gallons of ethyl alcohol of not less than 160° proof add:

2.50 gallons of methyl isobutyl ketone;
0.125 gallon of pyronate or a compound similar thereto;
0.50 gallon of acetaldol (*b*-hydroxybutyraldehyde); and
1.00 gallon of either kerosene, deodorized kerosene, or gasoline.

§ 212.12 Formula No. 19.

To every 100 gallons of ethyl alcohol of not less than 160° proof add:

4.0 gallons of methyl isobutyl ketone; and
1.0 gallon of either kerosene, deodorized kerosene, or gasoline.

PAR. 2. Subparagraph (2) of paragraph (b) of § 212.19, subparagraph (1) of paragraph (b) of § 212.39, subparagraph (2) of paragraph (b) of § 212.40, subparagraph (2) of paragraph (b) of § 212.45 are amended to provide an additional use for certain formulations of specially denatured alcohol. As amended, the subparagraphs read as follows:

§ 212.19 Formula No. 3–A.

* * * * *

(b) *Authorized uses.* * * *

(2) As a raw material:

530. Ethylamines (for rubber processing).
540. Dyes and intermediates (ethylamines).
575. Drugs and medicinal chemicals.
576. Organo-silicone products.
579. Other chemicals.
590. Synthetic resins.

* * * * *

§ 212.39 Formula No. 29.

* * * * *

(b) *Authorized uses.* (1) As a raw material:

512. Acetic acid.
521. Ethyl acetate.
522. Ethyl chloride.
523. Other ethyl esters.
530. Ethylamines (for rubber processing).
540. Dyes and intermediates (ethylamines).
551. Acetaldehyde.
552. Other aldehydes.
561. Ethyl ether.
562. Other ethers.
571. Ethylene dibromide.
572. Ethylene gas.
573. Xanthates.
575. Drugs and medicinal chemicals.
579. Other chemicals.
580. Synthetic rubber.
590. Synthetic resins.

* * * * *

§ 212.40 Formula No. 30.

* * * * *

(b) *Authorized uses.* * * *

(2) As a raw material:

575. Drugs and medicinal chemicals.
579. Other chemicals.
590. Synthetic resins.

* * * * *

§ 212.45 Formula No. 35–A.

* * * * *

(b) *Authorized uses.* * * *

(2) As a raw material:

511. Vinegar.
512. Acetic acid.
521. Ethyl acetate.
523. Other ethyl esters.
590. Synthetic resins.
910. Animal feed supplements.

PAR. 3. Paragraph (a) of § 212.57 is amended to provide for the use of an alternate denaturant in Formula No. 40. As amended, paragraph (a) reads as follows:

§ 212.57 Formula No. 40.

(a) *Formula.* To every 100 gallons of alcohol add:

(1) One and one-half avoirdupois ounces of brucine (alkaloid), brucine sulfate (N.F. IX), or quassin, and ⅛ gallon of *tert.*-butyl alcohol; or

(2) One-quarter avoirdupois ounce of denaturing grade benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS–839)) and ⅛ gallon of *tert.*-butyl alcohol.

* * * * *

PAR. 4. A new § 212.69a, to provide specifications for a new denaturant, is inserted, immediately following § 212.69, to read as follows:

§ 212.69a Benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS–839)).

Benzyldiethyl (2:6 xylycarbamoyl methyl) ammonium benzoate is a synthetic quaternary ammonium compound having an intensely bitter taste. It is commercially produced as Bitrex (THS–839).

Color. White (crystalline powder).

Melting Point. 158–161° C.

Solubility at 20° C. One gram is soluble in 1.5 ml. water and in 1.5 ml. ethyl alcohol. Solutions are clear and colorless and reasonably free of extraneous matter.

Assay. Not less than 99 percent $C_{28}H_{34}O_3N_2$. Dissolve about 0.5 gm. benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS–839)) accurately weighed in 60 ml. glacial acetic acid, cool; add 15 ml. of a 5 percent weight-to-volume solution of mercuric acetate in glacial acetic acid, and titrate with 0.1N perchloric acid in glacial acetic acid using 0.2 ml. of a 0.5 percent weight-to-volume solution of crystal violet in glacial acetic acid as indicator (or methylrosaniline chloride T.S.). Repeat the titration omitting the sample. The difference between the two readings will represent the volume of perchloric acid required by the sample. Each ml. of 0.1N perchloric acid is equivalent to 0.04465 gm. of $C_{28}H_{34}O_3N_2$.

Identification Tests. (a) Dissolve about 0.15 gm. sample in 10 ml. water, and add 15 ml. of 0.66 percent weight-to-volume trinitrophenol in water; the melting point of the precipitate after washing with water and drying is about 175° C.

(b) Dissolve about 0.1 gm. sample in 10 ml. water and add 20 ml. of dilute sulfuric acid and 30 ml. of 1 percent weight-to-volume ammonium reineckate in water; the melting point of the precipitate after washing with water and drying is about 170° C.

Bitterness. An alcoholic or aqueous solution of benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS–839)) shall be distinctly bitter at 1 to 250,000 dilution.

Optical Assay. When 25 ml. of an aqueous solution containing 1 part in 10,000 of

benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS–839)) (0.1 gm/L) is made acid with 1 ml. of hydrochloric acid, and extracted 3 times with a total of 100 ml. of diethyl ether, the resulting ether extract shall have an absorbance in a 1 cm. cell of not less than 0.400 at a wavelength of 228 millimicrons.

PAR. 5. A new § 212.81a, to provide specifications for a new denaturant, is inserted, immediately following § 212.81, to read as follows:

§ 212.81a Kerosene (deodorized).

Distillation range (applicable A.S.T.M. method). No distillate should come over below 340° F. and none above 570° F.
Flash point. 115° F. minimum.

PAR. 6. The listing of uses of specially denatured alcohol in § 212.105 is amended by inserting a new line immediately following the line for "Resin coatings, synthetic". As amended, the listing reads:

§ 212.105 Listing of products and processes using specially denatured alcohol and rum and formulas authorized therefor.

*	*	*
Resins, synthetic	590	3–A, 29, 30, 35–A
*	*	*

PAR. 7. The listing of authorized denaturants in § 212.110 is amended by inserting lines for two new denaturants and amending the line for "gasoline". As amended, the listing reads as follows:

§ 212.110 Listing of denaturants authorized for denatured spirits.

*	*
Benzyldiethyl (2:6 xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS–839))	S.D.A. 40
*	*
Gasoline	C.D.A. 18; 19; S.D.A. 28–A
*	*
Kerosene (deodorized)	C.D.A. 18; 19
*	*

[F.R. Doc. 62–11360; Filed, Nov. 14, 1962; 8:52 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 252]

TRADERS ON NAVAJO, ZUNI, AND HOPI RESERVATIONS

Sunday Trading

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Revised Statutes, sections 161, 463, and 465 (5 U.S.C. 22; 25 U.S.C. 2 and 9), it is proposed to amend Part 252 by the deletion of § 252.26. The purpose of this amendment is to place the Navajo, Zuni, and Hopi Reservations and other pueblos to which the regulation applies, on the same basis as other Indian reservations with respect to the operation of trading posts on Sundays. Part 251 of the same title which governs the licensing of traders on other Indian reservations does not contain any restrictions on traders doing business on Sunday. Therefore, such prohibition is discriminatory because traders on other reservations, as well as business places outside the reservations, are not subject to the same restriction.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Indian Affairs, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

Section 252.26 *Sunday trading* is deleted.

JOHN A. CARVER, Jr.,
Secretary of the Interior.

NOVEMBER 8, 1962.

[F.R. Doc. 62–11336; Filed, Nov. 14, 1962; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 970]

CARROTS GROWN IN SOUTH TEXAS

Proposed Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment, hereinafter set forth, which were recommended by the South Texas Carrot Committee, established pursuant to Marketing Agreement No. 142, and Order No. 970 (7 CFR Part 970), regulating the handling of carrots grown in certain designated counties in South Texas. This is a regulatory program issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 15 days following publication of this notice in the FEDERAL REGISTER. The proposals are as follows:

§ 970.203 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the South Texas Carrot Committee, established under Marketing Agreement No. 142, and this part, to enable the committee to perform its functions under the provisions of the marketing agreement and marketing order during the fiscal period August 1, 1962, through July 31, 1963, will amount to $34,000.00.

(b) The rate of assessment to be paid by each handler under Marketing Agreement No. 142 and Order No. 970 shall be one-half cent ($0.005) per 50 pound sack (or crate) of carrots, or the equivalent quantity thereof packed in other containers, handled by him as the first handler thereof during said fiscal period.

(c) All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 142 and this part.

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

Dated: November 8, 1962.

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

[F.R. Doc. 62–11348; Filed, Nov. 14, 1962; 8:50 a.m.]

[7 CFR Part 990]

HANDLING OF CENTRAL CALIFORNIA GRAPES FOR CRUSHING

Proposed Expenses of Grape Crush Administrative Committee for 1962–63 Crop Year and Rate of Assessment for That Crop Year

Notice is hereby given of a proposal regarding expenses of the Grape Crush Administrative Committee for the 1962–63 crop year and the fixing of a rate of assessment for that crop year pursuant to §§ 990.71 and 990.72 of the marketing agreement, and Order No. 990 (7 CFR Part 990), regulating the handling of Central California grapes for crushing, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Grape Crush Administrative Committee has unanimously recommended for the 1962–63 crop year (July 1, 1962–June 30, 1963) a budget of expenses in the total amount of $233,686 and an assessment rate with respect to free tonnage grapes for crushing received by each handler, including such grapes of his own production, of 20.5 cents per ton of fresh grapes and the equivalent amount of 36.5 cents per ton of raisin residual material. Expenses in that amount and the rate of assessment are specified in the proposal hereinafter set forth. The Committee estimates the total assessable tonnage (including fresh grapes of nonexempt and exempt varieties, and raisin residual material) to be the equivalent of 1,141,000 tons of fresh grapes.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than the seventh day after the date of publication of this notice in the FEDERAL REGISTER.

The proposal is as follows:

§ 990.302 Expenses of the Grape Crush Administrative Committee and rate of assessment for the 1962–63 crop year.

(a) *Expenses.* Expenses[1] in the amount of $233,686 are reasonable and

[1] Other than expenses incurred in receiving, handling, holding, or disposing of setaside.

likely to be incurred, pursuant to § 990.71, by the Grape Crush Administrative Committee during the 1962–63 crop year (July 1, 1962–June 30, 1963) for the maintenance and functioning of the Committee and the Grape Crush Advisory Board, and for such other purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for the aforesaid crop year, which each handler shall, pursuant to § 990.72, pay with respect to all free tonnage (including tonnage exempted from volume regulation by § 990.205) grapes for crushing, including such grapes of his own production, received by him during such crop year is fixed at 20.5 cents per ton of fresh grapes and the equivalent amount of 36.5 cents per ton of raisin residual material.

Dated: November 9, 1962.

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

[F.R. Doc. 62–11349; Filed, Nov. 14, 1962; 8:50 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Parts 1001, 1003, 1006–1009, 1011, 1013–1016, 1030–1033, 1036, 1038, 1040, 1045–1049, 1051, 1061–1073, 1075, 1076, 1079, 1090, 1094, 1096, 1098, 1099, 1101, 1103–1108, 1120, 1125–1128, 1132, 1133, 1135–1138]

MILK IN CERTAIN DESIGNATED MARKETING AREAS

Notice of Proposed Suspension of Certain Provisions of Orders

In the matter of:

7 CFR Parts and Marketing Areas

1001—Boston, Mass.
1003—Washington, D.C.
1006—Springfield, Mass.
1007—Worcester, Mass.
1008—Greater Wheeling, W. Va.
1009—Clarksburg, W. Va.
1011—Appalachian.
1013—Southeastern Florida.
1014—Southeastern New England.
1015—Conn.
1016—Upper Chesapeake Bay.
1030—Chicago, Ill.
1031—South Bend-LaPorte-Elkhart, Ind.
1032—Suburban St. Louis.
1033—Greater Cincinnati.
1036—Northeastern Ohio.
1038—Rock River Valley.
1040—Southern Michigan.
1045—Northeastern Wisconsin.
1046—Louisville-Lexington-Evansville.
1047—Fort Wayne, Ind.
1048—Greater Youngstown-Warren.
1049—Indianapolis, Ind.
1051—Madison, Wis.
1061—St. Joseph, Mo.
1062—St. Louis, Mo.
1063—Quad Cities-Dubuque.
1064—Greater Kansas City.
1065—Nebraska-Western Iowa.
1066—Sioux City, Iowa.
1067—Ozarks.
1068—Minneapolis-St. Paul, Minn.
1069—Duluth-Superior.
1070—Cedar Rapids-Iowa City.
1071—Neosho Valley.
1072—Sioux Falls-Mitchell, S. Dak.
1073—Wichita, Kans.
1075—Black Hills, S. Dak.
1076—Eastern South Dakota.
1079—Des Moines, Iowa.
1090—Chattanooga, Tenn.
1094—New Orleans, La.
1096—Northern Louisiana.
1098—Nashville, Tenn.
1099—Paducah, Ky.
1101—Knoxville, Tenn.
1103—Central Mississippi.
1104—Red River Valley.
1105—Mississippi Delta.
1106—Oklahoma Metropolitan.
1107—Mississippi Gulf Coast.
1108—Central Arkansas.
1120—Lubbock-Plainview, Tex.
1125—Puget Sound, Wash.
1126—North Texas.
1127—San Antonio, Tex.
1128—Central West Texas.
1132—Texas Panhandle.
1133—Inland Empire.
1135—Colorado Springs-Pueblo.
1136—Great Basin.
1137—Eastern Colorado.
1138—Rio Grande Valley.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.), the suspension of certain provisions of the orders regulating the handling of milk in the above designated marketing areas is being considered.

The provisions proposed to be suspended are:

Part 1001 regulating the handling of milk in the Greater Boston, Massachusetts, marketing area:

The following provisions relating to compensatory payments on unpriced outside milk in fluid form allocated to Class I at regulated plants or distributed as Class I milk on routes in the marketing area:

(1) In § 1001.65, the following provisions:

(i) In the title thereof the words "outside milk and";

(ii) In the introductory text of paragraph (a) the paragraph designation "(a)", the language "receipts of outside milk, or", the comma appearing between the words, "order, shall", and the language "as follows:";

(iii) In paragraph (a)(1) the subparagraph designation "(1)", the language "or (j)," and the last sentence;

(iv) Paragraph (a)(2); and

(v) Paragraph (b).

The suspension of such provisions would result in § 1001.65 reading as follows:

§ 1001.65 Payments on receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator as follows:

Each handler operating a regulated plant at which there are assigned to Class I milk receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order shall make payment on such receipts assigned pursuant to § 1001.25(i) at the difference between the price pursuant to § 1001.40 and the price pursuant to § 1001.41 applicable at the zone location of the unregulated plant.

(2) In § 1001.72, the language "and to the quantity of his route disposition in the marketing area which is subject to payments under § 1001.65(b)".

Part 1003 regulating the handling of milk in the Washington, D.C., marketing area:

The following provisions relating to compensatory payments on unpriced other source milk (1) received in fluid form at pool plants and allocated to Class I, (2) distributed on routes in the marketing area by nonpool distributing plants, and (3) in inventory reclassified at pool plants:

(1) Paragraphs (b) and (c) of § 1003.62.

(2) In § 1003.70(b), the provision "or (b);" appearing as part of the phrase "pursuant to § 1003.62 (a) or (b);".

(3) Section 1003.70(e).

(4) § 1003.88, the provision "or (c) Class I milk for which a payment is due pursuant to § 1003.62(c)"

The following provisions relating to pool plant qualifications for distributing and supply plants:

(5) In § 1003.9(a)(1), the following provisions:

(i) "milk not less than 10 percent of".

(ii) ": *Provided,* That the total quantity of Class I milk disposed of from such plant (inside and outside the marketing area) is equal to not less than 50 percent of such plant's total receipts from such dairy farmers;".

(6) In § 1003.9(a)(2), the following provisions:

(i) "of October through February in which at least 50 percent, and during any month of March through September".

(ii) "at least 40 percent of its".

(iii) "not less than 10 percent of its".

(iv) "and not less than 50 percent of such receipts are disposed of as Class I milk (inside and outside the marketing area)".

(v) ": *Provided,* That any such plant which was a pool plant in each of the preceding months of October through February shall be a pool plant for the months of March through September, unless the handler gives written notice to the market administrator on or before the first day of such month that the plant is a nonpool plant: *And provided further,* That any such plant which was a nonpool plant during any of the months of October through February shall not be a pool plant in any of the immediately following months of March through September in which it was owned by the same handler or affiliate of the handler or by any person who controls, or is controlled by, the handler."

(7) In the introductory text of § 1003.61, the provision "or (b)" which appears in the phrase "in paragraph (a) or (b) of this section".

(8) In § 1003.61(a), the provision "(a)(1)" referred to in the phrase "pursuant to § 1003.9(a)(1)" and the words "on routes" appearing in the same paragraph.

(9) Section 1003.61(b).

The suspension of provisions under items 5 and 6 (above) would result in the text reading as follows:

§ 1003.9 Pool plant.

"Pool plant" means:

(a) An approved plant other than the plant of a producer-handler: (1) During any month within which a volume of its receipts of milk from dairy farmers approved by a duly constituted health authority for fluid disposition, is disposed of on routes as Class I milk in the marketing area, or (2) during any month in which receipts of milk from dairy farmers approved by a duly constituted health authority for fluid disposition is shipped in the form of milk, skim milk, or cream to a plant which disposes of approved milk from dairy farms and from other approved plants on routes as Class I milk in the marketing area.

(b) Any manufacturing plant which is operated by a cooperative association 70 percent or more of whose members are qualified producers whose milk is regularly received during the month at other plants which are pool plants pursuant to paragraph (a) of this section.

Part 1006 regulating the handling of milk in the Springfield, Massachusetts, marketing area:

The following provisions relating to compensatory payments on unpriced outside milk in fluid form allocated to Class I at regulated plants or distributed as Class I milk on routes in the marketing area:

(1) In § 1006.65, the following provisions:

(i) In the title thereof the words "outside milk and";

(ii) In the introductory text of paragraph (a) the paragraph designation "(a)", the language "receipts of outside milk, or", the comma appearing between the words "order, shall", and the language "as follows:";

(iii) In paragraph (a) (1) the subparagraph designation "(1)", the language "or (m),", and the last sentence;

(iv) Paragraph (a) (2); and

(v) Paragraph (b).

The suspension of such provisions would result in § 1006.65 reading as follows:

§ 1006.65 Payments on receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator as follows:

Each handler operating a regulated plant at which there are assigned to Class I milk receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order shall make payment on such receipts assigned pursuant to § 1006.25(1) at the difference between the price pursuant to § 1006.40 and the price pursuant to § 1006.41 applicable at the zone location of the unregulated plant.

(2) In § 1006.72, the language "and to the quantity of his route disposition in the marketing area which is subject to payments under § 1006.65(b)".

Part 1007, regulating the handling of milk in the Worcester, Massachusetts, marketing area.

The following provisions relating to compensatory payments on unpriced outside milk in fluid form allocated to Class I at regulated plants or distributed as Class I milk on routes in the marketing area:

(1) In § 1007.65, the following provisions:

(i) In the title thereof the words "outside milk and";

(ii) In the introductory text of paragraph (a) the paragraph designation "(a)", the language "receipts of outside milk, or", the comma appearing between the words "order, shall", and the language "as follows:";

(iii) In paragraph (a) (1) the subparagraph designation "(1)", the language "or (m),", and the last sentence;

(iv) Paragraph (a) (2); and

(v) Paragraph (b).

The suspension of such provisions would result in § 1007.65 reading as follows:

§ 1007.65 Payments on receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator as follows:

Each handler operating a regulated plant at which there are assigned to Class I milk receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order shall make payment on such receipts assigned pursuant to § 1007.25 (1) at the difference between the price pursuant to § 1007.40 and the price pursuant to § 1007.41 applicable at the zone location of the unregulated plant.

(2) In § 1007.72, the language "and to the quantity of his route disposition in the marketing area which is subject to payments under § 1007.65(b)".

Part 1008, regulating the handling of milk in the Greater Wheeling marketing area:

The following provisions relating to compensatory payments on unpriced other source milk (1) distributed on routes in the marketing area; (2) received in fluid and nonfluid product form at pool plants and allocated to Class I, and (3) in inventory reclassified at pool plants:

(1) Section 1008.54.

(2) Section 1008.62.

(3) Section 1008.70(b).

(4) In § 1008.70(d), the provision ", and (2) any amount obtained by multiplying any plus amount remaining after the calculation pursuant to § 1008.46(b) by the rate of compensatory payment pursuant to § 1008.54(a)."

(5) Section 1008.71(e).

(6) In § 1008.72(c), the provision "then add the total amount of payments due pursuant to § 1008.62;" which appears as the last phrase in the paragraph.

(7) In § 1008.75(d), the provision ", or 1008.62" which appears in the phrase "pursuant to §§ 1008.82, 1008.85, or 1008.62".

(8) In § 1008.81, the provisions "1008.62" which appears in the phrase "pursuant to §§ 1008.62, 1008.82 and 1008.84".

(9) Section 1008.86(d).

(10) In § 1008.8(a), the provisions:

(i) "not less than the required percentage (as specified herein) of the volume of".

(ii) ", such required percentages being 45 percent in April, May and June, and 55 percent in other months; and".

(11) Section 1008.8(b).

(12) In § 1008.9, the provisions:

(i) "During any of the months of September through January, inclusive,".

(ii) "equal to not less than 55 percent of its receipts".

(iii) "which during the month dispose of as Class I milk on routes described in § 1008.8(a), a volume not less than 55 percent at the sum of: (a) Milk received by the plant from producers pursuant to § 1008.14 (a) and (b); (b) milk caused to be delivered to the plant pursuant to § 1008.63; and (c) any other fluid milk product received by the plant and eligible for distribution in the marketing area under a Grade A label: *Provided*, That if a plant qualifies as a supply plant pursuant to this section in each of the months of September, October, November, December, and January, such plant the following August, unless the operator requests in writing that such plant not be a pool plant beginning in the month following the date of such request."

(13) In § 1008.10(c), the provision: "equal to not less than 5 percent of milk disposed of" and the word "so" which appears in the phrase "is so disposed of" in the same paragraph.

The suspension of provisions under items (10), (11), (12), and (13) (above) would result in the text reading as follows:

§1008.8 Distributing plant.

* * * * *

(a) milk received thereat from dairy farmers who meet the inspection requirements pursuant to § 1008.6 and from a cooperative association as a handler pursuant to § 1008.12(c) is disposed of as Class I milk during the month on routes (including disposal through plant stores, vendors or by vending machines) to wholesale or retail outlets (except pool plants)

§ 1008.9 Supply plant.

"Supply plant" means: an approved plant from which, during the month, fluid milk products from dairy farmers who meet the inspection requirements pursuant to § 1008.6 and from a cooperative association as a handler pursuant to § 1008.12(c) are shipped to distributing plants or plants described in § 1008.10(c)

§ 1008.10 Pool plant.

* * * * *

(c) An approved plant which receives no milk from dairy farmers and from which Class I milk during the month on routes (including disposal through plant stores, vendors or by vending machines) to retail or wholesale outlets (excluding pool plants), is disposed of in the marketing area.

Part 1009, regulating the handling of milk in the Clarksburg marketing area.

The following provisions relating to compensatory payments on unpriced other source milk (1) distributed on routes in the marketing area, (2) received in fluid and nonfluid product form at pool plants and allocated to Class I, and (3) in inventory reclassified at pool plants:

(1) Section 1009.54.

(2) Section 1009.62.

(3) Section 1009.70(b).

(4) In § 1009.70(d), the provision ", and (2) any amount obtained by multiplying any plus amount remaining after the calculation pursuant to § 1009.46(b) by the rate of compensatory payment pursuant to § 1009.54(a)".

(5) Section 1009.71(e).

(6) In § 1009.72(c), the provision "then add the total amount of payments due pursuant to § 1009.62;" which appears as the last phrase in the paragraph.

(7) In § 1009.75(d), the provision ", § 1009.62" which appears in the phrase "pursuant to §§ 1009.82, 1009.85, and 1009.86, or § 1009.62".

(8) In § 1009.81, the provision "1009.62" which appears in the phrase "pursuant to §§ 1009.62, 1009.82 and 1009.84".

(9) Section 1009.86(d).

The following provisions relating to pool plant qualifications for distributing and supply plants:

(10) In § 1009.8(a), the provisions:

(i) "not less than the required percentage (as specified herein) of the volume of".

(ii) ", such required percentage being 45 percent in April, May and June, and 55 percent in other months; and".

(11) Section 1009.8(b).

(12) In § 1009.9, the provisions:

(i) "During any of the months of September through January, inclusive,".

(ii) "equal to not less than 55 percent of its receipts".

(iii) "which during the month dispose of as Class I milk on routes described in § 1009.8(a), a volume not less than 55 percent at the sum of: (a) Milk rereceived by the plant from producers pursuant to § 1009.14 (a) and (b); (b) milk caused to be delivered to the plant pursuant to § 1009.63; and (c) any other fluid milk product received by the plant and eligible for distribution in the marketing area under a Grade A label: *Provided,* That if a plant qualifies as a supply plant pursuant to this section in each of the months of September, October, November, December, and January, such plant shall be a pool plant until the end of the following August, unless the operator requests in writing that such plant not be a pool plant beginning in the month following the date of such request."

(13) In § 1009.10(c), the provision: "equal to not less than 5 percent of milk disposed of" and the word "so" which appears in the phrase "is so disposed of" in the same paragraph.

The supsension of provisions under items (10), (11), (12), and (13) (above) would result in the text reading as follows:

§ 1009.8 Distributing plant.

* * * * *

(a) milk received thereat from dairy farmers who meet the inspection requirements pursuant to § 1009.6 and from a cooperative association as a handler pursuant to § 1009.12(c) is disposed of as Class I milk during the month on routes (including disposal through plant stores, vendors or by vending machines) to wholesale or retail outlets (except pool plants).

§ 100.9.9 Supply plant.

"Supply plant" means: an approved plant from which, during the month, fluid milk products from dairy farmers who meet the inspection requirements pursuant to § 1009.6 and from a cooperative association as a handler pursuant to § 1009.12(c) are shipped to distributing plants or plants described in § 1009.10(c).

§ 1009.10 Pool plant.

* * * * *

(c) An approved plant which receives no milk from dairy farmers and from which Class I milk during the month on routes (including disposal through plant stores, vendors or by vending machines) to retail or wholesale outlets (excluding pool plants) is disposed of in the marketing area.

Part 1011 regulating the handling of milk in the Appalachian marketing area:

The following provisions relating to compensatory payments on unpriced other source (1) fluid milk product allocated to Class I at pool plants, (2) distributed in the marketing area from unregulated sources, and (3) in inventory which is reclassified at pool plants:

(1) Paragraphs (b) and (d) of § 1011.62.

(2) In § 1011.70(c), the provision "(b)," which appears in the phrase "pursuant to § 1011.62 (a), (b), and (c);".

(3) Section 1011.70(e).

(4) In § 1011.93, the provision "1011.62(d)," which appears in the phrase "pursuant to §§ 1011.62(d), 1011.94, and 1011.96".

(5) Section 1011.98(b).

The following provisions relating to pool plant qualifications for distributing and supply plants:

(6) In § 1011.9(a)(1), the provisions "Total" and "equal to not less than 50 percent of the".

(7) In § 1011.9(a)(2), the provisions:

(i) "on routes in the marketing area".

(ii) "equal to not less than 10 percent of its total Class I milk disposition".

(iii) "both".

(iv) "and outside".

(8) In § 1011.9(b), the provisions:

(i) "in an amount equal to not less than 50 percent of receipts of such milk or milk products".

(ii) ": *Provided,* That any plant which qualifies as a pool plant pursuant to this paragraph in each of the months of August through March shall be a pool plant for the following months of April through July unless the operator of such plant files with the market administrator prior to the first day of any month of April through July a written request for nonpool status for such month; or".

(9) In § 1011.61(a), the provision "(a)" which appears in the phrase "pursuant to § 1011.9(a)".

(10) In Section 1011.61(b).

The suspension of provisions under items 6, 7 and 8 (above) would result in the text reading as follows:

§ 1011.9 Pool plant.

* * * * *

(a) * * *

(1) disposition of Class I milk is milk approved or recognized by a duly constituted health authority for distribution within the marketing area which is received from dairy farmers and from cooperative associations who deliver such milk to such plant in the manner described in § 1011.10(d); and

(2) Disposition of Class I milk is on routes inside the marketing area;

(b) From which milk or milk products approved or recognized by a duly constituted health authority for distribution within the marketing area from dairy farmers and from cooperative associations who deliver such milk to such plant in the manner described in § 1011.10(d) are shipped as milk, skim milk or cream in fluid form to plants specified in paragraph (a) of this section.

Part 1013, regulating the handling of milk in the Southeastern Florida marketing area:

The following provisions relating to compensatory payments on unpriced other source milk allocated to Class I milk at pool plants:

(1) All the provisions of § 1013.52 except the provisions:

§ 1013.52 Rate of compensatory payment.

(a) The rate of compensatory payment per hundredweight to be paid by nonpool plants pursuant to § 1013.62(a), shall be calculated as follows:

(1) If the nonpool plant described in § 1013.62(a) is located in the State of Florida, subtract the Class II price from the Class I price adjusted by the Class I location differential at the nonpool plant; or

(2) If the nonpool plant described in § 1013.62(a) is located outside the State of Florida, subtract the price pursuant to § 1013.50(b)(2) from the Class I price adjusted by the Class I location differential at the nonpool plant.

(2) Paragraphs (c)(2) and (d) of § 1013.70.

The following provisions relating to qualifications for producer status:

(3) All the provisions of § 1013.7 except the provision as follows:

"Producer" means any person, except a producer-handler, who produces milk (as described in § 1013.63) in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable to agencies of the United States Government located in the mar-

keting area for fluid consumption), which milk is received at pool plant(s) during the month, or a person who was a producer during the preceding month from whom milk was received at pool plant(s) on eight or more days:

The following provisions relating to pool plant qualifications for supply plants:

(4) All the provisions of § 1013.11(b) except the provisions:

"(b) A plant from which, during the month, milk and skim milk received thereat from dairy farmers who meet the inspection requirements pursuant to § 1013.7 is shipped to plants which are pool plants pursuant to paragraph (a) of this section;"

Part 1014, regulating the handling of milk in the Southeastern New England marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at regulated plants or distributed as Class I milk on routes in the marketing area:

(1) In § 1014.46, the following provisions:

(i) Paragraph (a);

(ii) Paragraph (b);

(iii) In paragraph (c) the paragraph designation "(c)";

(iv) Paragraph (d); and

(v) Paragraph (e).

The suspension of such provisions would result in § 1014.46 reading as follows:

§ 1014.46 Payments on other source milk.

Within 16 days after the end of each month handlers shall make payments to producers through the producer-settlement fund as follows:

Each pool handler who receives other source milk which is allocated to Class I pursuant to § 1014.24(b) (2) or (10) and the corresponding steps of (c) which milk is not classified and priced as Class I under the originating order shall make payment on the volume of such milk so allocated at the difference between the Class I price and the Class II price computed pursuant to § 1014.40 for the zone location of the plant from which such other source milk was received.

(2) In § 1014.50, the language "(a), (b), or (c)".

(3) Section 1014.51(d).

(4) In § 1014.64, the reference "1014.46 (d) and (e),".

Part 1015 regulating the handling of milk in the Connecticut marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at regulated plants or distributed as Class I milk on routes in the marketing area:

(1) In § 1015.46, the following provisions:

(i) The introductory text of the section;

(ii) Paragraph (a);

(iii) Paragraph (b);

(iv) In paragraph (c) the paragraph designation "(c)";

(v) Paragraph (d); and

(vi) Paragraph (e).

The suspension of such provisions would result in § 1015.46 reading as follows:

§ 1015.46 Payments on other source milk.

Each pool handler who receives other source milk which is allocated to Class I pursuant to § 1015.24(b) (2) or (13) and the corresponding steps of (c), which milk is not classified and priced as Class I under the originating order, shall make payments on the volume of such milk so allocated at the difference between the Class I price and the Class II price computed pursuant to § 1015.40 for the zone location of the plant from which such other source milk was received.

(2) In § 1015.50(b), the language "(a), (b), or (c)".

(3) In § 1015.64, the reference "1015.46 (d) and (e),".

Part 1016, regulating the handling of milk in the Upper Chesapeake Bay marketing area:

The following provisions relating to compensatory payments on unpriced other source milk (1) received in fluid form and allocated to Class I at pool plants, (2) distributed on routes in the marketing area, and (3) in inventory reclassified at pool plants:

(1) Paragraphs (b) and (d) of § 1016.62.

(2) In § 1016.70(b), the provision "(b)" which appears in the phrase "pursuant to § 1016.62 (a), (b) and (c)".

(3) Section 1016.70(e).

(4) In § 1016.88, the provision ", and (d) Class I milk for which a payment is due pursuant to § 1016.62(d)".

The following provisions relating to pool plant qualifications for distributing and supply plants:

(5) In the introductory text preceding § 1016.3(b)(1), the following provisions:

(i) "or (4)" which appears in the phrase "subparagraphs (1), (2), (3) or (4)".

(ii) ": *Provided,* That any plant qualified as a pool plant pursuant to subparagraph (2) of this paragraph in each of the months of October through February shall be a pool plant for the immediately following months of March through September unless the handler gives written notice to the market administrator on or before the first day of any such month(s) (March through September) that the plant is a nonpool plant for the remaining months through September: *And provided further,* That any such plant specified in subparagraph (2) of this paragraph which was a nonpool plant during any month of October through February shall not be a pool plant in any of the immediately following months of March through September in which it is operated by the same handler, an affiliate of the handler or by any person who controls or is controlled by the handler."

(6) In § 1016.3(b)(1), the following provisions:

(i) "a quantity equal to not less than 10 percent of its total".

(ii) "and which disposes of as Class I milk a quantity equal to not less than 50 percent of such receipts."

(7) In § 1016.3(b)(2), the following provisions:

(i) "of October through February in which a quantity of milk equal to not less than 50 percent, and in any month of March through September".

(ii) "of milk equal to not less than 40 percent,".

(iii) "a quantity equal to not less than 10 percent of its receipts of milk from dairy farmers (including milk received from a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4) and from other plants and which disposes of as Class I milk a quantity equal to not less than 50 percent of such receipts".

(iv) ": *Provided,* That in the case of a handler operating a pool plant qualified pursuant to subparagraph (1) of this paragraph and two or more plants approved by the appropriate health authority in the marketing area as a source of supply for such plant, such supply plants shall be considered as a unit (system) for purposes of plant qualification under this paragraph upon written notice to the market administrator by the handler designating the plants to be included and the period during which such designation shall apply. Such notice or notice of changes in designation shall be given on or before the first day of the first month to which such notice applies."

(8) In § 1016.3(b)(3), the provision "and (4)" appearing in the phrase "pursuant to subparagraphs (1) and (4) of this paragraph".

(9) Section 1016.3(b)(4).

(10) In § 1016.61, the provision "or (b)" referred to in the phrase "in paragraph (a) or (b) of this section".

(11) In § 1016.61(a), the provisions "(1) or (4)" referred to in the phrase "pursuant to § 1016.3(b) (1) or (4)" and the words "on routes" which appear in the same paragraph.

(12) Section 1016.61(b).

The suspension of provisions under items (5), (6), and (7) (above) would result in the text reading as follows:

§ 1016.3 Definitions of plants.

* * * * *

(b) "Pool plant" means a plant specified in subparagraph (1), (2), (3) of this paragraph other than that of a producer-handler.

(1) A plant which during the month disposes of as Class I milk on routes in the marketing area receipts of milk from dairy farmers (including milk received from a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4)).

(2) A plant in any month in which a quantity of its receipts of milk from dairy farmers (including milk received from a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4)) is moved to a plant(s) which disposes of as Class I milk on routes in the marketing area.

Part 1030, regulating the handling of milk in the Chicago marketing area:

The following provision relating to compensatory payments on other source milk allocated to Class I and II at pool plants during the months of March through June:

(1) Section 1030.61(b).

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1030.66(b) for the months of March, April, May and June, the provision: "at least 30 percent of the pounds of butterfat in, or at least 30 percent of the volume of,".

The suspension of such provision would result in the text preceding "*Provided,* That" reading as follows:

"(b) Ships during the delivery period milk received from dairy farmers at such plant, as milk, skim milk, concentrated milk, condensed skim milk, or cream in fluid form to (and is physically received in) a plant(s) which operates in the manner described in paragraph (a) of this section, irrespective of whether or not such plant(s) receives milk from dairy farmers:"

Part 1031 regulating the handling of milk in the South Bend-LaPorte-Elkhart marketing area.

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I in pool plants or distributed in the marketing area from nonpool plants:

(1) Section 1031.70(a)(1).

(2) Section 1031.70(b).

The following provisions relating to pool plant qualifications for distributing plants and supply plants:

(3) In § 1031.10(a) the provisions:

(i) "not less than 10 percent of its total", and

(ii) ": *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 receipts of milk eligible for sale in fluid form as Grade A milk within the marketing area".

The suspension of such provisions would result in the text reading:

"(a) A plant in which milk is processed or packaged and from which disposition of Class I milk during the month either by the operator of such plant or by another person is made within the marketing area on a route(s); or"

(4) In § 1031.10(b) the provisions:

(i) "50 percent or more of its total", and

(ii) ", unless the plant is withdrawn from such status upon request of the handler, which withdrawal would become effective on the first day of the month following in which the market administrator is notified of the request for withdrawal. Any plant so withdrawn from pool plant status may not regain status prior to the following August".

The suspension of such provisions would result in the text reading as follows:

"(b) Any plant or reload point from which receipts for such month from farms of skim milk or 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 paragraph (a) of this section: *Provided,* That if during each of any five consecutive months during the period August through March, inclusive, a plant meets the delivery requirements set forth in this paragraph, such plant shall be a pool plant for the immediately following months of April, May, June and July."

Part 1032 regulating the handling of milk in the Suburban St. Louis marketing area:

The following provisions relating to other source milk allocated to Class I at pool plants:

(1) In § 1032.70, for the months of March through July, the provisions:

(i) § 1032.70(b).

(ii) § 1032.70(d)(2).

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1032.13(b), for the months of March through July, the provisions:

(i) "not less than 50 percent of total receipts of" as it appears in the phrase "(b) A supply plant from which during the month not less than 50 percent of total receipts of approved milk", and

(ii) "unless the operator of such plant submits a written request to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant from which during the month approved milk from dairy farmers and from cooperative associations in their capacity as handlers pursuant to § 1032.9(c) is shipped to distributing pool plants from each of which not less than 50 percent of total receipts of approved milk is distributed as Class I milk on routes: *Provided,* That a supply plant which qualifies as a pool plant in each of the months of August through January shall be a pool plant in each of the following months of February through July: *And provided further,* That for each month from the effective date of this order through July 1960, a supply plant may be a pool plant if the operator of such supply plant furnishes proof that 50 percent of such plant's receipts of approved milk of dairy farmers during the preceding period of August through January inclusive, was shipped to distributing plants pursuant to paragraph (a) of this section."

Part 1033, regulating the handling of milk in the Greater Cincinnati marketing area.

The following provision relating to compensatory payments on other source milk allocated to Class I at pool plants:

(1) In § 1033.60 the following provisions:

(i) "; and (e) add an amount computed by multiplying the pounds of other source milk subtracted from Class I milk and Class II milk pursuant to § 1033.46(a)(2) and the corresponding step of (b) by the difference between the price for milk (of the same butterfat content) in the class from which subtracted and the price computed pursuant to § 1033.50, adjusted to the same test by the Class III butterfat differential (other than butter): *Provided,* That", and

(ii) ": (1) This paragraph, (2) paragraph (d) of this section on milk which is in excess of producer milk classified as Class II milk for the preceding month, or (3)".

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1033.7(c) the provisions:

(i) "equal to not less than one percent of the total Class I utilization of all plants described in paragraphs (a) and (b) of this section during the second month preceding such movement,", and

(ii) "*Provided,* That upon written request to the market administrator by the operator of a plant which is a pool plant pursuant to this paragraph for the discontinuance of such plant as a pool plant, such plant shall cease to be a pool plant in the first month, following such request, during which no milk is moved to a plant described in paragraph (a) or (b) of this section and shall not become a pool plant until such plant again meets the requirements for a pool plant pursuant to this paragraph."

The suspension of such provisions would cause the text to read as follows:

"(c) A plant which receives milk from persons described in § 1033.10(a) and from which an amount of milk or skim milk in fluid form has been moved to a plant(s) described in paragraph (a) or (b) of this section as specified in the following schedule:

Month milk is moved	*Months plant is pool plant*
One of the months of October and November.	November.
Two of the months of October, November and December.	December.
Three of the months of October, November, December and January.	January through October."

Part 1036, regulating the handling of milk in the Northeastern Ohio marketing area:

The following provision relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants:

(1) Section 1036.70(e).

The following provision relating to compensatory payments on Class I sales in the marketing area by nonpool plants:

(2) Section 1036.84(b).

The following provisions relating to pool plant qualifications for distributing and supply plants:

(3) In § 1036.8(a) the provisions:

(i) "(1)".

(ii) "; and (2) total disposition of such fluid milk products on routes is 50 percent or more of total receipts during the month of milk approved for fluid use by a duly authorized health authority from dairy farmers, through reload points and from other plants, except that during each of the months of April through July the percentage requirements of this paragraph shall be 40 percent if such plant qualified during each of the preceding months of August through March".

(4) In § 1036.8(b) the provision "30 percent or more of its total dairy farm supply of".

(5) In the introductory statement of § 1036.8(c) the provisions:

(i) "10 percent or more of its monthly dairy farm supply of milk during each such month, and 30 percent or more of its total dairy farm supply during the entire August–January period,"

(ii) ", unless written notice of withdrawal is received by the market administrator before the first day of the month", and

(6) In § 1036.8(c)(2) the provision "10 percent or more of its total dairy farm supply".

(7) Section 1036.8(e).

The suspension of such provisions would result in the text of paragraphs (a), (b) and (c) of § 1036.8 reading as follows:

"(a) A plant at which milk is packaged and from which fluid milk products classified as Class I milk are distributed on a route in the marketing area.

(b) A plant from which there has been delivered to pool plant(s) described in paragraph (a) of this section either during the current month or during any period of consecutive months ending with the current month, milk;

(c) A plant which was a pool plant during each month of the preceding period of August through January and during that period delivered to pool plant(s) described in paragraph (a) of this section shall be a pool plant as follows:

(1) During the months of February through July regardless of shipments; and

(2) During each successive month of August through January in which it delivers to pool plant(s) described in paragraph (a) of this section.

Part 1038, regulating the handling of milk in the Rock River Valley marketing area.

The following provisions relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants:

(1) Section 1038.60(c), and

(2) Section 1038.60(d)(2).

The following provision relating to pool plant qualifications for supply plants:

(3) In § 1038.11(b) the provision "not less than 50 percent of the".

The suspension of such provision would result in the text reading as follows:

"(b) A supply plant from which Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products to pool plants qualified pursuant to paragraph (a) of this section: *Provided,* That a supply plant which qualified pursuant to this paragraph in each of the immediately preceding months of September through November shall be a pool plant for the months of March through June unless written application is filed with the market administrator on or before the first day of any such month to be designated a nonpool plant for such month and for each subsequent month through June during which it would not otherwise qualify as a pool plant."

Part 1040, regulating the handling of milk in the Southern Michigan marketing area.

The following provision relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants:

(1) Section 1040.60(d).

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1040.16(b) the provisions:

(i) "not less than 25 percent or the call percentage defined in § 1040.17, whichever is higher, of its dairy farm supply of",

(ii) ", including any receipts for which a cooperative association is the handler pursuant to § 1040.6(c), less any milk disposed of from the plant as Class I other than by transfers to pool plants of other handlers,",

(iii) "which has met the required percentages",

(iv) "during which it ships the percentage provided for in any call which may be issued pursuant to § 1040.17", and

(v) "All supply plants which are operated by one handler, or all the supply plants for which a handler is responsible for the movement of milk to distributing plants under a marketing agreement certified to the market administrator by both parties, may be considered as a unit for the purpose of meeting the milk movement requirements of this paragraph (b) upon written notice to the market administrator specifying the plants to be considered as a unit for the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the 5th day (exclusive of Sundays and holidays) following the month to which the notice applies. In any of the months of February through September a unit shall not contain plants which were not qualified as pool plants either individually or as a member of a unit during the previous October through January".

The suspension of such provisions would result in the text reading as follows:

"(b) Any plant, hereinafter referred to as a 'supply plant', which is approved by the appropriate health authority in the marketing area for supplying milk for fluid use and from which during the month milk qualified for fluid distribution in the marketing area is moved to a distributing plant. Any supply plant during each of the months of October through January shall be a pool plant for each of the following months of February through September; or"

(3) Section 1040.17.

Part 1045, regulating the handling of milk in the Northeastern Wisconsin marketing area.

The following provision relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants:

(1) Section 1045.60(d).

The following provision relating to pool plant qualifications for supply plants:

(2) In § 1045.10(b) the provision "not less than 40 percent of the".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant from which Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products to pool plants qualified pursuant to paragraph (a) of this section: *Provided,* That a supply plant which qualified pursuant to this paragraph in each of the immediately preceding months of July through November shall be a pool plant for the months of December through June unless written application is filed with the market administrator on or before the first day of any month to be designated a nonpool plant for such month and for each subsequent month through June in which it would not otherwise qualify as a pool plant."

Part 1046 regulating the handling of milk in the Louisville-Lexington-Evansville Marketing area.

The following provisions relating to compensatory payments on unpriced other source milk received in fluid and nonfluid form allocated to Class I at pool plants:

(1) In the introductory text preceding § 1046.61(a)(1), for the months of January through September, the following provisions:

(i) "Each handler operating a pool plant who received other source milk during the month shall pay to the market administrator on or before the 15th day after the end of the month an amount for deposit in the producer-settlement fund equal to".

(ii) "multiplied by the hundredweight of skim milk and butterfat allocated to Class I pursuant to § 1046.46(a)(3) and the corresponding step of § 1046.46(b):".

(2) In § 1046.61(a)(1), for the months of January through September, the provision "at the nearest plant(s) from which an equivalent amount of other source milk was received".

(3) Section 1046.61(b), for the months of January through September.

The suspension of provisions under numbers 1, 2 and 3 (above) would result in the text reading as follows during January through September:

§ 1046.61 Payments on other source milk by handlers operating pool plants.

(a) The rate of payment resulting from the computations in subparagraphs (1) and (2) of this paragraph.

(1) For the months of January through September, subtract from the Class I price adjusted by the Class I butterfat and location differentials the Class II price adjusted by the Class II butterfat differential; and

(2) For the months of October through December, subtract from the Class I price adjusted by the Class I butterfat differential the uniform price computed pursuant to § 1046.71 adjusted by the producer butterfat differential.

The following provisions relating to pool plant qualifications for supply plants:

(4) In § 1046.12(b), for the months of January through September, the provisions:

(i) "during any of the months of October through March".

(ii) "not less than 50 percent, and during other months not less than 40 percent, of the".

(5) Section 1046.12(c), for the months of January through September.

(6) In § 1046.12(d), for the months of January through September, the provision "or (2) such plant qualified as a pool plant pursuant to subparagraph (1) of this paragraph during each of the immediately preceding consecutive months of October through February."

The suspension of provisions under item numbers 4, 5 and 6 (above) would result in the text reading as follows during January through September:

§ 1046.12 **Pool plant.**

* * * * *

(b) A country plant from which receipts of milk at such plant from persons described in § 1046.7(a) and from a cooperative association in its capacity as a handler pursuant to § 1046.8(c) are moved to and received at a city plant in the form of milk, skim milk or cream;

(d) A country plant which is operated by a cooperative association if (1) two-thirds or more of the milk from persons described in § 1046.7(a) who are members of such association is delivered during the month from farms to the pool plant(s) of other handlers or transferred by such association from its plant to the pool plant(s) of other handlers.

Part 1047, regulating the handling of milk in the Fort Wayne, Indiana, marketing area:

The following provisions relating to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) Section 1047.63(b), and

(2) Paragraphs (e) and (f) of § 1047.70.

The following provisions relating to pool plant qualifications for supply plants:

(3) In § 1047.12(b), the provision:

(i) "50 percent or more of its receipts of", and

(ii) "unless the operator of such plant notifies the market administrator in writing before the first day of any such month of his intention to withdraw such plant as a pool plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in this paragraph".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant from which during the month Grade A milk from dairy farmers is moved to and received at a pool plant(s) described in paragraph (a) of this section. Any supply plant that was a pool plant during each of the months of September through December shall continue to be a pool plant the following months of January through August."

Part 1048, regulating the handling of milk in the Greater Youngstown-Warren marketing area:

The following provisions relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants:

(1) Section 1048.54,

(2) Section 1048.70(b) and

(3) In § 1048.70(d) the provision ", and (2) the amount obtained by multiplying the hundredweight of skim milk and butterfat remaining after the calculation pursuant to § 1048.46(b) by the rate of compensatory payments pursuant to § 1048.54."

The following provision relating to compensatory payments on Class I sales in the marketing area by nonpool plants:

(4) Section 1048.62.

The following provisions relating to pool plant qualifications for distributing and supply plants:

(5) In § 1048.12(a) the provisions:

(i) ":(1)",

(ii) "not less than 50 percent of total receipts of", and

(iii) "on routes and from which not less than 10 percent of such Class I distribution is"

(6) Section 1048.12(a)(2).

(7) In § 1048.12(b) the provisions:

(i) "not less than 50 percent of", and

(ii) ", unless the plant operator requests in writing to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments"

The suspension of such provisions would cause the text to read as follows:

"(a) A distributing plant from which during the month approved milk from dairy farmers, supply plants, and cooperative associations in their capacity as handlers pursuant to § 1048.8(c) is distributed as Class I milk in the marketing area on routes, or

"(b) A supply plant from which during the month approved milk from dairy farmers and from cooperative associations in their capacity as handlers pursuant to § 1048.8(c) is shipped to distributing pool plants: *Provided,* That if a supply plant qualifies as a pool plant pursuant to this section in each of the months of September through January such plant shall be a pool plant until the end of the following August."

Part 1049 regulating the handling of milk in the Indianapolis, Indiana, Marketing area:

The following provisions relating to compensatory payments on fluid other source milk allocated to Class I at pool plants:

(1) In § 1049.60(c), for the months of April through July, the provision "and (4)", and

(2) In § 1049.60(d), for the months of April through July, the provision ", and (2) the quantities of skim milk and butterfat remaining after the calculation pursuant to § 1049.47(b) by the rate of payment on unpriced milk pursuant to § 1049.55".

The following provisions relating to pool plant qualifications for supply plants:

(3) In § 1049.12(b), for the months of April through July, the provisions:

(i) "not less than 50 percent of the", and

(ii) "unless written application is filed with the market administrator on or before the first day of any such month to be designated a nonpool plant for such month and for each subsequent month through July during which it would otherwise not qualify as a pool plant."

The suspension of such provisions would cause the text to read as follows:

"(b) A supply plant from which Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products to pool plants qualified pursuant to paragraph (a) of this section: *Provided,* That a pool plant qualified pursuant to this paragraph in each of the immediately preceding months of August through January shall be a pool plant for the months of April through July: *And provided further,* That shipments to a plant described in the proviso in paragraph (a) of this section during the months of June, July and August shall be excluded in determining a plant's qualification pursuant to this paragraph."

Part 1051, regulating the handling of milk in the Madison, Wisconsin marketing area.

The following provisions relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants:

(1) Section 1051.60(c).

(2) Section 1051.60(d)(2).

The following provision relating to pool plant qualifications for supply plants:

(3) In § 1051.11(b) the provision "not less than 50 percent of the".

The suspension of such provision would result in the text reading as follows:

"(b) A supply plant from which Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products to pool plants qualified pursuant to paragraph (a) of this section: *Provided,* That a supply plant which qualified pursuant to this paragraph during each of the immediately preceding months of September through November, shall be a pool plant for the months of March through June unless written application is filed with the market administrator on or before the first day of any such month to be designated a nonpool plant for such months and for each subsequent month through June during which it would not otherwise qualify as a pool plant."

Part 1061, regulating the handling of milk in the St. Joseph marketing area:

The following provision relating to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1061.70, subparagraph (2) of paragraph (c), and paragraph (d).

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1061.12(b) the provisions:

(i) "not less than 50 percent of its receipts of" and

(ii) ": *Provided,* That any supply plant which is a pool plant by reason of meeting the required percentages in this paragraph during each of the months of September through December (in 1961 during each month from the effective date through December) shall be pooled for each of the following months of January through August unless the plant operator requests the market administrator in writing that such plant not be

a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments."

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant from which during the month approved milk from dairy farmers and from cooperative associations of producers in their capacity as handlers pursuant to § 1061.8(c) is shipped to and received at distributing pool plants."

Part 1062, regulating the handling of milk in St. Louis, Missouri marketing area:

The following provisions relating to compensatory payments on other source milk allocated to Class I at pool plants:

(1) Section 1062.70(b), for the months of March through July, and

(2) Section 1062.70(d)(2), for the months of March through July.

The following provision relating to compensatory payments on Class I sales in the marketing area by nonpool plants:

(3) Section 1062.55(a).

The following provisions relating to pool plant qualifications for distributing and supply plants:

(4) In § 1062.10(a), for the months of March through July, the provisions:

(i) "not less than 50 percent of the receipts of",

(ii) ", and from which not less than 25 percent of such receipts are distributed as Class I milk during the month", and

(iii) "on routes".

(5) In § 1062.10(b), for the months of March through July, the provisions:

(i) In the introductory text, "Subject to subparagraphs (1), (2), and (3) of this paragraph", and "no less than 20 percent of receipts during the month of",

(ii) Subparagraph (b)(1) in its entirety:

(iii) In subparagraph (b)(2), the following "unless the operator of such plant submits a written request to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following receipt of such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments; (3)", and

(iv) In subparagraph (b)(3), the following "A plant which is a pool plant as part of a system pursuant to this subparagraph may be a nonpool plant whenever the operator of such plant submits a written request to the market administrator that such plant not be a pool plant, such nonpool status to be effective until the plant qualifies as a pool plant on the basis of shipments."

The suspension of such provisions would result in the text reading as follows:

"(a) A city plant from which approved milk in the form of fluid whole milk is distributed during the month as Class I milk on routes in the marketing area: *Provided,* That a plant which qualifies as a pool plant pursuant to this paragraph during any month shall be a pool plant during the following month; or

(b) A country plant from which approved milk from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1062.12(c) is shipped to city plants which are pool plants pursuant to paragraph (a) of this section:

A country plant which qualifies as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August.

All country plants which have been pool plants during the 12 preceding months and which are operated by one handler or for which one handler is responsible for the movement of milk to city plants under a marketing arrangement certified to the market administrator by the operators of such plants may be considered as a unit for determining pool status upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration should apply."

Part 1063, regulating the handling of milk in the Quad Cities-Dubuque marketing area:

The following provision relating to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1063.70(d), for the months of December through June, the provision "and (4)" appearing as a part of the phrase "pursuant to § 1063.46(a) (3) and (4)".

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1063.10(b), for the months of December through June, the provisions:

(i) "from which the volume of fluid milk products shipped during the month to plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month",

(ii) "such" as it appears in the phrase "*Provided,* That if such shipments", and

(iii) ", unless written application is filed with the market administrator on or before the 1st day of any of the months of December through August to be designated a nonpool plant for such month and for each subsequent month through August".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant: *Provided,* That if shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of December through August."

Part 1064, Regulating the handling of milk in the Greater Kansas City Marketing area:

The following provision relating to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) All of § 1064.70(d).

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1064.10(b) the provisions:

(i) "not less than 50 percent of its supply of",

(ii) ", less any milk disposed of as Class I on routes", and

(iii) ": *Provided,* That any plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentage of its supply of milk from dairy farmers qualified to become producers during each of the months of August through December, shall be a pool plant for each of the following months of January through July unless a written request for nonpool status is furnished to the market administrator;"

The suspension of such provisions would result in the text reading as follows:

"(b) From which during the month milk from dairy farmers qualified to become producers is moved to a plant(s) described in paragraph (a) of this section; or"

Part 1065, regulating the handling of milk in the Nebraska-Western Iowa Marketing area:

The following provision relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1065.70 paragraphs "(e)" and "(f)".

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1065.12(b) the provisions:

(i) "from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 50 percent of the Grade A milk received at such plant from dairy farmers and cooperative associations pursuant to § 1065.8(d) during such month",

(ii) "qualifies as a pool plant",

(iii) "(or that during each such month of 1961 before the effective date of this order",

(iv) "pool plants under former Part 935—Milk in Omaha-Lincoln-Council Bluffs Marketing Area (Order No. 35) and/or former Part 1013—Milk in Platte Valley, Nebr., Marketing Area of this chapter (Order No. 113) and/or to",

(v) "newly regulated", and

(vi) the ")," appearing after "dairy farmers"

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant. A supply plant that each of the immediately preceding months of August through December shipped to distributing plants under this order 50 percent or more of its receipts of Grade A milk from dairy farmers shall be a pool plant for the succeeding months of January through July, unless the plant operator requests the market administrator, in writing, that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments."

(3) In § 1065.61 the provisions:

(i) In paragraph (a) the provision "(a)" appearing as a part of the phrase "pursuant to § 1065.12 (a)", and

(ii) Paragraph "(b)".

Part 1066, regulating the handling of milk in the Sioux City, Iowa, marketing area:

The following provision relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants or disposed of on routes in the marketing area by nonpool plants:

(1) Section 1066.57, for the months of March through July.

The following provisions relating to the qualification of producers and pool plants:

(2) In § 1066.5, for the months of March through July, the provision "having jurisdiction in the marketing area", and

(3) In § 1066.7, for the months of March through July, the provision ", in an amount equal to 20 percent or more of such plant's receipts".

Part 1067, regulating the handling of milk in the Ozarks marketing area:

The following provision relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants:

(1) Section 1067.70(b).

The following provision relating to pool plant qualifications for supply plants:

(2) In § 1067.11(b), the provisions:

(i) "a quantity of milk equal to at least 25 percent of its supply of", and

(ii) "during any of the months of February through July or the applicable percentage during any other month, as follows:

Month	*Percentage*
August	25
September	35
October	40
November	45
December	40
January	35", and

(3) In the proviso of § 1067.11(b) the provision "unless such plant requests nonpool designation by means of a prior application to the market administrator".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant from which approved milk is shipped to a plant described in paragraph (a) of this section: *Proivded,* That if a supply plant qualifies as a pool plant during each of the months from the effective date hereof through January 1959, and in each of the months of August through January thereafter, such plant shall be designated as a pool plant during each of the subsequent months through the following July."

Part 1068, regulating the handling of milk in the Minneapolis-St. Paul marketing area:

The following provisions relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants or disposed of in the marketing area from nonpool plants:

(1) Section 1068.70(a)(2).

(2) Section 1068.70(b).

The following provisions relating to pool plant qualifications for distributing plants and supply plants:

(3) In § 1068.9(a) the provisions:

(i) "not less than 15 percent of its total", and

(ii) ": *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 equal to 40 percent or more of such plant's total receipts of skim milk and butterfat eligible for sale in fluid form as Grade A milk within the marketing area in any of the months of January through June, or to 60 percent or more of such total receipts in any of the months of July through December".

The suspension of such provisions would result in the text reading as follows:

"(a) A plant in which milk is processed or packaged and from which disposition of Class I milk during the month either by the operator of such plant or by another person is made within the marketing area on a route(s); or".

(4) In § 1068.9(b)(1) the provisions:

(i) "Except as provided in subparagraph (2) of this paragraph,", and

(ii) "50 percent or more of such plant's total receipts for such month from farms of".

The suspension of such provisions would result in the text preceding *"Provided,* That" reading as follows:

"(b)(1) Any plant from which during any month skim milk or butterfat eligible for sale in fluid form as Grade A milk within the marketing area is delivered to (i) a plant(s) which has qualified pursuant to paragraph (a) of this section, (ii) any other plant(s) located within the marketing area from which Class I milk is disposed of within the marketing area on a route(s), or (iii) a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities:".

(5) Section 1068.9(c).

(6) In § 1068.11(b) the provision, ": *Provided,* That any such person whose milk is received from the farm at a pool plant during any portion of the period July through October, inclusive, but subsequently in such four-month period is received at a nonpool plant (except as provided above in this paragraph) shall not regain status as a producer prior to the next July 1".

The suspension of such provision would result in the text reading as follows:

"(b) Moved in accordance with the conditions of § 1068.44(c)(2) but allotted to a pool plant by listing on the payroll report of such plant pursuant to § 1068.32, which milk shall be deemed to be received at such pool plant.", and

(7) In § 1068.62 the provision "(a)" where it appears following "§ 1068.9".

The suspension of such provision would result in the text preceding *"Provided,* That" reading as follows:

"Milk received at a plant qualified as a pool plant under § 1068.9 shall be exempt from the provisions of this order if the conditions of paragraphs (a) and (b) of this section are met:"

Part 1069, regulating the handling of milk in the Duluth-Superior marketing area:

The following provision relating to compensatory payments on unpriced other source milk allocated to Class I at pool plants:

(1) Section 1069.70(c).

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1069.7(b) the provisions:

(i) "50 percent or more of its supply of", and

(ii) "unless written request for nonpool status is furnished in advance to the market administrator".

The suspension of such provisions would result in the text reading as follows:

"(b) Any plant, hereinafter referred to as a 'supply pool plant', from which during the month Grade A milk from dairy farmers is moved to a distributing pool plant(s): *Provided,* That any supply plant which has qualified as a pool plant in each of the months of September, October, and November shall be a pool plant for each of the following months of December through August:"

Part 1070, regulating the handling of milk in the Cedar Rapids-Iowa City marketing area:

The following provision relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants, or disposed of on routes in the marketing area by nonpool plants:

(1) In § 1070.70(d), for the months of December through June, the provision "(2) and" appearing as a part of the phrase "pursuant to § 1070.46(a)(2) and (3)".

(2) In § 1070.62, for the months of December through June the provisions: ", 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 § 1070.63".

The suspension of such provisions would result in the text reading as follows during such months:

§ 1070.62 Handlers operating nonpool plants.

None of the provisions from §§ 1070.44 to 1070.52, inclusive, or from §§ 1070.70 to 1070.85, inclusive, shall apply in the case of a handler in his capacity as the operator of a nonpool plant.

The following provisions relating to pool plant qualifications:

(3) In § 1070.10, for the months of December through June;

(i) In paragraph (a), the provision: "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 are so disposed of to such outlets in the marketing area".

(ii) In paragraph (b), the provision: "from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month".

(iii) In paragraph (b), the provision "such" as it appears in the phrase "*Provided,* That if such shipments".

The suspension of such provisions will result in the text reading as follows during such months:

§ 1070.10 Pool plant.

"Pool plant" means:

(a) A distributing plant.

(b) A supply plant: *Provided,* That if shipments are not less than 50 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 March 1 of any year, be designated as a pool plant for the months of March through June of such year.

(c) * * *

(d) * * *

Part 1071, regulating the handling of milk in the Neosho Valley marketing area:

The following provisions relating to compensatory payments on route sales made in the marketing area by nonpool distributing plants:

(1) All of § 1071.62(b).

The following provisions relating to pool plant qualifications for distributing plants:

(2) In § 1071.7(a) the provision:

(i) "10 percent or more of the total receipts of".

The suspension of such provision would result in the text reading as follows:

"(a) From which Grade A milk is disposed of during the delivery period on wholesale or retail routes (including routes operated by vendors and disposition at plant stores) as Class I milk in the marketing area; or"

Part 1072, regulating the handling of milk in the Sioux Falls-Mitchell marketing area:

The following provisions relating to compensatory payments on other source milk allocated to Class I at pool plants or disposed of as Grade A Class I milk in the marketing area by unapproved plants:

(1) Section 1072.55, and

(2) In § 1072.60, paragraph "(c)".

The following provisions relating to the qualification of approved plants and producers:

(3) In § 1072.7 the provision "and which are under regular inspection by these local health authorities, ", and

(4) In § 1072.10 the provision "issued by local health authorities".

Part 1073, regulating the handling of milk in the Wichita, Kansas, marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants:

(1) All of § 1073.70(e).

(2) All of § 1073.70(f).

The following provisions relating to pool plant qualifications for supply plants:

(3) In § 1073.10(c) the following provisions:

(i) "not less than 50 percent of its total",

(ii) ": *Provided,* That any plant which has shipped to a plant(s) described in paragraphs (a) and (b) of this section the required percentage of its receipts during each of the months of August through November shall be designated a pool plant in each of the following months of December through July unless written request for nonpool status is furnished to the market administrator:"

The suspension of such provisions would result in the text reading as follows:

"(c) From which during the month receipts from approved dairy farmers and approved plants is shipped to a plant(s) described in paragraphs (a) and (b) of this section;".

Part 1075, regulating the handling of milk in the Black Hills marketing area:

The following provision relating to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1075.70(d), for the months of April, May, and June, the provision "(2) and" appearing as a part of the phrase "pursuant to § 1075.46(a) (2) and (3)"

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1075.12(b), for the months of April, May, and June, the provisions:

(i) "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 50 percent of the Grade A milk received at such plant from dairy farmers during such month",

(ii) "Such" as it appears in the phrase "*Provided,* That if such shipments", and

(iii) "unless written application is filed with the market administrator on or before the 15th day of any of the months of March, April, May, or June to be designated a nonpool plant for such month and for each subsequent month through June of the same year."

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant: *Provided,* That if shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immeidately preceding period of September through November, such plant shall be a pool plant for the months of March through June."

Part 1076, regulating the handling of milk in the Eastern South Dakota marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants, or disposed of on routes in the marketing area from nonpool plants:

(1) In § 1076.70, for the months of March through June, the provision "(2) and" appearing as part of the phrase "pursuant to § 1076.46(a) (2) and (3)"; and

(2) Section 1076.62 in its entirety for the months of March through June.

The following provisions relating to pool plant qualifications:

(3) In § 1076.10, for the months of March through June;

(i) In paragraph (a), the provision: "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 10 percent of such receipts are so disposed of to such outlets in the marketing area";

(ii) In paragraph (b), the provision: "from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month";

(iii) In paragraph (b) the provision: "such" appearing as part of the phrase "*Provided,* That if such shipments"

(iv) In paragraph (b) the provision: ", unless written application is filed with the market administrator on or before the 15th day of any of the months of March, April, May or June to be designated a nonpool plant for such month and for each subsequent month through June of the same year"

The suspension of such provisions would result in the text reading as follows:

§ 1076.10 Pool plant.

"Pool plant" means:

(a) A distributing plant: *Provided,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(b) A supply plant: *Provided,* That if shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of March through June: *And provided further,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

Part 1079, regulating the handling of milk in the Des Moines marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1079.70(d), for the months of April, May, and June, the provision "(2) and" appearing as a part of the phrase "pursuant to § 1079.46(a) (2) and (3)".

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1079.12(b), for the months of April, May, and June, the provisions:

(i) "from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) or (c) of this section is equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month";

(ii) "such" appearing as part of the phrase *"Provided,* That if such shipments"; and

(iii) ", unless written application is filed with the market administrator on or before the 15th day of any of the months of March, April, May or June to be designated a nonpool plant for such month and for each subsequent month through June of the same year".

The suspension of such provisions will result in the text reading as follows:

(b) A supply plant: *Provided,* That if shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of March through June: *And provided further,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

Part 1090, regulating the handling of milk in the Chattanooga marketing area:

The following provisions relating to compensatory payments on unpriced other source fluid milk product (1) allocated to Class I at pool plants or (2) distributed on routes in the marketing area:

(1) Section 1090.62, for the months of March through July.

(2) Subparagraphs (2) and (3) of § 1090.70(b), for the months March through July.

(3) Section 1090.71(e), for the months of March through July.

(4) In § 1090.75(d), for the months of March through July, the provision ", or § 1090.62" which appears in the phrase "pursuant to §§ 1090.82, 1090.85, and 1090.86, or § 1090.62".

(5) Section 1090.86(c), for the months of March through July.

The following provisions relating to pool plant qualifications for distributing and supply plants:

(6) In § 1090.7(a), for the months of March through July, the provision "equal to not less than 50 percent of its receipts of milk from other pool plants and from approved dairy farmers is disposed of during the month on a route(s) and from which Class I milk equal to not less than 20 percent of its total Class I disposition".

(7) In § 1090.7(b), for the months of March through July, the provisions:

(i) "in a volume equal to not less than 50 percent of its receipts of milk from approved dairy farmers"

(ii) ": *Provided,* That any plant which qualifies as a pool plant pursuant to this paragraph in each of the months of August through February shall be designated as a pool plant for the following months of March through July unless the operator of such plant files with the market administrator prior to the first day of any of the months of March–July a written request for withdrawal; or".

(8) In § 1090.61(a), the provisions:

(i) "distributing".

(ii) "to retail or wholesale outlets (except pool plants or nonpool plants)".

(9) Section 1090.61(b)

The suspension of provisions under items (6) and (7) (above) would result in the text reading as follows during March through July:

§ 1090.7 Pool plant.

"Pool plant" means any:

(a) Milk distributing plant approved or recognized by a duly constituted health authority for the receiving or processing of Grade A milk and from which Class I milk is disposed of during the month on a route(s) in the marketing area;

(b) Milk supply plant which, during the month, ships fluid milk products approved or recognized by a duly constituted health authority as eligible for distribution under a Grade A label to a plant specified in paragraph (a) of this section.

Part 1094, regulating the handling of milk in the New Orleans marketing area:

The following provisions relating to compensatory payments on unpriced other source milk, excluding receipts of fluid milk products in consumer packages from nonpool distributing, allocated as Class I milk at pool plants:

(1) Section 1094.54 in its entirety.

(2) Paragraphs (b), (c), and (e) of § 1094.70.

The following provisions relating to pool plant qualification for supply plants:

(3) In § 1094.10(b), the provision "An amount equal to 50 percent or more of its".

(4) Paragraph (c) of § 1094.10 in its entirety.

The suspension of the provision noted in (3) would result in the text of § 1094.10(b) reading as follows:

"(b) A supply plant from which during the month receipts of milk from dairy farmers which is eligible for distribution in the marketing area under a Grade A label is moved to and received at a pool plant(s) described in paragraph (a) of this section;"

The following provisions relating to plants subject to other Federal orders:

(5) In § 1094.63(a), the provisions "distributing" and "on routes".

(6) Paragraph (b) of § 1094.63 in its entirety.

The suspension of the provision noted in (5) would result in the text of § 1094.63 (a) reading as follows:

"(a) Any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless a greater volume of Class I milk is disposed of during the month in the New Orleans marketing area than in the marketing area defined in such other order."

Part 1096, regulating the handling of milk in the Northern Louisiana marketing area:

The following provisions relating to the rate of payment on unpriced milk and to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1096.63 paragraph "b"

(2) In § 1096.70 paragraphs "(c)", "(d)", and "(f)"

The following provisions relating to pool plant qualifications for supply plants:

(3) In § 1096.13(b) the provisions:

(i) "not less than 50 percent of its Grade A receipts" appearing as a part of the beginning sentence "(b) A supply plant from which a volume of fluid milk products not less than 50 percent of its Grade A receipts"

(ii) ", and from other plants"

The suspension of such provisions would result in that part of paragraph (b) up to the proviso reading as follows:

"(b) A supply plant from which a volume of fluid milk products from dairy farmers and from a cooperative association in its capacity as a handler pursuant to § 1096.8(d) is transferred during the month to a distributing plant(s) from which a volume of Class I milk not less than 50 percent of its receipts of Grade A milk from dairy farmers, cooperative associations is disposed of on routes during the month and the volume so disposed of in the marketing area is at least 10 percent of such receipts or a daily average of 1,500 pounds whichever is less:"

Part 1098, regulating the handling of milk in the Nashville, Tennessee, marketing area:

The following provisions relating to compensatory payments on unpriced other source fluid milk allocated to Class I at pool plants and on both fluid and nonfluid other source milk in inventory reclassified at pool plants:

(1) Subparagraphs (2) and (3) of § 1098.70(d).

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1098.11(b), the provision "in a volume not less than 50 percent of its receipts of milk from approved dairy farmers: *Provided,* That any plant which qualified as a pool plant pursuant to this paragraph in each of the months of August through February shall be designated as a pool plant for the following months of March through July, unless the operator of such plant files with the market administrator a written request for withdrawal prior to the first day of the month for which nonpool status is

requested, in which case the plant shall remain a nonpool plant until it again qualifies for pool status."

The suspension of provision under item (2) (above) would result in the text reading as follows:

§ 1098.11 Pool plant.

* * * * *

(b) A plant from which during the month there has been delivered to plants described in paragraph (a) of this section fluid milk products approved by any health authority having jurisdiction in the marketing area as eligible for distribution under a Grade A label.

Part 1099, regulating the handling of milk in the Paducah, Kentucky, marketing area:

The following provision relating to compensatory payments on other source milk allocated to Class I at pool plants:

(1) In § 1099.70(b) the provision "(1) For the months of April through July, the Class II price adjusted by the Class II butterfat differential; or (2)".

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1099.8(b), for the months of April through July, the provisions:

(i) "distributing plant or",

(ii) "From which the volume of milk, skim milk and cream shipped to pool plants qualified pursuant to paragraph (a) hereof, or distributed on routes as Class I milk to retail or wholesale outlets (including plant stores), except pool plants or nonpool plants, located in the marketing area is equal to no less than 50 percent of the pool milk received at the plant";

(iii) "equal to at least 75 percent of its producer milk",

(iv) "35 percent of such milk", and

(v) "upon written application to the market administrator on or before the end of such period,".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant: *Provided,* That if a supply plant ships to pool plants qualified pursuant to paragraph (a) hereof, milk, skim milk and cream in October and November and in three additional months during the period from August through January, such plant shall be designated as a pool plant until the end of any month during the succeeding August through January period in which the milk of such plant is disposed of in such a way that it becomes impossible for the plant to re-establish its qualification under the terms of this proviso."

Part 1101, regulating the handling of milk in the Knoxville marketing area:

The following provisions relating to compensatory payments on unpriced other source (1) fluid and nonfluid milk product allocated to Class I at pool plants and (2) fluid milk product distributed on routes in the marketing area:

(1) In § 1101.70, for the months of March through July, the provision "; and (e) add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1101.46 (a)(3) and (b) by the rate of payment on unpriced milk determined pursuant to § 1101.93 adjusted where required by the location differential applicable at the nearest nonpool plant(s) from which an equivalent amount of other source skim milk or butterfat was received: *Provided,* That if the nonpool plant source of any milk or milk product received at a pool plant is not clearly established such milk or product shall be considered to have been received from a source at the location of the pool plant where it is classified.

(2) In § 1101.73(d), for the months of March through July, the provision "or § 1101.92" which appears in the phrase "pursuant to §§ 1101.82, 1101.87, and 1101.88 or § 1101.92".

(3) In § 1101.81, for the months of March through July, the provision ", and 1101.92" which appears in the phrase "pursuant to §§ 1101.82, 1101.84 and 1101.92".

(4) In § 1101.87, for the months of March through July, the following provisions:

(i) ", and" which appears at the end of paragraph (b);

(ii) paragraph (c) in its entirety.

(5) Section 1101.92, for the months of March through July.

(6) Section 1101.93(a).

The suspension of provisions under items (1) and (6) (above) would result in the text reading as follows:

§ 1101.70 Computation of value of milk.

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 such milk in each class by the applicable class price; (b) add together the resulting amounts; (c) add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price; (d) add or subtract, as the case may be, an amount necessary to adjust for errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

§ 1101.93 Rate of payment on unpriced milk.

The rate of payment per hundredweight on unpriced Class I milk shall be calculated as follows:

(b) For the months of August through February, subtract the uniform price to producers from the Class I price.

The following provisions relating to pool plant qualifications for distributing and supply plants:

(7) In the introductory text of § 1101.9(a), for the months of March through July, the provisions:

(i) "equal to not less than 50 percent of its receipts of producer milk and skim milk from other pool plants".

(ii) ": *Provided,* That not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area;".

(8) In § 1101.9(b), during the months of March through July, the provisions:

(i) "at least 50 percent of the hundredweight of its".

(ii) ": *Provided,* That if such shipments amount to not less than 65 percent of the producer milk of such plant during each of the preceding months of August through February, such plant may, upon written application to the market administrator on or before March 1 of any year be designated as a pool plant for the months of March through July of such year."

(9) In § 1101.91(a), for the months of March through July, the following provisions:

(i) "(a)" which appears in the phrase "pursuant to § 1101.9(a)"

(ii) "on routes to retail or wholesale outlets"

(10) § 1101.91(b)

The suspension of provisions under items (7) and (8) (above) would result in the text reading as follows:

§ 1101.9 Pool plant.

"Pool plant" means (a) an approved plant from which a volume of Class I milk is disposed of during the month on routes (including plant stores); (b) an approved plant from which producer milk received during the month is shipped in the form of milk, skim milk or cream to a plant qualified pursuant to paragraph (a) of this section and classified as Class I milk.

Part 1103, regulating the handling of milk in the Central Mississippi marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in the form of fluid milk products allocated to Class I milk at pool plants:

(1) Paragraph (b) of § 1103.54 in its entirety.

(2) Paragraph (e) of § 1103.70 in its entirety.

The following provisions relating to pool plant qualifications for supply plant:

(3) In § 1103.8, the provision:

(i) "an amount equal to 50 percent or more of", and

(ii) "50 percent or more of its".

The suspension of such provisions would result in the text reading as follows:

§ 1103.8 Supply plant.

"Supply plant" means an approved plant from which during the month receipts of its producer milk is shipped to and received at distributing plants. Any supply plant that was a pool plant during each of the months of August through January immediately preceding shall be a pool plant each of the months of February through July unless written notice to the market administrator is received before the first day of the month of its intention to withdraw, in which case such plant shall thereafter be a nonpool plant, unless it again qualifies as a supply plant by shipping receipts from dairy farmers to a plant described in § 1103.7.

The following provisions relating to plants subject to other Federal orders:

(4) In § 1103.61(a), the provisions:

"distributing", to retail or wholesale outlets (except pool plants)" and "distributing".

(5) Paragraph (b) of § 1103.61 in its entirety.

The suspension of the provisions noted in (4) would result in the text of § 1103.61 (a) reading as follows:

"(a) Any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless a greater volume of Class I milk is disposed of during the month from such plant in the Central Mississippi marketing area than in the marketing area regulated pursuant to such other order: *Provided,* That, if such plant disposed of Class I milk during the month in the marketing areas of more than one other Federal order, the marketing area in which the most Class I milk is disposed shall determine the Federal order under the provisions of which such plant shall be regulated;"

Part 1104 regulating the handling of milk in the Red River Valley Marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1104.62 for the months of February through July, the provisions:

(i) "and 1104.31",

(ii) "any payments to",

(iii) ", and, on or before the 12th day of each month, he shall pay to the market administrator an amount computed by multiplying the total volume of Class I milk disposed of on routes in the marketing area from such nonpool plant during the preceding month by the rate of compensatory payment computed pursuant to § 1104.53.".

The suspension of such provisions would result in the text reading as follows:

"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 report as required pursuant to § 1104.30, reporting receipts from dairy farmers in lieu of such information with respect to producers, and shall allow verification of such reports."

(2) In § 1104.70(b) for the months of February through July, the provision "and (4)" appearing as a part of the phrase "pursuant to § 1104.46(a) (2), (3), and (4)".

The following provisions relating to pool plant qualifications for supply plants and distributing plants:

(3) In § 1104.8 for the months of February through July, the provisions:

(i) "equal to not less than 50 percent of its receipts of milk",

(ii) "*Provided,* That any plant which qualifies as a supply plant for each of the months of September through December shall, upon written application to the market administrator before January 31 of the following year, be designated as a supply plant for the months of January through August.".

The suspension of such provisions would result in the text reading as follows:

"Supply plant" means all the buildings, premises and facilities of a plant from which fluid milk products from dairy farmers, who would be producers if this plant qualified as a pool plant, are shipped to a distributing plant during such month.".

(4) In § 1104.7(c) the provision:

(i) "in an amount greater than an average of 600 pounds per day".

The suspension of such provision would result in the text reading as follows:

"(c) from which Class I milk is disposed of during the month on routes (including routes operated by vendors or through plant stores) to wholesale or retail outlets located in the marketing area (except deliveries in bulk to other pool plants).

Part 1105, regulating the handling of milk in the Mississippi Delta marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in the form of fluid milk products allocated to Class I milk at pool plants:

(1) Paragraph (b) of § 1105.53 in its entirety.

(2) Paragraphs (e) and (f) of § 1105.70 in their entireties.

The following provisions relating to pool plant qualifications for supply plants:

(3) In § 1105.10(b), the provisions: "50 percent or more of" and "50 percent or more of its".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant from which during the month receipts from dairy farmers is moved to a plant described in paragraph (a) of this section. Any supply plant that was a pool plant during each of the months of September through January immediately preceding shall continue to be a pool plant each of the following months of February through August unless written notice to the market administrator is received before the first day of the month of its intention to withdraw, in which case such plant shall thereafter be a nonpool plant, unless it again qualifies as a supply plant by shipping receipts from dairy farmers to a plant described in paragraph (a) of this section.

The following provisions relating to plants subject to other Federal orders:

(4) In § 1105.61(a), the provisions: "distributing" and "on routes".

(5) Paragraph (b) of § 1105.61 in its entirety.

The suspension of the provisions noted in (4) would result in the text of § 1105.61(a) reading as follows:

"(a) A plant which would be subject to the classification and pricing provisions of another order issued, pursuant to the Act unless a greater volume of Class I is disposed of from such plant during the month in the Mississippi Delta marketing area than in the marketing area defined in such other order;"

Part 1106, regulating the handling of milk in the Oklahoma Metropolitan marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants or disposed of on routes in the marketing area by nonpool plants:

(1) All of § 1106.70(a)(3)(ii).

(2) In § 1106.70(3)(iii) the provision "and (4)" appearing as part of the phrase "pursuant to § 1106.46 (2), (3), and (4)".

(3) In § 1106.70(b)(2) the provision "and (4)" appearing as part of the phrase "pursuant to § 1106.46 (2), (3), and (4)".

The following provisions relating to pool plant qualifications for supply plants and distributing plants:

(4) In § 1106.8 (supply plant) the provisions:

(i) "equal to 50 percent",

(ii) ": *Provided,* That any plant which qualifies as a pool plant during each of the months of September through December shall be a supply plant for the following months of January through August except that if the operator of such plant so requests the market administrator in writing, its pool plant status shall be terminated the first day of the month following receipt of such notification."

The suspension of such provisions would result in the text reading as follows:

"Supply plant" means a plant which receives milk from approved dairy farmers who would be producers if this plant qualified as a pool plant and from which an amount of the receipts from such approved farmers is shipped to a distributing plant during the month in the form of fluid milk products.

(5) In § 1106.7(c) (Distributing plant) the provisions:

(i) "an amount equal to 50 percent of such receipts is disposed of as",

(ii) "on routes, and an amount equal to at least 5 percent of such receipts",

(iii) "as Class I milk"

The suspension of such provisions would result in the text reading as follows:

"(c) Which receives milk from dairy farmers who would be producers if this plant qualified as a pool plant, or Grade A milk in bulk from other pool plants, and from which Class I milk is disposed of on routes in the marketing area."

Part 1107, regulating the handling of milk in the Mississippi Gulf Coast marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in the form of fluid milk products allocated to Class I milk at pool plants:

(1) Paragraph (b) of § 1107.53 in its entirety.

(2) Paragraphs (e) and (f) of § 1107.70 in their entireties.

The following provisions relating to pool plant qualifications for supply plants:

(3) In § 1107.10(b), the provisions:

"50 percent or more of", and

"50 percent or more of its".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant from which during the month receipts from dairy farmers producing Grade A milk is moved to a plant(s) described in paragraph (a) of this section. Any supply plant that was a pool plant during each of the months of September through January immediately preceding shall continue to be a pool plant each of the following months of February through August unless written notice to the market administrator is received, before the first day of the month of its intention to withdraw, in which case such plant shall thereafter be a nonpool plant, unless it again qualifies as a supply plant by shipping receipts from dairy farmers to a plant(s) described in paragraph (a) of this section.

The following provisions relating to plants subject to other Federal orders.

(4) In § 1107.62(a) the provisions: "distributing" and "on routes".

(5) Paragraph (b) of § 1107.62 in its entirety.

The suspension of the provisions noted in (4) would result in the text of § 1107.-62(a) reading as follows:

"(a) A plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless a greater volume of Class I is disposed of from such plant during the month in the Mississippi Gulf Coast marketing area than in the marketing area defined in such other order.

Part 1108, regulating the handling of milk in the Central Arkansas marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants or disposed of on routes in the marketing area by nonpool plants:

(1) For the months of March through July, all of § 1108.62.

(2) For the months of March through July, all of § 1108.70(b).

The following provisions relating to pool plant qualifications for supply plants and distributing plants:

(3) In § 1108.8 (Distributing plant) for the months of March through July, the provisions:

(i) "equal to not less than 50 percent of its receipts of producer milk and fluid milk products from other pool plants",

(ii) "and from which Class I milk equal to not less than 10 percent of such receipts is disposed of during the month on routes or through plant stores, to wholesale or retail outlets (except pool plants)".

The suspension of such provisions would result in the text reading as follows:

"'Distributing plant' means an approved plant from which Class I milk is disposed of during the month on routes or through plant stores, to wholesale or retail outlets (except pool plants) located in the marketing area."

(4) In § 1108.9 (Supply plant) for the months of March through July, the provisions:

(i) "equal to not less than 50 percent of its receipts of producer milk during the month".

(ii) ": *Provided,* That any plant which qualifies as a supply plant for each of the months during the period August through January shall, upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through July.".

The suspension of such provisions would result in the text reading as follows:

"'Supply plant' means an approved plant from which fluid milk products are shipped during such month to distributing plants."

Part 1120, regulating the handling of milk in the Lubbock-Plainview, Texas, marketing area:

The following provision relating to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1120.70 the paragraphs "(c)" and "(e)"

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1120.12(b) the provisions:

(i) "not less than 50 percent of the Grade A milk" appearing as a part of the beginning sentence "(b) A supply plant from which a volume of fluid milk products not less than 50 percent of the Grade A milk"

(ii) ", and from other plants"

The suspension of such provisions would result in that part of paragraph (b) up to the first proviso reading as follows:

"(b) A supply plant from which a volume of fluid milk products received at such plant from dairy farmers and from a cooperative association(s) in its capacity as a handler pursuant to § 1120.17(c)(2) is transferred during the month to a distributing plant from which a volume of Class I milk not less than 50 percent of its receipts of Grade A milk from dairy farmers, cooperative associations is disposed of on routes during the month and the volume so disposed of in the marketing area is at least 15 percent of such receipts or a daily average of 1500 pounds, whichever is less:"

Part 1125, regulating the handling of milk in the Puget Sound marketing area:

The following provisions relating to compensatory payments on unpriced other source milk allocated to Class I at fluid milk plants and country plants or disposed of in the marketing area as Class I milk by nonpool plants:

(1) In § 1125.70 subparagraph "(a)(6)" and paragraph "(b)".

The following provisions relating to the qualification of country plants and producers:

(2) In § 1125.9 the provisions:

(i) "not" as it appears in the phrase "shall not be a country plant" in the introductory text,

(ii) "the percentage of" in the introductory text,

(iii) "which" as it appears in the phrase "which is received" in the introductory text,

(iv) "is less than:" in the introductory text,

(v) paragraph "(a)",

(vi) "(c) 20 percent in the current month during the period January through September,",

(vii) "such" as it appears in the phrase "required for such months", and

(viii) ": *And provided further,* That any plant which otherwise meets the requirements of this section may withdraw from country plant status for any month in the January-September period if the operator of the plant files with the market administrator, prior to the first day of such month, a written request for such withdrawal".

The suspension of such provisions would result in the text reading as follows:

"Country plant" means any plant (including any reload point), other than a fluid milk plant or the plant of a producer-handler, which is approved by any health authority having jurisdiction within the marketing area for the receiving of milk qualified for consumption as fluid milk within the marketing area: *Provided,* That any such plant located outside of the marketing area other than the plant at Sequim operated by the Sequim Creamery Association shall be a country plant if either butterfat or skim milk in milk so qualified is received at the plant from dairy farmers and moved in fluid form as milk to a fluid milk plant, or disposed of within the marketing area in any of the forms specified in § 1125.41(a), except that if the percentage was more than 50 percent for the entire period of October through December immediately preceding no percentage shall be required for months of January through September."

(3) In § 1125.12 the provision "having jurisdiction in the marketing area".

Part 1126, regulating the handling of milk in the North Texas marketing area:

The following provisions relating to compensatory payments on other source milk in fluid form allocated to Class I milk at pool plants:

(1) In § 1126.70(c) the provision "and (4)"

(2) Section 1126.70(e)

The following provisions relating to pool plant qualifications for supply plants:

(3) In § 1126.9(a) the provisions:

(i) "50 percent or more of the receipts of", and

(ii) "and assigned to reserve supply credit pursuant to § 1126.20".

The suspension of such provisions would result in the text reading as follows:

"(a) During the month Grade A milk at such plant is moved as milk, skim milk or cream in bulk to a distributing plant; or"

(4) Section 1126.9(b)

(5) In § 1126.9(c) the provisions:

(i) "or b"

(ii) The proviso.

The suspension of such provisions would result in the text reading as follows:

"(c) During each of the months of January through August, if (1) such plant was a supply plant pursuant to (a) of this section during each of the immediately preceding months of September through December and (2) the

operator of such plant has filed a written request on or before January 31 with the market administrator requesting such plant be designated as a supply plant through August of such year.

(6) In § 1126.13 the provision "by the applicable health authority having jurisdiction in the marketing area"

(7) Section 1126.20

(8) In § 1126.61(c) the provision ", except during the months of January through August if such plant retains automatic pooling status under this part"

Part 1127, regulating the handling of milk in the San Antonio, Texas, marketing area:

For the months of February through July, the following provisions relating to compensatory payments on other source milk in fluid form allocated to Class I milk at pool plants:

(1) In § 1127.46(5) the provision "other than condensed skim milk or nonfat dry milk"

(2) Section 1127.46(6)

(3) In § 1127.60 the provision", and, in the event he has disposed of on routes in the marketing area Class I milk which was neither classified nor priced under such other order or on which a compensatory payment was not made under any other order, shall pay to the market administrator on or before the 13th day of each month an amount computed by multiplying the total volume of such Class I milk disposed of on routes in the marketing area from such plant during the preceding month by the rate of compensatory payment computed pursuant to § 1127.63"

(4) Section 1127.61

(5) In § 1127.65 the provision "which has not been subject to the classification and Class I pricing provisions of another order issued pursuant to the Act or on which compensatory payments have not been made pursuant to another order and which is assigned to Class I use at pool plants or which is disposed of as Class I milk on routes in the marketing area from nonpool plants"

(6) In § 1127.70(a)(3) the provision "through 7"

(7) In § 1127.70(b)(2) the provision "through 7"

For the months of February through July, the following provisions relating to pool plant qualifications for distributing and supply plants:

(8) In § 1127.7 the provisions:

(i) "an amount equal to not less than 50 percent of its", and

(ii) The proviso

The suspension of such provisions would result in the text reading as follows:

§ 1127.7 Supply plant.

"Supply plant" means all the buildings, premises and facilities of a plant equipped to either receive or cool milk which is approved by the appropriate health authority to supply milk for distribution as Grade A milk in the marketing area, and from which receipts from dairy farmers, who would be producers if the plant qualified as a pool plant, are shipped to a distributing plant during the month.

(9) In § 1127.8 the provision "which disposes of as Class I milk on routes in the marketing area 15 percent or more of its receipts of milk during the month from pool plants and from dairy farmers conforming to the requirements set forth in § 1127.11"

(10) In § 1127.11(b) the provision ", nor shall it include a dairy farmer during the months of March through June, if milk from the same dairy farmer (or farm) was received at a nonpool plant operated by the same handler, as other than producer milk, on more than half the days of delivery during the preceding months of July through February, except that in the application of this proviso to operations prior to July 1961, the period from the effective date of this amended order through February 1961, shall be substituted for the period of July through February otherwise indicated"

Part 1128, regulating the handling of milk in the Central West Texas marketing area:

The following provision relating to compensatory payments on any other source milk in fluid form in inventory at fluid milk plants:

(1) Section 1128.70(c)

Part 1132, regulating the handling of milk in the Texas Panhandle marketing area:

The following provision relating to the rate of payment on unpriced other source milk allocated to Class I:

(1) In § 1132.63, for the months of March through June, paragraph "(a)".

The following provisions relating to pool plant qualifications for distributing and supply plants:

(2) In § 1132.10(a) for the months of March through June the provision "from which a volume of Class I milk equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers and 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 are so disposed of to such outlets in the marketing area".

The suspension of such provision would result in the text reading as follows:

"(a) A distributing plant: *Provided,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section."

(3) In § 1132.10(b) for the months of March through June the provisions: (i) "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 50 percent of the Grade A milk received at such plant from dairy farmers during such month" and (ii) "such" as it appears in the phrase *"Provided,* That if such shipments".

The suspension of such provisions would result in the text reading as follows:

"(b) A supply plant: *Provided,* That if shipments are not less than 75 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 March 1 of any year, be designated as a pool plant for the months of March through June of such year: *And provided further,* That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section."

Part 1133, regulating the handling of milk in the Inland Empire marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants:

(1) Paragraph (e) of § 1133.70 in its entirety,

The following provisions relating to pool plant qualifications of supply plants:

(2) In paragraph (b) of § 1133.8, the provisions:

(i) "50 percent or more each of the skim milk and butterfat in its dairy farm supply of";

(ii) "during the period of October through December, or 20 percent or more during the current month during the period January through September"; and

(iii) "unless the operator of such plant files with the market administrator, prior to the first day of any month(s) a written request to withdraw such plant from pool plant status for such month(s)".

The suspension of such provisions will result in the text reading as follows:

(b) Any plant, hereinafter referred to as a "supply pool plant", from which there is forwarded to a pool distributing plant(s) Grade A milk during the current month. Any such plant which has forwarded more than 50 percent of such receipts for the entire period of October through December shall be a pool plant for the months of January through September immediately following; and

Part 1135, regulating the handling of milk in the Colorado Springs-Pueblo marketing area:

The following provision relating to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) Section 1135.70(d)(2).

The following provisions relating to pool plant qualifications for supply plants:

(2) in § 1135.7(b) the provisions:

(i) "not less than 40 percent of its dairy farm supply of" and

(ii) "Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant for each of the

following months of March through August unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month."

The suspension of such provisions would result in the text reading as follows:

"(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the month Grade A milk is moved to a distributing pool plant(s)."

Part 1136, regulating the handling of milk in the Great Basin marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants:

(1) In § 1136.70, the provisions:

(i) Subparagraph (2) of paragraph (b) in its entirety; and

(ii) Subparagraph (3) of paragraph (d) in its entirety.

The following provisions relating to pool plant qualifications for supply plants:

(2) In § 1136.11(b), the provisions:

(i) "equal to not less than 50 percent of the total receipts at the plant from dairy farmers meeting the inspection requirements described in § 1136.7, milk diverted pursuant to § 1136.13 by the handler operating the plant and other fluid milk products qualified for distribution for fluid consumption received at the plant"; and

(ii) "so" appearing as part of the phrase *"Provided,* That a plant which so qualifies".

The suspension of such provisions will result in the text reading as follows:

"(b) An approved plant from which during the month fluid milk products are shipped to a plant described in paragraph (a) of this section: *Provided,* That a plant which qualifies in each of the months of August through January as a pool plant shall be a pool plant in each of the following months of February through July unless the operator requests in written notice to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments."

Part 1137, regulating the handling of milk in the Eastern Colorado marketing area:

The following provision relating to compensatory payments on other source milk in fluid form allocated to Class I at pool plants:

(1) In the introductory text of § 1137.70(d) the provision "(2) and (3)" appearing on part of the phrase "in subparagraph (1), (2), and (3)".

(2) All of § 1137.70(d)(2).

(3) All of § 1137.70(d)(3).

The following provisions relating to pool plant qualifications for supply plants:

(4) In § 1137.7(b) the provisions:

(i) "50 percent of its dairy farm supply of" and

(ii) "Any supply plant which has qualified as a pool plant in each of the months of September through February (or for such of the months of September 1961 through February 1962 as this section is in effect) shall be a pool plant in each of the following months of March through August unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month."

The suspension of such provisions would result in the text reading as follows:

"(b) Any plant, hereinafter referred to as a "supply pool plant" from which Grade A milk is moved to distributing pool plant(s)."

Part 1138, regulating the handling of milk in the Rio Grande Valley marketing area:

The following provisions relating to compensatory payments on unpriced other source milk in fluid form allocated to Class I at pool plants:

(1) All of § 1138.70(c)(2).

(2) All of § 1138.70(e).

The following provisions relating to pool plant qualifications for supply plants:

(3) In § 1138.10(b) the provision "not less than 50 percent of its dairy farm supply of",

The suspension of such provision would result in the text preceding the proviso reading as follows:

"(b) Any plant hereinafter referred to as a "supply pool plant" from which during the month Grade A milk is moved to plants from each of which a volume of Class I milk not less than 50 percent of its receipts of Grade A milk is disposed of on routes during the month and Class I milk disposed of in the marketing area on routes is at least 15 percent of such receipts or a daily average of 10,000 pounds, whichever is less:"

Certain of the provisions cited are those which require, without opportunity for choice of alternative provision, compensatory payments at the difference between the Class I price and the surplus class price of the respective order, with respect to (1) unpriced other source milk in fluid form assigned to Class I in plants fully regulated by such order, and (2) other source milk disposed of on routes in the marketing area of such order by plants not fully regulated under any order issued pursuant to the Act. In Lehigh Valley Cooperative Farmers, Inc. et al. vs. United States et al., the Supreme Court concluded that a payment at a similar rate was inconsistent with the Agricultural Marketing Agreement Act of 1937, as amended.

Suspension of these compensatory payment provisions would provide complete exemption from regulation for such unpriced milk sold in the marketing area. In order that orderly marketing conditions may be maintained, pending changes through amendment procedures, consideration will also be given to suspension of such additional provisions as necessary to result in milk now subject to such partial regulation becoming subject to full pricing and regulation under the order. In view of the fact that testimony with respect to the extent of regulation in the New England orders (Parts 1001, 1006, 1007, 1014, and 1015) has been received at a public hearing subsequent to the decision of the Supreme Court, suspension action with respect to such provisions in these orders is not proposed for consideration.

All persons who desire to submit written data, views, or arguments in connection with any of the proposed suspensions should file the same with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., not later than 20 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

Signed at Washington, D.C., on November 9, 1962.

ROBERT G. LEWIS,
Deputy Administrator, Price and Production, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62-11370; Filed, Nov. 14, 1962; 8:54 a.m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 50-202]

ELECTRONIC EQUIPMENT INDUSTRY

Tentative Decision Determining Prevailing Minimum Wages

A complete record of proceedings under sections 1 and 10 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 and 43a) to determine the prevailing minimum wages for persons employed in the electronic equipment industry has been certified by the hearing examiner. The whole record has now been considered, and it is appropriate, under section 8 of the Administrative Procedure Act (5 U.S.C. 1007) to make a tentative decision, which shall include the findings and conclusions, the reasons and bases therefor, and any appropriate wage determination.

I. The first issue set forth in the notice of hearing (26 F.R. 7969) was whether amendments should be made to the tentative definition of the industry included therein. The interested parties proposed no amendments.

The noticed definition was formulated after a number of conferences with representatives of the industry, and underlies the survey of minimum wages conducted by the Bureau of Labor Statistics (BLS), which will be discussed later in this decision. The content of the defi-

nition includes virtually all of Standard Industrial Classification (SIC) 3662 (Radio and television transmitting, signaling, and detection equipment and apparatus) and SIC 3651 (radio and television receiving sets, except communication types), and that portion of SIC 3571 (computing and accounting machines, including cash registers) which includes airborne computers. Regarding the latter inclusion of airborne computers there is testimony indicating that such computers are more properly included in the noticed definition than in a definition of the office machines industry for purposes of minimum wage proceedings under the Walsh-Healey Public Contracts Act.

In view of the foregoing and the fact that substantial flexibility as to industrial scope is authorized by the statute (e.g., Tires and Related Products Industry—tentative decision (24 F.R. 8741)), I find the definition set forth in the notice of hearing appropriate in this proceeding.

II. The second noticed issue was whether the geographic area of competition for contracts subject to the statute for products of the industry extends to all of the area in which the industry has its establishments, so as to require an industry wide wage determination, or whether such competition is limited to smaller geographic areas (including the boundaries of such areas) so as to authorize separate wage determinations for each such area or locality.

The AFL–CIO and its principal affiliates in this industry propose that a single wage determination be made for the entire industry. The weight of the evidence supports this proposal and indicates that the area of competition for contracts subject to the statute for products in the industry extends to all the area in which the industry has its establishments. Government Exhibit 4, showing the distribution of unclassified Government awards subject to the statute in fiscal year 1960, reveals broad patterns of distribution of the products in the industry under Government contracts. The exhibit demonstrates that firms in the industry compete successfully for Government contracts throughout the country. Their sphere of activity is not limited to the region of manufacture. The distribution of Government contracts is such that, in the opinion of the Wage and Hour and Public Contracts Divisions economist, for electronic equipment a procurement officer inviting bids would not be able to exclude any part of the country as an area from which successful bids would not be likely to come.

The Electronic Industries Association (EIA) proposes, however, that the Secretary of Labor make regional wage determinations. The reasons assigned for this proposal are essentially that an application on a regional basis of the statistical techniques employed in recent decisions would result in a determination of lower prevailing minimum wages for all regions but one (the Middle Atlantic Region), that an industrywide determination would result in a higher determination for New England than would a regional one, that an industrywide determination would stifle small firms in the industry, and that an industrywide determination would not be in accord with certain other Federal policies.

Neither the terms nor the policy of the Act permit subdividing the industry into several separate areas when, as discussed above, the competition for Government contracts has no regional bounds. Under such circumstances, an industrywide determination is required to effectuate the purpose of the Act. (Mitchell v. Covington Mills, 229 F. 2d 506 (C.A.D.C. 1955), cert. denied 351 U.S.C. 934). In Covington, the opinion of the court observes that:

> "[To] fix separate minima according to the wages that prevail in each separate * * * community * * * would freeze the competitive advantage of concerns that operate in low wage communities and would in effect offer a reward for moving into such communities," and this "obviously * * * would defeat the purpose of the Act."

In view of the foregoing, I find that the issuance of an industry-wide determination is appropriate in this proceeding.

III. None of the interested parties propose that any provision be made for the employment of beginners or learners at wages lower than the prevailing minimum wages. No such provision appears warranted from the record. Only 28.5 percent of the establishments with 34.6 percent of the covered worker employment reported a practice of hiring beginners or learners at lower wages than those paid experienced workers.

IV. The most complete and significant wage data in evidence is the BLS survey (Government Exhibit 7). From Table 12 of the survey, the so-called "impact" table, the AFL–CIO and its principal affiliates in this industry propose that the prevailing minimum wage as of the time of the survey be found to be $1.65. The "impact" table shows a distribution of establishments and workers according to number and percentage of covered workers earning less than specified amounts per hour. Using Table 9 of the survey, the "lowest selected rate" table, the EIA suggests that the prevailing minimum wage lies in the vicinity of $1.35. The "lowest selected rate" is the lowest of the following rates: (1) Lowest established hiring rate; (2) lowest rate actually paid to beginners or learners; (3) lowest established job rate; or (4) lowest rate actually paid to nonbeginners or nonlearners.

The unions' proposal arises from an alleged inadequacy of Table 7 of the survey, which shows a distribution of establishments and workers in the industry by the lowest rates actually paid to covered workers, including beginners or learners. The unions assert that the table is inadequate because of the slight representation at the lowest rates in some establishments. The AFL–CIO economist who testified on the matter would go up to the first significant concentration by using the "impact" table. It appears, however, that the proposal does not give full import to the words "prevailing" and "minimum" in the phrase "prevailing minimum wage." There can be only one lowest or minimum wage in any one plant. There may be wages above the lowest in any one plant which may be said to be prevailing, but they are not "minimum" wages. Since this is so, it is clear that the word "prevailing" must encompass more than one plant. The proposal would appear to be somewhat analogous to the so-called "cluster" theory which has been advanced from time to time and dismissed because of the availability of more relevant data consisting of an array of minimum wages such as those in Table 7; e.g. Paper and Paperboard Containers and Packaging Products Industry—tentative decision (25 F.R. 9903).

Table 9 of the exhibit, the table of lowest established selected rates, is based in large measure upon lowest rates. Whenever the making of a prevailing minimum wage determination has necessitated a choice between the use of lowest established rates or lowest rates actually paid, reliance has been placed consistently upon lowest rates actually paid. See: Photographic and Blueprinting Equipment and Supplies Industry—final decision (21 F.R. 2243); Tires and Related Products Industry—tentative decision (24 F.R. 8741); Electron Tubes and Related Products Industry—tentative decision (25 F.R. 7801); Metal Business Furniture and Storage Equipment Industry—tentative decision (25 F.R. 12363); Electronic Component Parts Industry—tentative decision (26 F.R. 4173); Manifold Business Forms Industry (26 F.R. 5898).

For the reasons set forth in these decisions, I find data on lowest rates actually paid a more reliable guide in implementing the standards of the Act than data on lowest established rates or lowest selected rates.

Regarding the use of an eight-employee cut-off point in making the survey, a Wage and Hour and Public Contracts Divisions economist testified that this cut-off point eliminated only about one-twentieth of one percent of the employment in the industry and that such a cut-off point was common in similar surveys conducted for use in minimum wage proceedings under the Act. He conceded, however, that according to the 1958 Census of Manufactures about one-third of the plants in the industry were eliminated by the cut-off point.

The EIA contends that the small establishments not included in the survey generally pay lower wages than those covered thereby, and therefore if such establishments had been included in the BLS tabulations there would be a lowering of the minimum wage of the median establishment. The contention rests upon the results of a survey conducted by the EIA. The EIA requested its members to submit to it copies of the BLS survey questionnaire (Government Exhibit 6). The returns covered 106 establishments, which represent 24.9 percent of the total number of establishments covered by the BLS survey, and these establishments employed 59.1 percent of the total number of covered workers included in the BLS survey. The results

of the EIA survey are tabulated in Industry Exhibits 5 and 6.

I do not consider Industry Exhibits 5 and 6 persuasive in showing any inadequacy in the survey resulting from the cut-off point. While the small number of establishments with less than 100 workers included in these exhibits had lower earnings than those of larger size, their average employment was 53 workers. There is no demonstrated correlation between earnings in establishments of their average size and those in establishments with less than 8 employees. The fact that the majority of establishments with from 8 to 20 employees that can be isolated from Table 7 of Government Exhibit 7 paid higher minimum rates than the average establishment would indicate that no such correlation exists.

The selection of the payroll period ending nearest June 15, 1960, was made as a result of an agreement of all parties attending the panel conferences that a survey sometime in the spring of 1960 would be appropriate. The EIA asserts that the BLS survey was made in a period of economic recession. In making this assertion, it relies upon evidence of changes in the levels of employment in the communication equipment industry from January 1960 through May 1961. In this period there was a decline from January through May 1960, a rise in June, a drop back in July, and then some rise. The EIA's expert witness inferred from this that the payroll period in question would be a period of lay-off, when low seniority personnel would be laid off and when hiring would be at its minimum point, and therefore the data in the wage survey would be necessarily higher than they would otherwise be. However, the electronic equipment industry constitutes somewhat less than a half of the communications equipment industry. This is demonstrated by a comparison of the employment figures for June 1960 in the communications equipment industry as given by the EIA's expert witness and the electronic equipment industry as shown in Government Exhibit 5. Consequently, it is not possible to ascertain from the record the degree, if any, to which there may have been a contraction of employment in the electronic equipment industry in the period preceding the wage survey.

There is little doubt that minimum wages actually paid by plants in an industry will vary from one period to another, that such variations are to a large extent in different directions and compensatory in effect, and that minimum wages paid will vary whether or not conditions of employment stability prevail, since numerous other factors play a role in this situation. In the present case, employment in the electronic equipment industry in the June 1960 payroll period may have been somewhat lower than in the earlier part of the year but was substantially above levels prevailing in the December 1960–May 1961 period and slightly above the average for the entire June 1960–May 1961 period. These data cannot sustain a conclusion that the June 1960 payroll period was unrepresentative by virtue of low employment. Accordingly, I am satisfied that the payroll date does not constitute a bar to use of the BLS wage survey as a basis for prevailing minimum wage determination.

Turning then to Table 7 of the BLS wage survey containing a frequency distribution of the lowest rates actually paid in the industry, it is noted that no single minimum wage appears with such frequency that it may be fairly said, solely upon the basis of such frequency, to be the "prevailing minimum" wage for "persons employed" in the industry.

Under such circumstances there is abundant precedent for using a statistical approach giving appropriate weight to the minimum wages paid by about one-half of the establishments or production units and by the establishments employing about one-half of the workers who would be protected by the determination. It is noted that 51.8 percent of the establishments with 74.9 percent of the covered worker employment paid a minimum wage of $1.45 or more, and that 30.8 percent of the establishments employing 50.3 percent of the covered workers paid a minimum wage of $1.60 or more. The most representative minimum wage appears to rest within the compass of the medians involved rather than at either of them. There, the minimum wage of $1.47 appears most representative, as 47.8 percent of the establishments with 68 percent of the covered worker employment paid that minimum wage or more. Accordingly, I find $1.47 to be the prevailing minimum wage as of the survey period.

The AFL–CIO and its affiliated unions in this industry propose that an increase in the prevailing minimum wage of seven cents be found to have taken place since the BLS survey period. The EIA asserts that there is no adequate proof that post-BLS survey increases in minimum wages have occurred generally in the industry.

The proposal of the unions is based principally upon data submitted by them showing increases in minimum wages occurring since the BLS survey period in plants organized by them. These data bearing on increases in lowest established contract rates in plants primarily engaged in the manufacture of industry products cover 114 establishments employing about half the workers in the industry. Of these, management contends that 20 plants with about 10 percent of the industry's employment were incorrectly included in the union tabulation. The median increase in minimum wages for all plants tabulated by the unions is 6 cents on an establishment basis and 7 cents on an employment basis. If plants contested by management are excluded, the median increase is 6 cents on the basis of both establishments and employment.

Tables 13 through 16 of the BLS survey, showing deferred wage increases with effective dates subsequent to the survey, represent about 19 percent of the establishment universe and about 30 percent of the covered worker employment. The median increases in these data are 6 cents on an establishment basis and 7 cents for establishments weighted by their covered worker employment.

Government Exhibit 5 reveals that from June 1960 through May 1961, adjusted average hourly earnings for the combined SIC groups 3651 and 3662 rose from $2.224 an hour to $2.290 an hour. These data indicate that there has been a post-survey increase in minimum wages in the industry generally, and that the probable area of the increase is in the range from 4.4 cents to 6.6 cents. Cf. Electronic Component Parts Industry (26 F.R. 4173, 5715), Miscellaneous Chemical Products and Preparations Industry (26 F.R. 7352, 10355), and Office, Computing, and Accounting Machines Industry (26 F.R. 10515, 27 F.R. 1269). The 4.4 cents figure is derived from applying the percentage increase in average straight-time hourly earnings occurring since the period covered by the BLS survey to the $1.47 found to be the prevailing minimum wage in that period. The 6.6 cents figure represents the absolute increase in average straight-time hourly earnings occurring subsequent to the BLS-survey period.

The data on minimum wage increases submitted by the unions and the deferred wage increase data shown in the BLS survey suggest a somewhat greater increase in minimum wages than that which may be gleaned from average hourly earnings data. However, the evidence submitted by the unions and the deferred wage increase data are not as representative of the industry as a whole as the evidence relating to the increases in average hourly earnings.

Considering the foregoing evidence in its entirety, I find that the prevailing minimum wage of the industry has increased by 5 cents since the period covered by the BLS survey. Accordingly, I find the current prevailing minimum wage of this industry to be $1.52 an hour.

VI. The EIA asserts that the hearing examiner's refusal to issue a subpoena for the production of the confidential responses to the BLS survey questionnaires underlying its tabulations in Government Exhibit 7 (after hearing evidence and argument on the issue) constitutes prejudicial error, because it denied the EIA opportunity to cross-examine the BLS economist supervising the preparation of Government Exhibit 7.

There was neither denial nor limitation of EIA's right of cross-examination. The BLS witness through whose testimony the wage survey was introduced was cross-examined at length by counsel for EIA. He responded as fully as his testimonial knowledge would permit. He did not refuse to answer a single question on any plea that it would require him to divulge a confidence. The only factual base for any EIA complaint on this score is the fact that the hearing examiner refused to grant a subpoena duces tecum calling for data which the BLS had obtained from employers in the industry under a pledge of confidence.

Confidential documents need not be produced upon every demand. Good cause for intrusion into confidential materials must be shown. This is well set-

tled. Communist Party of the United States v. Subversive Activities Control Board, 254 F. 2d 314 (C.A.D.C.). In this proceeding I perceive no abuse of discretion in the refusal of the hearing examiner to issue the subpoena. Also, I see no impairment of the EIA's right to "such cross-examination as may be required for a full and true disclosure of the facts," Section 7(c), Administrative Procedure Act (5 U.S.C. 1006(c)). The hearing examiner declined to issue the subpoena essentially upon the ground that it exceeded the limitation to "reasonable scope of the evidence sought," Section 6(c), Administrative Procedure Act 5 U.S.C. 1005(c), and Rules of Practice 41 CFR 50–203.19(a). There is no indication that in doing so the hearing examiner acted arbitrarily or capriciously in striking a balance between the need of the applicant for the evidence and the burden which would have been placed upon the Government by its production. Cf. Tires and Related Products Industry—tentative decision (24 F.R. 8741).

The reasons assigned in the subpoena application for the production of the responses were to test: (a) The asserted comprehensive character of the survey; (b) the accuracy of the exclusion of "some 450" plants on product grounds; (c) the correctness of including 399 establishments; and (d) the validity of the wages "projected" for 26 plants which did not submit wage data to the BLS.

The need of the responses in order to explore the comprehensive character of the BLS survey and its accuracy in excluding 481 establishments and including 399 establishments stands on poor footing insofar as a full disclosure of the facts essential to a decision is concerned. It is significant that the EIA survey, which the EIA witness stated he knew to be computed accurately, shows a close correspondence with the BLS survey with respect to the location of median rates. Moreover, the same witness stated that he did not question the tabulation accuracy of the BLS.

The witness was cross-examined at length by EIA counsel concerning the preparation of Government Exhibit 7, particularly in connection with the technique employed in treating the 26 establishments who were found to be within the scope of the survey, but who did not make their wage data available. Regarding that technique, the witness testified that it was a common one which is used by other Government agencies, such as the Census Bureau, in making surveys in which general confidence is placed. He also indicated that he had no reason to believe that the application of the technique resulted in either an upward or downward bias in the wage survey. It is a technique which has met with approval in prior determinations (e.g., Scientific, Industrial and Laboratory Instruments Industry (22 F.R. 3729)), and it is highly conjectural that any fuller development of the facts by cross-examination would result from the production of the survey questionnaire responses.

To be weighed against whatever need may be said to exist for the production of the voluntary responses to the BLS questionnaire or the names of the companies responding to the questionnaire is the fact that such production would constitute a breach of a pledge of confidence in Item I of the questionnaire:

> The replies will be treated in confidence. The completed questionnaire form will be seen only by sworn employees of the Bureau of Labor Statistics and no information identified by the company name will be released.

In the opinion of the BLS witness, a breach of this pledge would likely jeopardize the effectiveness of the work of the Bureau not only with respect to other wage surveys for the purpose of ascertaining prevailing minimum wages under the Walsh-Healey Public Contracts Act, but also other important programs of the Bureau, such as its publication of monthly figures on employment, hours and earnings of workers in the nonagricultural economy.

It is apparent that the effectiveness of the BLS survey is dependent upon the receipt of voluntary responses to its questionnaires, and that is indispensable to this end.

This seems to be no less true in the case of the surveys conducted by others in order to obtain information to be voluntarily submitted. In conducting its survey, the EIA gave assurances that the responses would not be made public. The survey conducted by Western Electronic Manufacturers Association (WEMA) contains a similar pledge of confidence.

VI. In addition to the receipt of evidence relating to the proposed rule-making, evidence was received in connection with the discretionary exception provided in section 4(c) of the APA and reflected in the rules of practice (41 CFR 50–203.22) for shortening the delay in effective date of any final decision resulting from these proceedings from the general requirement that publication of a substantive rule precede the effective date thereof by not less than 30 days. In recent decisions good cause was found to shorten the delay in effective date to seven days; e.g. Manifold Business Forms Industry—final decision (26 F.R. 2698) and Paper and Pulp Industry—final decision (26 F.R. 7699).

The main thrust of the evidence submitted by the EIA was that a diminution in the delay in effective date would not afford firms in the industry adequate time to adjust to any new determination. There is testimony, however, that generally there is an interval of at least twenty-one days between an invitation for bids and the opening of bids in competitive procurement in this industry and about three to four weeks between the opening and the contract award. Comparable time intervals are wider in the case of negotiated contracts.

Minimum wages prescribed under the act apply only to contracts bids for which are solicited or negotiations otherwise commenced on or after the effective date of a particular determination. This being so, if provision is made for a seven-day delay in effective date, the time that would be allowed for adjusting to any new determination would appear likely to equal or exceed the usual thirty days allowed under section 4(c) of the APA, whereas provisions for further delay would appear to prolong unduly the application of any new determination. Therefore, I find good cause for shortening the delay in effective date of any final decision resulting from these proceedings to seven days.

Accordingly, upon the findings and conclusions stated above and pursuant to section 4 of the Walsh-Healey Public Contracts Act (49 Stat. 2038, 41 U.S.C. 38), I propose to amend 41 CFR Part 50–202 by adding a new section thereto reading as follows:

§ 50–202.31 Electronic equipment industry.

(a) *Definition.* (1) The electronic equipment industry is defined to include the manufacture or furnishing of electronic devices, apparatus, equipment, or systems (including electronic accessories therefor) for the following applications: Radio and television receiving and transmitting, including home entertainment, industrial, commercial, military, and amateur, and radio telephone and radio telegraph; sound recording, reproduction, and distribution, including wire, tape, and phonograph recording and reproduction, and public address and music distribution; audio, intermediate frequency (IF), and radio frequency (RF) amplification; navigation, including aircraft, ship, and other vehicular guidance and control; airborne computing and associated airborne information processing; missile guidance and control; search, detection, surveillance, and tracking; counter-measures; weapons fire control; and electronic power supplies for use in any of the foregoing classes of products.

(2) The industry does not include the manufacture or furnishing of the following products or classes of products: phonograph records; electron tubes; solid-state semiconductors; x-ray tubes and equipment; electric lamps; functional electronic component parts, such as resistors, capacitors, relays, connectors, and complex components, packaged components, modules, and other similar component combinations manufactured as a single unit; structural electronic components, such as cabinets, blank panels, binding posts, wire and cable harnesses, and assemblies, tube sockets, dial assemblies and knobs and control handles; electronic computing equipment (except airborne) and electronic accounting, dictating, transcribing and other machines primarily designed for office or business use; scientific industrial, and laboratory instruments; electro-therapeutic and electromedical instruments and equipment; motors, generators, electric power distribution apparatus and equipment, industrial and commercial machinery, heating and air-conditioning equipment, household appliances, and similar equipment, even though incorporating electronic devices or accessories; structural components, devices and equipment, such as antenna structures, pedestals, drives, launchers, trailers, platforms, pallets, elevators, gimbals, and handling equipment; telephone and telegraph equip-

ment (except radio receivers and transmitters); and industrial controls.

(b) *Minimum wages.* The minimum wage for persons employed in the manufacture or furnishing of products of the electronic equipment industry shall be $1.52 per hour.

Within twenty-one days following the publication of this document in the FEDERAL REGISTER, interested parties may submit exceptions, together with supporting reasons, to the tentative decision set out herein. Exceptions should be directed to the Secretary of Labor and filed with the Chief Hearing Examiner, Room 4414, United States Department of Labor, Constitution Avenue and 14th Street NW., Washington 25, D.C.

Signed at Washington, D.C., this 8th day of November 1962.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 62-11353; Filed, Nov. 14, 1962; 8:51 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 974) has been filed by Canada Dry Corporation, 100 Park Avenue, New York 17, New York, proposing the issuance of a regulation to provide for a tolerance of 200 parts per billion for residues of silver ions in potable sterile water, resulting from the use of silver nitrate, silver sulfate, ammoniacal silver oxide, and ammoniacal silver carbonate, alone or in combination, as a bacteriostat in potable noncarbonated water packaged in hermetically sealed containers.

Dated: November 7, 1962.

J. K. KIRK,
Assistant Commissioner of Food and Drugs.

[F.R. Doc. 62-11343; Filed, Nov. 14, 1962; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 600, 601]

[Airspace Docket No. 61-LA-39]

FEDERAL AIRWAYS AND ASSOCIATED CONTROL AREAS

Proposed Alteration and Designation

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65), and in consonance with ICAO International Standards and Recommended Practices, notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to §§ 600.6025, 600.6027, 600.6299, 600.6485, 600.1609, and 601.6027 of the Regulations of the Administrator. This proposal relates to navigable airspace both within and outside the United States.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 and Annex 11 to the convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state the U.S. agreed by Article 3.D that its state aircraft will be operated in International airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Low altitude VOR Federal airways No. 25 and No. 27 are designated in part from the Los Angeles, Calif., VOR via the intersection of the Los Angeles VOR 257° and the Ventura, Calif., (formerly Oxnard) VOR 155° True radials; the Ventura VOR; to the Henderson Intersection (intersection of the Ventura VOR 331° and the Fillmore, Calif., VORTAC 268° True radials). Low altitude VOR Federal airway No. 485 is designated in part from the Ventura VOR to the Henderson Intersection. These airways exclude the airspace within R-2520, the airspace within R-2519 more than 3 miles west of the airway centerlines and the airspace within R-2519 below 5,000 feet MSL. The airspace within R-2527 and the remaining airspace within R-2519 is to be used only after obtaining prior approval from the appropriate authority. Low altitude VOR Federal airway No. 299 west alternate is designated from the Los Angeles VOR via the intersection of the Los Angeles VOR 139° and the Long Beach, Calif., VORTAC 287° True radials; the intersection of the Long Beach VORTAC 287° and the Fillmore, Calif., VORTAC 163° True radials; to the Fillmore VORTAC. Intermediate altitude VOR Federal airway No. 1609 is designated in part from the intersection of the Fillmore VOR 268° and the Ventura VOR 331° True radials; (Henderson Intersection) to the Santa Barbara VOR.

The Federal Aviation Agency has under consideration the following actions:

1. Realign and extend Victor 27 and its associated control areas from the Henderson Intersection as an 8-mile wide airway via the Ventura VOR to the Santa Catalina, Calif., VOR, excluding all of the airspace within R-2520, that airspace within R-2519 more than 3 miles west of the airway centerline, and the airspace within R-2519 below 5,000 feet MSL. The remaining portion of Victor 27 which would lie within R-2519 would be used only after obtaining prior approval from the appropriate authority.

2. Redesignate Victor 25 from the Los Angeles VOR as a 10-mile wide airway to the intersection of the Los Angeles VOR 257° and the Ventura VOR 155° True radials, thence an 8-mile wide airway via the Ventura VOR to the Henderson Intersection, excluding all of the airspace within R-2520, that airspace within R-2519 more than 3 miles west of the airway centerline, and the airspace within R-2519 below 5,000 feet MSL. The remaining portions of Victor 25 which would lie within R-2519 would be used only after obtaining prior approval from the appropriate authority.

3. Redesignate Victor 485 from the Ventura VOR to the Henderson Intersection as an 8-mile wide airway excluding all of the airspace within R-2520, that airspace within R-2519 more than 3 miles west of the airway centerline, and the airspace within R-2519 below 5,000 feet MSL. The remaining portion of Victor 485 which would lie within R-2519 would be used only after obtaining prior approval from the appropriate authority.

4. Realign Victor 299 west alternate and its associated control areas from the Los Angeles VOR via the intersection of the Los Angeles VOR 287° and the Fillmore VORTAC 163° True radials; to the Fillmore VORTAC.

5. Extend Victor 1609 from the intersection of the Fillmore VOR 268° and the Ventura VOR 331° True radials as an 8-mile wide airway via the Ventura VOR; to the Santa Catalina VOR; thence as a 10-mile wide airway via the intersection of the Santa Catalina VOR 099° and the San Diego, Calif., VOR 320° True radials; to the San Diego, VOR. The airspace within R-2519 would be used only after obtaining prior approval from the appropriate authority.

North, east, and southbound aircraft from the Los Angeles terminal area depart in a westerly direction over the ocean prior to heading on course, and northbound aircraft, departing from San Diego for points beyond Los Angeles are routed via the only available airways which are aligned via the Los Angeles VOR. This condition generates frequent conflicts between the over traffic

and traffic departing the Los Angeles terminal area. The proposed alteration of Victor 27 and Victor 1609 would alleviate this conflict by providing a bypass route to seaward around the Los Angeles area for both low and intermediate altitude traffic.

The use of Victor 25, 27 and 485 in the vicinity of the Ventura VOR is very critical due to the proximity of Restricted Areas R–2519 and R–2520. An operations agreement between the Department of the Navy and the Federal Aviation Agency permits joint use of a portion of R–2519 above 5,000 feet MSL up to 3 miles west of the low altitude airway centerline and up to 4 miles west of the intermediate altitude airway centerline for IFR traffic control purposes when the restricted area is not being used for its designated purpose. Accordingly, the reduced airway widths proposed for Victor 25, 27, 485, and 1609 in the vicinity of Point Mugu, Calif., would provide optimum use of the airspace within R–2519. The reduced airway width of Victor 27 and Victor 1609 between Ventura and Santa Catalina would provide an additional area between Los Angeles departures and en route traffic operating along these bypass airways. The reduced airway widths in the vicinity of Oxnard AFB, Calif., would avoid encroachment of Restricted Area R–2527. The reduced width of Victor 1609 between Santa Catalina and San Diego would avoid conflict with Department of Defense activities west of San Diego. The proposed alteration of Victor 299 west alternate would permit simultaneous use of altitudes on this airway segment and the altered segment of Victor 27. It is not proposed to alter the alignments of the segments of low altitude VOR Federal airways No. 25, No. 210, No. 8, No. 201, and No. 21 west of Los Angeles as these airway segments are designated for specific departure procedures from the Los Angeles terminal area. The control areas associated with the segment of Victor 27 under consideration would have a floor of 700 feet above the surface. The portion of these control areas within the United States would extend upward to the base of the continental control area. The control areas associated with Victor 25, 485 and 299 west alternate are so designated that they would automatically conform to the altered airways. Separate actions will be initiated to implement on an area basis Amendment 60–21 to Part 60 of the Civil Air Regulations.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within forty-five 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 Air Traffic Division Chief, 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 A–103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under sections 307(a), and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565.

Issued in Washington, D.C., on November 8, 1962.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 62–11329; Filed, Nov. 14, 1962; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 62–SW–46]

CONTROL ZONE

Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the regulations of the Administrator (Part 71 (New) of the Federal Aviation Regulations, effective December 12, 1962, 27 F.R. 10352), the substance of which is stated below.

The Plainview, Tex., control zone is designated within a 3-mile radius of Hale County Airport, Plainview, Tex., from 0600 to 2200 hours Central Standard Time, daily.

The Federal Aviation Agency has under consideration the redesignation of the Plainview control zone within a 3-mile radius of the Hale County Airport (latitude 34°10′10″ N., longitude 101°-43′00″ W.) and within 2 miles either side of the Plainview VOR (latitude 34°05′10″ N., longitude 101°47′20″ W.) 037° True radial extending from the 3-mile radius zone to 5.5 miles southwest of the approach end of Runway 4 from 0600 to 2200 hours local time, daily. This alteration would provide protection for aircraft executing prescribed instrument approach and departure procedures at the Hale County Airport utilizing the Plainview VOR which was commissioned on October 15, 1962. Further review of the controlled airspace requirements in the Plainview area will be accomplished under the CAR Amendments 60–21/60–29 implementation program.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Southwest Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five 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 Air Traffic Division Chief, 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 A–103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on November 8, 1962.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 62–11331; Filed, Nov. 14, 1962; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60–NY–4]

CONTROL ZONE

Withdrawal of Proposal for Modification

In a notice of proposed rule making published in the FEDERAL REGISTER on July 14, 1960 (25 F.R. 6652), it was stated that the Federal Aviation Agency was considering a proposal initiated by the Department of the Air Force to modify the Bangor, Maine, control zone. A supplemental notice was published on November 11, 1960 (25 F.R. 10779), which proposed further modification of this control zone.

Subsequent to the publication of these notices the FAA adopted Amendment 60–21 (26 F.R. 570) and Amendment 60–29 (27 F.R. 4012) to the Civil Air Regulations, Part 60, Air Traffic Rules. As the modifications to the Bangor control zone as proposed in the notices would not be consistent with current criteria for the designation of control zones developed in conjunction with the aforementioned amendments, and in view of the amount of time which has elapsed since the close of the period for comments on the notices without final rule action having been taken, the FAA, with the concurrence of the Department of the Air Force, has determined that a more

current review of controlled airspace requirements in the Bangor area is necessary.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 409.13) notice is hereby given that the proposals contained in Airspace Docket No. 60–NY–4 are withdrawn.

Section 307(a) of the Federal Aviation Agency Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on November 8, 1962.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 62–11328; Filed, Nov. 14, 1962; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 62–WA–109]

POSITIVE CONTROL AREAS

Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the regulations of the Administrator (Part 71 (New) of the Federal Aviation Regulations, effective December 12, 1962, 27 F.R. 10352), the substance of which is stated below.

Positive control areas are designated areas, within the continental control area, wherein positive separation to both en route and diversified local aircraft operations is provided in accordance with the provisions of Special Civil Air Regulation No. SR–424C. Airspace Docket No. 62–WA–107 (27 F.R. 10372) proposed expansion of the existing Chicago, Ill./Indianapolis, Ind., positive control area, which is comprised of airspace from flight level 240 to and including flight level 600, southward to include the airspace under the jurisdiction of the Atlanta, Jacksonville and Memphis air route traffic control centers.

The FAA now has under consideration the inclusion of airspace from flight level 240 to and including flight level 600 northwest and west of the present Chicago/Indianapolis positive control area.

If this action is taken, the area described below would be added to the Chicago, Ill.–Indianapolis, Ind., positive control area:

Beginning at latitude 40°08'30'' N., longitude 90°10'00'' W.; thence to latitude 39°-55'30'' N., longitude 90°44'30'' W.; thence to latitude 39°42'00'' N., longitude 90°44'00'' W.; thence to latitude 39°18'00'' N., longitude 91°28'05'' W.; thence to latitude 40°56'00'' N., longitude 93°29'10'' W.; thence to latitude 42°46'30'' N., longitude 93°04'00'' W.; thence to latitude 42°-49'00'' N., longitude 93°42'00'' W.; thence to latitude 42°39'30'' N., longitude 95°11'00'' W.; thence to latitude 43°07'20'' N., longitude 94°55'00'' W.; thence to latitude 43°-09'00'' N., longitude 95°05'00'' W.; thence to latitude 43°04'00'' N., longitude 95°48'15'' W.; thence to latitude 43°06'00'' N., longitude 96°01'00'' W.; thence to latitude 43°-00'00'' N., longitude 96°43'00'' W.; thence to latitude 43°35'30'' N., longitude 97°23'30'' W.; thence to latitude 46°07'30'' N., longitude 96°47'30'' W.; thence to latitude 46°-27'30'' N., longitude 95°35'00'' W.; thence to latitude 47°33'00'' N., longitude 92°19'00'' W.; thence to latitude 47°35'30'' N., longitude 91°19'00'' W.; thence to latitude 47°-10'00'' N., longitude 89°45'00'' W.; thence to latitude 45°50'00'' N., longitude 89°45'00'' W.; thence to latitude 44°50'00'' N., longitude 88°00'00'' W.; thence to latitude 44°-09'00'' N., longitude 85°18'00'' W.; thence to latitude 43°15'30'' N., longitude 87°14'00'' W.; thence to latitude 43°19'00'' N., longitude 87°41'00'' W.; thence to latitude 43°-40'00'' N., longitude 87°36'15'' W.; thence to latitude 43°40'00'' N., longitude 90°00'00'' W.; thence to latitude 43°10'00'' N., longitude 90°30'00'' W.; thence to latitude 42°-00'00'' N., longitude 91°00'00'' W.; thence to latitude 41°00'00'' N., longitude 90°50'00'' W.; thence to point of beginning.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five 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 Chief, Airspace Utilization Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on November 8, 1962.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 62–11330; Filed, Nov. 14, 1962; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 14483 (RM–293); FCC 62–1170]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS

Sterling, Colo. and Cheyenne, Wyo.; Memorandum Opinion and Order

1. The Commission has before it for consideration the proposal of Richard B. Steuer to shift Channel 3 from Sterling, Colorado to Cheyenne, Wyoming as set forth in the notice of proposed rule making (FCC 62–42) released January 5, 1962.

2. Frontier Broadcasting Co., licensee of KFBC–TV, Channel 5, in Cheyenne, filed comments in opposition to the proposal and no other comments either in support or opposition were received. Channel 3[1] was originally assigned to Cheyenne by the Sixth Report but was shifted to Sterling in 1958. The channel has never been used in either Cheyenne or Sterling, although there was an outstanding construction permit to build on Channel 3 in Sterling from June, 1958 to April 26, 1962.[1] Sterling, with a 1960 population of 10,751, has no local television station and is not within the predicted Grade B contour of any regular television broadcast station. Sterling, as well as the entire northeastern Colorado area, is served, however, by various translator stations. Cheyenne has only one local television station, KFBC–TV, and a 1960 population of 43,505.

3. Frontier, in opposing the proposal, asserts that there is a greater need for a first station in Sterling than a second in Cheyenne. According to Frontier, a station in Sterling could bring a first Grade B service or better to 79,000 persons, whereas a second station in Cheyenne would not serve anyone not now receiving service from KFBC–TV. Moreover, Frontier argues that considerable service from the four Denver stations is provided within the KFBC–TV Grade B contour and there is no need, therefore, for an additional service at Cheyenne.

4. We believe the public interest requires that the television channel assignments in Sterling and Cheyenne remain undisturbed. There has been no demonstration by Steuer that Cheyenne needs a second local VHF station more than the Sterling area needs a first VHF service. Steuer's present lack of interest in a Sterling station is perhaps indicative of the fact that the area cannot support a television station. On the other hand, Frontier has expressed its interest in the Sterling area—albeit for a satellite station, at least at the start—to the extent of filing an application for Channel 3 in Sterling. Grant of this application would obviously serve Frontier's private interest by removing the threat of local competition in Cheyenne, but it would also have the beneficial effect of providing the northeastern Colorado area with a first Grade B or better service. We are not passing judgment on the Frontier application, but we do believe that it sufficiently counters any adverse implications which may be drawn from Steuer's failure to construct in Sterling. Had Steuer proposed a shift of the channel to another underserved area there might be more reason to consider deletion of the channel from Sterling. We are not convinced, however, that a station cannot operate in Sterling on some

[1] The first construction permit to build on Channel 3 was held by Bi-States Company, which assigned the permit to Richard B. Steuer on February 2, 1961. Steuer in turn assigned the permit to the Steuer Broadcasting Company on October 19, 1961. This permit was cancelled on April 26, 1962. Frontier Broadcasting Corp. filed an application to build a television station on Channel 3 in Sterling on February 14, 1962 (BPCT–3005). The application is pending before the Commission.

basis, and we are not willing to forego the possibility of a first local service for the area in order to bring—at a minimum—a second service to Cheyenne.

5. In view of the foregoing: *It is ordered,* That the proposal of Richard B. Steuer to shift Channel 3 from Sterling, Colorado, to Cheyenne, Wyoming, is denied.

Adopted: November 8, 1962.

Released: November 9, 1962.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-11367; Filed, Nov. 14, 1962; 8:54 a.m.]

[47 CFR Part 3]

[Docket No. 14842 (RM-322, RM-334); FCC 62-1172]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS

Pierre, Rapid City, and Lead, S. Dak.; Notice of Proposed Rule Making

1. Notice is hereby given of proposed rule making in the above-captioned matter as discussed further herein.

2. The Commission has before it for consideration two petitions requesting the institution of rule making looking toward the assignment of VHF television channels in Pierre, Rapid City, and Lead, South Dakota. The initial petition was filed by Duhamel Broadcasting Enterprises, licensee of KOTA-TV, Channel 3 in Rapid City, South Dakota and requests the assignment of Channel 11+ to Lead. Duhamel is also the licensee of KDUH-TV in Hay Springs, Nebraska which operates as a satellite of KOTA-TV. Duhamel desires to establish a satellite station on Channel 11 in Lead. Lead, located in the Black Hills of South Dakota, had a 1960 population of 6,211 and Lawrence County in which it is situated had a population of 17,075. KRSD-TV, Channel 7 in Rapid City operates a satellite, KDSJ-TV, Channel 5, in Lead and this is the only television station in the area. Duhamel states that Channel 11 may be assigned to Lead in conformity with all co-channel and adjacent channel mileage separation requirements.

3. In partial conflict with the Duhamel petition is the request of M. F. Coddington, State Superintendent of Public Instruction of the State of South Dakota that Channel 11 be assigned to Rapid City and reserved for non-commercial educational use and that Channel 10 now assigned to Pierre, South Dakota, but unused and not applied for, be reserved for educational use. Channel 22 is now reserved for educational use in Pierre but Coddington proposes to delete this reservation upon the reservation of Channel 10. In support of the requested VHF reservations Coddington states that plans are being formulated to establish a state-wide educational network in South Dakota and that the addition of Channels 11 and 10 to Rapid City and Pierre for education will make possible the construction of four VHF non-commerical educational stations to serve approximately 80 percent of the state's population. Channels 2 and 8 are currently assigned and reserved at Brookings and Vermillion respectively and the University of South Dakota has been granted a construction permit for Channel 2 in Vermillion.

4. To remove the conflict over Channel 11 Duhamel has suggested that Channel 9 be assigned to Rapid City and reserved for non-commercial educational use rather than Channel 11. This assignment is feasible since we have concluded in Docket 13860 not to assign Channel 9 to Lakeside, Nebraska. Since only Channel 11 can be assigned to Lead we believe that consideration should be given to the reserved assignment of Channel 9 to Rapid City.

5. In order to afford interested parties the opportunity to submit their views and relevant data, rule making is herein instituted on the following changes in the Table of Assignments:

Cities	Channel No.	
	Present	Proposed
Lead, S. Dak.	5-, 26	5-, 11+, 26
Rapid City, S. Dak.	3+, 7+, 15-	3+, 7-, *9, 15-
Pierre, S. Dak.	10+, *22+	*10+, 22+

6. Authority for the adoption of the amendment proposed herein is contained in sections 4 (i) and (j), 303, and 307(b) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set out in § 1.213 of the Commission rules, interested persons may file comments on or before December 10, 1962, and reply comments on or before December 26, 1962. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

8. In accordance with the provisions of § 1.54 of the rules, an original and 14 copies of all written comments and statements shall be furnished the Commission.

Adopted: November 8, 1962.

Released: November 9, 1962.

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

[F.R. Doc. 62-11368; Filed, Nov. 14, 1962; 8:54 a.m.]

[2] Commissioners Bartley and Ford absent.

FEDERAL POWER COMMISSION

[18 CFR Part 34]

[Docket No. R-225]

CONTENTS OF APPLICATION FOR ISSUANCE OF SECURITIES

Notice of Proposed Rule Making

NOVEMBER 7, 1962.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. It is proposed to amend Part 34 of the Commission's Regulations under the Federal Power Act, by revising § 34.2 *Contents of application* and § 34.3 *Required exhibits.* The section prescribes the basic information which is to be submitted in support of applications for authorization, pursuant to section 204 of the Federal Power Act, for the issuance of securities or the assumption of liabilities.

3. The revisions are designed to rearrange and simplify the format in which the required information must be submitted, relegating to exhibit form certain information heretofore placed in the body of the application and reducing the number of copies of certain exhibits. The only change necessitating the submission of additional information is § 34.2(j) which requires more detailed information regarding construction programs for which funds from the sale of securities may be utilized.

4. It is proposed to issue the accompanying amendments to the Commission's Regulations under the Federal Power Act under the authority granted to the Federal Power Commission by the Federal Power Act, as amended, particularly by sections 204 and 309 thereof (49 Stat. 850, 856; 16 U.S.C. 824c, 825h).

5. Any interested person may submit to the Federal Power Commission, Washington 25, D.C., not later than December 7, 1962, data, views, comments and suggestions in writing concerning the proposed accompanying amendments to the Regulations under the Federal Power Act. An original and nine copies should be filed of any submittals. The Commission will consider these written submittals before acting upon the proposed amendments.

By direction of the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

§ 34.2 Contents of application.

Every such applicant shall set forth in its application to the Commission, in the manner and form and in the order indicated, the following information which, in the case of the assumption of a liability, shall be furnished as to both the issuer and the person assuming liability:

(a) The exact name of the applicant and address of its principal business office.

(b) The State or other sovereign power under which incorporated, the

date of incorporation, and the States in which domesticated.

(c) Name and address of person authorized to receive notices and communications in respect to application.

(d) A full description of the securities proposed to be issued or the liabilities to be assumed, showing:

(1) Kind and nature of securities or liabilities.

(2) Amount (face value and number of shares).

(3) Interest or dividend rate, if any.

(4) Date of issue and date of maturity.

(5) Voting privileges, if any.

(e) A description of the method of issuing and selling the securities to be issued by the applicant or in respect of which the applicant is to assume any obligation or liability as guarantor, indorser, surety, or otherwise. Such description shall include a statement of whether:

(1) Such securities are to be issued pro rata to existing holders of securities of the applicant or issuer pursuant to any preemptive right or in connection with any liquidation or reorganization.

(2) Such securities consist of one or more bonds, notes, or other evidences of debt, of a maturity of ten years or less, to a commercial bank, insurance company, or similar institution not for resale to the public, and provide that no finder's fee or other fee, commission or remuneration is to be paid in connection therewith to any third person (except an associated service company charging only its costs of service) for negotiating the transaction.

(3) The proceeds, to the issuer or vendor of the securities will be less than $1,000,000.

(4) The proposed issuance of securities, or assumption of obligation or liability, by the applicant, has been exempted by the Commission from the competitive bidding requirements of § 34.1a (b) and (c) by findings as referred to in § 34.1a(a)(4), or is the subject of an application for such exemption under paragraph (f)(2) of this section, which application has not been denied by the Commission.

(f) Except where the issuance of securities or assumption of obligation or liability falls within paragraph (e) (1), (2) or (3) of this section, the application shall either:

(1) Set forth the proposed method of complying with the competitive bidding requirements of § 34.1a (b) and (c), including summarization of the principal terms of the proposed invitation for bids and submitting a copy of the proposed invitation as part of Exhibit L to the application; or

(2) Apply for exemption from the competitive bidding requirements of § 34.1a (b) and (c) upon findings as referred to in § 34.1a(a)(4). Such an application may be made only where the issuer has not, prior to the filing of the application, engaged in any negotiation for the sale or underwriting of the securities and engages not to do so prior to Commission action on the application for exemption, and the application so shows: *Provided,* That engaging in negotiation may be permitted where the Commission has given its written authorization in advance. Such application for exemption may be filed as part of an application for securities approval, or as a separate application filed at any time prior to the filing of such an application for securities approval. (If separately filed, such separate application shall, nevertheless, be subject to the provisions of §§ 34.4 to 34.7.) Such application for exemption shall show the specific grounds relied on as warranting the findings referred to in § 34.1a(a)(4). If an application for such exemption is denied by the Commission after the application for securities approval has been filed, the requirements of subparagraph (1) of this paragraph shall be complied with by amendment to the application.

(g) Where no application has been filed for exemption from the competitive bidding requirements of § 34.1a (b) and (c), or the Commission has denied such an application, applicant shall set forth by amendment to the application, the data with respect to compliance with the competitive bidding requirements and its proposed action, as required by § 34.1a(c).

(h) There shall also be set forth in the application or amendment thereto:

(1) The name and address of any person receiving or entitled to a fee for services (other than attorneys, accountants and similar technical services) in connection with the negotiation or consummation of the issuance or sale of securities, or for services in securing underwriters, sellers, or purchasers of securities, other than fees included in any competitive bid; the amount of each such fee; and facts showing the necessity of the services and that the fee does not exceed the customary fee for such services in arm's-length transactions and is reasonable in the light of the cost of rendering the service and any other relevant factors.

(2) All facts showing or tending to show that the issuer or applicant directly or indirectly controls, or is controlled by, or is under the same common control as, any person named pursuant to the requirements of paragraph (g) of this section and subparagraph (1) of this paragraph or showing or tending to show the opposite. "Control" is used herein as defined in § 101.02–5B of this chapter (Uniform Systems of Accounts Prescribed for Public Utilities and Licensees).

(i) A statement showing both in total amount and per unit the price to the public, underwriting commissions, and net proceeds to the applicant. Supply also the information (estimated if necessary) required in § 131.43 of this chapter. If the securities are to be issued directly for property, then a full description of the property to be acquired, its location, its original cost (if known) and fair value by accounts, and a statement as to who determined the fair value, together with the identification of the person from whom the property is to be acquired. If original cost is not known, an estimate of original cost based, insofar as possible, upon records or data of the applicant or its predecessors must be furnished, together with a full explanation of the manner in which such estimate has been made, and a description and statement of the present custody of all existing pertinent data and records. A statement showing the cost of all additions and betterments and retirements, from the date as of which the original cost is shown should also be furnished.

(j) Purpose for which securities are to be issued.

(1) If the purpose is the construction, completion, extension, or improvement of facilities, describe in reasonable detail the construction program for which the funds were or are to be used, including:

(i) The name, location and size (express in kilowatts) of generating stations which are to be constructed or in which are to be installed major additions such as generators, boilers, etc.;

(ii) The length of transmission lines to be constructed or rebuilt, the geographical termini of such lines, the supporting structure, number of circuits, size and type of conductor, the voltage, frequency, and number of phases;

(iii) Name and location of major substations to be constructed or rebuilt, the kva capacity and voltages of transformers installed;

(iv) Any other major additions or improvements to electric facilities; and

(v) The expenditures to most recent date and the estimated completion date and ultimate cost in place of each of the foregoing items of construction, improvement or extension listed. If the construction program extends over more than one calendar year, the estimated cost for the succeeding calendar year shall be given.

(2) If the purpose is the reimbursement of the treasury of the applicant for expenditures against which securities have not been issued, a statement must be submitted giving a general description of such expenditures, the amounts and accounts to which charged, the associated credits, if any, and the periods during which the expenditures were made.

(3) If the purpose is the refunding of obligations, a full description of the obligations to be refunded, including the character, principal amounts, discount or premium applicable thereto, date of issue and date of maturity, and all other material facts concerning such obligations must be given.

(k) A description of the general character of the business done and to be done, together with a designation of the territories served including a brief description of the facilities owned or operated by the applicant for transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce.

(l) A brief reference to any license held by the applicant from the Federal Power Commission.

(m) Name and address of counsel who have passed upon the legality of the proposed issue or assumption of liability, and names and addresses of any firms of which they, or of any of them, are members.

(n) A statement as to whether or not any application, registration statement,

etc., with respect to the transaction or any part thereof is required to be filed with any other Federal or State regulatory body.

(o) The facts relied upon by the applicant to show that the issue or assumption (1) is for some lawful object within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (2) is reasonably necessary or appropriate for such purposes.

(p) A brief statement of all rights to be a corporation, franchises, permits, and contracts for consolidation, merger, or lease included as assets of the applicant or any predecessor, thereof, the amounts actually paid as consideration therefor, respectively, and the facts relied upon to show that the issuance of the securities for which approval is requested will not result in the capitalization of the right to be a corporation or of any franchise, permit or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit or contract.

§ 34.3 Required exhibits.

There shall be filed with the application as a part thereof one certified copy of exhibits A and B, and one certified and 5 uncertified copies of exhibits C through P, described as follows:

Exhibit A. A copy of the applicant's charter or articles of incorporation with amendments to date.

Exhibit B. A copy of the bylaws with amendments to date.

Exhibit C. Copies of mortgage, indenture, or other agreement under which it is proposed to issue the securities, also, a copy of any mortgage, indenture, or other agreement securing other funded obligations of the applicant.

NOTE: Once the documents called for in Exhibits A, B, and C have previously been filed with the Commission a specific reference and date of previous filing will be accepted in lieu of separate filing in each subsequent application.

Exhibit D. Copies of all resolutions of directors authorizing the issue or assumption of liability in respect to which the application is made and, if approval of stockholders has been obtained, copies of the resolution of the stockholders should also be furnished.

Exhibit E. The names, titles and addresses of principal officers of applicant.

Exhibit F. A signed copy of opinion of counsel in respect to legality of the issue or assumption of liability.

Exhibit G. A statement of the measure of control or ownership exercised by or over the applicant as to any public utility, or bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or any company supplying electric equipment to such applicant. Where there are any intercorporate relationships through holding companies, ownership of securities or otherwise, the nature and extent of such relationship. If not a member of any holding company system include a statement to that effect.

Exhibit H. Balance sheets with supporting fixed capital or plant schedules in conformity with the form in §§ 131.40 and 131.41 of this chapter.

Exhibit I. A statement as of the date of the balance sheet submitted with application showing for each class and series of capital stock:

(1) Brief description.

(2) The amount authorized (face value and number of shares).

(3) The amount outstanding (exclusive of any amount held in the treasury).

(4) Amount held as reacquired securities.

(5) Amount pledged by applicant.

(6) Amount owned by affiliated corporations.

(7) Amount held in any fund.

Exhibit J. A statement as of the date of the balance sheet submitted with application showing for each class and series of funded debt:

(1) Brief description.

(2) The amount authorized.

(3) The amount outstanding (exclusive of any amount held in the treasury).

(4) Amount held as reacquired securities.

(5) Amount pledged by applicant.

(6) Amount owned by affiliated corporations.

(7) Amount in sinking and other funds.

Exhibit K. A statement of all known contingent liabilities except minor items such as damage claims and similar items involving relatively small amounts, as of the date of the application.

Exhibit L. Comparative income statements in conformity with the form in § 131.42 of this chapter.

Exhibit M. An analysis of surplus for the period covered by the income statements referred to in exhibit L.

Exhibit N. (1) A copy of registration statement proper, if any, and financial exhibits made a part thereof, filed with the Securities and Exchange Commission; (2) a copy of each application and exhibit filed with any State regulatory body in connection with the proposed transaction and if action has been taken thereon a certified copy of each order relating thereto.

NOTE: The information required by exhibit N shall be filed as soon as available.

Exhibit O. Copies of the proposed and of the published invitation of proposals for the purchase or underwriting of the securities to be issued, of each proposal received, and of each contract, underwriting, and other arrangements entered into for the sale or marketing of the securities. Where a contract or underwriting is not in final form so as to permit filing, a preliminary draft or a summary containing such identification of the parties thereto and such setting forth of the principal terms thereof as may be practicable, may be filed, pending filing of conformed copy in the form executed by final amendment to the application.

Exhibit P. A map or maps on scale of not more than 16 miles to the inch showing the territory served by applicant, the location of the principal generating, transmission and substation facilities, and points of connection with other electric utility systems. The maps should show clearly the location of the proposed additions and improvements of generating, transmission and major substation facilities for which the securities are to be issued.

[F.R. Doc. 62-11334; Filed, Nov. 14, 1962; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[Docket No. 14141]

ECONOMIC PROCEEDINGS; DISCRETIONARY REVIEW OF EXAMINERS' DECISIONS UNDER DELEGATED AUTHORITY

Notice of Proposed Rule Making

NOVEMBER 9, 1962.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments of §§ 302.28 and 302.31 of the rules of practice in economic proceedings which would establish discretionary shortened procedures for Board review of initial decisions of examiners rendered pursuant to authority delegated under Reorganization Plan No. 3 of 1961 where an exchange of briefs or oral argument prior to final action by the Board is not necessary.

The principal features of the proposed regulation are explained below and the proposed amendment is set forth below.

This rule-making action is proposed under the authority of sections 204(a) and 1001 of the Federal Aviation Act of 1958, as amended, and Reorganization Plan No. 3 of 1961 (72 Stat. 743, 788; 75 Stat. 837; 49 U.S.C. 1324, 1481).

Interested persons may participate in the proposed rule-making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before December 14, 1962, will be considered by the Board before taking final action on the Proposed Rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Part 302 provides for the delegation to hearing examiners of the function of making the agency decision in certain instances and prescribes procedures for discretionary review by the Board of such decisions. Section 302.28 as presently drafted provides that parties desiring review of an examiner's decision may file a petition. Provision is made for answers. If the Board determines to review the initial decision, the rule contemplates that the parties will file additional briefs and may

file requests for oral argument. However, there appear to be instances in which it would be desirable and proper for the Board to exercise its discretion to review the initial decision of the examiner, and to issue its order, on the record as it stands and the petition for review (if any) and answer thereto, without further briefing or oral argument. Since the Rules of Practice do not expressly provide that Board review of examiners' decisions may be made on the basis of the petition for review and answer alone, the Board proposes to amend § 302.28(d) to include this alternative course.

The proposed rule would provide that the Board make its final decision without further proceedings in cases where the more extensive procedure is not necessary. It is contemplated that the procedure would be used where a petition for review is unopposed or where the issues relate to obvious or minor errors or omissions, or to technical matters in the order, certificate, sanction or remedy.

In instances where a petition for discretionary review is filed by one or more of the parties, the Board desires to have the advantage of the views of parties favoring the petition as well as those opposed to it. As § 302.28(b) now reads, only opposition parties may answer a petition for review. The Board proposes to amend this provision to permit any party to file an answer to such petitions.

Minor language changes are proposed in § 302.31(a) to make it conform more accurately to amended § 302.28(d). No substantive change therein is contemplated. Section 302.28(a)(2) would be similarly amended.

1. Amend the last sentence of § 302.28 (a)(2) to read: "Petitions for review shall specify any matters of fact or law, not argued before the examiner, which petitioner proposes to argue on brief to the Board."

2. Amend § 302.28(b) to read:

(b) *Answer.* Within 15 days after service of a petition for review as provided in § 302.28(a)(1), any party may file and serve an answer of not more than 15 pages in support of or in opposition to such petition. If any party desires to answer more than one petition for review in the same proceeding, he shall do so in a single document of not more than 20 pages. Answers to petitions for review shall otherwise comply with the formal specifications set forth in § 302.31(c).

3. Amend § 302.28(d) to read:

(d) *Review proceedings.* (1) The Board will exercise its right of review upon petition for review or on its own initiative if it finds that the public interest so requires, or when two or more Board Members vote in favor of review. The Board will issue a final order upon such review without further proceedings on any or all the issues where it finds that matters raised do not warrant further proceedings.

(2) Where the Board desires further proceedings the Board will issue an order for review which will:

(i) Specify the issues to which review will be limited. Such issues shall constitute one or more of the issues raised in a petition for review and/or matters which the Board desires to review on its own initiative. Only the issues specified in such order will be considered by the Board.

(ii) Specify the portions of the examiner's decision, if any, which are to be stayed as well as the effective date of the remaining portions thereof.

(iii) Designate the parties to the review proceeding.

The provisions of §§ 302.31 and 302.32 shall apply to discretionary review of initial decisions only in cases where the Board has issued such an order.

4. By amending § 302.31(a) to read:

(a) *Time for filing.* Within such period after the date of service of any recommended decision of an examiner or tentative decision by the Board as may be fixed therein, any party may file a brief addressed to the Board, in support of his exceptions to such decision, or in opposition to the exceptions filed by any other party. When issues are specified in Board orders on review of initial decisions (§ 302.28(d)(2)), briefs shall be filed within 30 days after the date of service of such orders. In cases where, because of the limited number of parties and the nature of the issues, the filing of opening, answering and reply briefs will not unduly delay the proceeding and will assist in its proper disposition, the Board or, where the examiner's decision was not made under delegated authority, the examiner, may direct that the parties file briefs at different times rather than at the same time.

[F.R. Doc. 62-11363; Filed, Nov. 14, 1962; 8:53 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FIRST NATIONAL CITY BANK AND RICHMOND COUNTY NATIONAL BANK

Notice of Decision Granting Application to Merge

The First National City Bank, New York, New York, and the Richmond County National Bank of Port Richmond, Port Richmond, New York, applied to the Comptroller of the Currency for permission to merge under the charter and title of the former.

On November 2, 1962, the Comptroller of the Currency granted this application, effective on or after November 2, 1962.

Copies of this decision are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: November 8, 1962.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 62–11356; Filed, Nov. 14, 1962; 8:51 a.m.]

LIBERTY NATIONAL BANK OF FREMONT AND LINDSEY BANKING CO.

Notice of Decision Granting Application to Consolidate

On August 27, 1962, the $11.4 million Liberty National Bank of Fremont, Fremont, Ohio, filed an application with the Comptroller of the Currency to consolidate with the $1.5 million Lindsey Banking Company, Lindsey, Ohio, under the charter of the former and with the title "The Liberty National Bank, Fremont."

On October 26, 1962, the Comptroller of the Currency granted this application, effective on or after November 2, 1962.

Copies of this decision are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: November 8, 1962.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 62–11357; Filed, Nov. 14, 1962; 8:52 a.m.]

FIRST NATIONAL BANK OF FOSTORIA AND CITY NATIONAL BANK OF TIFFIN

Notice of Decision Granting Application to Merge

On August 31, 1962, the $3.8 million City National Bank of Tiffin, Tiffin, Ohio, and the $14.6 million First National Bank of Fostoria, Fostoria, Ohio, applied to the Comptroller of the Currency for permission to merge under the charter of the latter and with the title "Tri-County National Bank."

On November 2, 1962, the Comptroller of the Currency granted this application, effective on or after November 7, 1962.

Copies of this decision are available on request to the Comptroller of the Currency, Washington 25, D.C.

Dated: November 8, 1962.

[SEAL] A. J. FAULSTICH,
Administrative Assistant to the Comptroller of the Currency.

[F.R. Doc. 62–11358; Filed, Nov. 14, 1962; 8:52 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application Serial No. Idaho 010061, for withdrawal and reservation of lands was published as Federal Register Document No. 59–2705 on page 2538 of the issue for April 1, 1959. The applicant agency has cancelled its application only insofar as it involved the lands described below; therefore, pursuant to the regulations contained in 43 CFR Part 295, such lands will be at 10:00 a.m. on November 21, 1962, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

BOISE MERIDIAN, IDAHO

T. 22 N., R. 7 E., Unsurveyed,
Sec. 24: Located in S½ as follows:
Beginning at a point N. 24°02′ E., 12,915.45 feet from the ¼ section corner on the south boundary of Section 35, T. 22 N., R. 7 E., on the Fifth Standard Parallel North and N. 66°31′ W., 668.10 feet from U.S.L.M. No. 3473; thence S. 82°55′ E., 580.70 feet; thence N. 47°41′ E., 1,177.28 feet; thence S. 52°02′ E., 544.51 feet; thence S. 53°51′ W., 896.45 feet to the point of beginning, said lands being embraced by the Arrowhead Placer Claim.

The area described aggregates 11.45 acres more or less.

MICHAEL T. SOLAN,
Land Office Manager, P.O. Box 2237, Boise, Idaho.

[F.R. Doc. 62–11337; Filed, Nov. 14, 1962; 8:48 a.m.]

National Park Service

[Order 3, Amdt. 12]

NATIONAL PARK SERVICE SUPERINTENDENTS ET AL.

Delegation of Authority

Amendment No. 11, published in 27 F.R. 10005, dated October 11, 1962 was inaccurate and is hereby cancelled. Amendment No. 12 is being issued in its place with the following provisions:

Order No. 3, issued August 28, 1957 (21 F.R. 1493) is amended by changing the designation references in sections 1, 1a, 4 and 5 from Region One Office to Southeast Regional Office; by withdrawal of sections 1(g), 2(h), and 3(n), pertaining to the inspection of properties transferred to state and local agencies for park, recreation and historic monument purposes pursuant to the Act of June 10, 1948, (62 Stat. 350) in view of the limitation contained in 245 DM 1.2A3. Section 6 is also withdrawn because it is no longer needed.

Delete section 1(g).
Delete section 2(h).
Delete section 3(n).
Delete section 6.

Section 1(h) is renumbered (g); section 2(i) is renumbered (h); section 3(o) is renumbered (n); sections 7, 8 and 9 are renumbered sections 6, 7, and 8.

(National Park Service Order No. 14 (19 F.R. 8824); 39 Stat. 535; 16 U.S.C., 1962 ed., sec. 2, Region One Order No. 3 (21 F.R. 1493)).

Dated: November 1, 1962.

E. M. LISLE,
Acting Regional Director, Southeast Region.

[F.R. Doc. 62–11342; Filed, Nov. 14, 1962; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 115–1]

ELK RIVER DEMONSTRATION REACTOR PROGRAM PROJECT

Notice of Issuance of Provisional Operating Authorization

Please take notice that the Atomic Energy Commission, pursuant to the Memorandum Opinion and Interim Authorization Order of the Hearing Examiner dated November 5, 1962, has today issued Provisional Operating Authorization No. DPRA–3, which authorizes Allis-Chalmers Manufacturing Company to operate the Elk River Reactor located near the village of Elk River, Minnesota.

In accordance with Paragraph 4.A. of the authorization, operation of the reactor shall not begin until the Director, Division of Licensing and Regulation, has found that construction of the facility has been completed in conformity with

the final hazards report and the technical specifications.

The authorization will expire eighteen (18) months from the effective date, unless extended for good cause shown, or upon the earlier issuance of a superseding operating authorization pursuant to further order of the Commission.

Copies of the Memorandum Opinion and Interim Authorization Order and the Provisional Operating Authorization are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington 25, D.C.

Dated at Germantown, Md., this 6th day of November 1962.

For the Atomic Energy Commission.

R. LOWENSTEIN,
Director, Division of Licensing and Regulation.

[F.R. Doc. 62–11325; Filed, Nov. 14, 1962; 8:45 a.m.]

[Docket No. 50–24]

GENERAL ELECTRIC CO.

Notice of Application for Construction Permit and Utilization Facility License

Please take notice that General Electric Company, 2151 South First Street, San Jose, Calilfornia, pursuant to section 104c of the Atomic Energy Act of 1954, as amended, has submitted an application dated October 2, 1962, for a license to construct and operate a critical facility designated the Mixed Spectrum Critical Assembly. This facility and the existing Thermal Critical Assembly (Facility License No. CX–4) will be located in the same cell in Building 105 in the applicant's Vallecitos Atomic Laboratory located in Alameda County, California, and will be operated, nonconcurrently, from a common console.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 5th day of November 1962.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 62–11326; Filed, Nov. 14, 1962; 8:45 a.m.]

[Docket Nos. 50–172, 50–176]

LOCKHEED AIRCRAFT CORPORATION AND DEPARTMENT OF THE AIR FORCE

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 2, set forth below, to Facility License No. R–86, as amended. The license authorizes possession by the Department of the Air Force and operation by Lockheed Aircraft Corporation of the Radiation Effects Reactor (RER) located on a 10,000 acre site in Dawson County, Georgia. The amendment authorizes Lockheed Aircraft Corporation to reorient the RER shield tanks 180° from their present position in order to increase the available leakage neutron flux at a test position by a factor of 10, and to replace certain couplings on the tanks with quick disconnect couplings which will facilitate remote assembly and disassembly of drain and fill lines, as described in the licensee's applications for license amendment dated September 25, 1962, and October 24, 1962.

The Commission has found that:

(1) Operation of the reactor in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

(2) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, CFR;

(3) Prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor in accordance with the license, as amended, will not present significant change in the hazards to the health and safety of the public from those considered and evaluated in connection with the previously approved operation.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's Regulation (10 CFR 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) a related hazards analysis prepared by the Test and Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's applications for license amendment dated September 25, 1962, and October 24, 1962, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room, or upon request, addressed to the Atomic Energy Commission, Washington, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 7th day of November 1962.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. R–86; Amdt. No. 2]

License No. R–86 is hereby amended to authorize the changes described in the application amendments dated September 25, 1962, and October 24, 1962.

Paragraph 1. of License No. R–86 is hereby amended to read as follows:

1. This license applies to the Radiation Effects Reactor (RER), a heterogeneous pressurized water-type nuclear reactor (Air Force Plant No. 67) (hereinafter referred to as "the reactor") which is possessed by the Department of the Air Force and located on a 10,000 acre site in Dawson County, Georgia, and described in the Lockheed Aircraft Corporation application for license dated February 23, 1962, and amendments thereto dated April 20, 1962, May 25, 1962, July 25, 1962, September 25, 1962 and October 24, 1962, and described in the Department of the Air Force application for license dated March 15, 1962 and April 11, 1962 (hereinafter collectively referred to as "the applications"). The reactor was constructed for the Department of the Air Force as a facility exempt from AEC licensing requirements under section 91b of the Atomic Energy Act of 1954, as amended.

This amendment is effective as of the date of issuance.

Date of issuance: November 7, 1962.

For the Atomic Energy Commission.

SAUL LEVINE,
Chief, Test and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 62–11327; Filed, Nov. 14, 1962; 8:45 a.m.]

[Docket No. 50–200]

BABCOCK AND WILCOX CO.

Notice of Hearing

At a session of the Atomic Energy Commission held at Washington, D.C., on the 13th day of November 1962, Chairman Glenn T. Seaborg and Commissioners Leland J. Haworth, James T. Ramey, and John G. Palfrey present, it appearing that a notice of hearing in this proceeding in the matter of the application for a construction permit was issued on October 18, 1962, directing that a hearing be held at 10:00 a.m. (e.s.t.), on November 20, 1962, in Lynchburg, Virginia, before an atomic safety and licensing board to be designated by the Commission and at a place to be fixed by order of the Commission:

It is ordered, That the public hearing pursuant to the notice of hearing issued on October 18, 1962, is adjourned to the 3rd day of December 1962 at 10:00 a.m. (e.s.t.), and the place of the hearing is fixed at Room 200, United States Post Office and Court House Building, 900 block, Church Street, Lynchburg, Virginia:

And it is further ordered, That an atomic safety and licensing board will be convened, and Arthur W. Murphy, chairman, and Richard L. Doan and Patrick W. Howe are designated as members of said atomic safety and licensing board, to consider the issues specified in said notice of hearing and to conduct the hearing in accordance with the Commission's regulations, 10 CFR Chapter I, and with the requirements of law.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. MCCOOL,
Secretary.

[F.R. Doc. 62–11441; Filed, Nov. 14, 1962; 11:35 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14838]

RICHARD C. SAMUELSON

Order to Show Cause

In the matter of Richard C. Samuelson, Portland 12, Oregon; order to show cause why there should not be revoked the license for Radio Station 13W1203 in the Citizens Radio Service.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that pursuant to § 1.76 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows: Official Notice of Violation mailed on January 9, 1962, alleging that on January 4, 1962, said licensee had transferred or assigned certain rights and privileges conferred under the license for Citizens Radio Station 13W1203 to Ronald H. Sklare, Portland, Oregon, without approval of the Commission, and that said licensee had failed to maintain control of the subject radio station, in violation of §§ 19.17 and 19.92 of the Commission's rules.

It further appearing that the above-named licensee received said Official Notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated February 16, 1962, and sent by Certified Mail—Return Receipt Requested (Cert. No. 456747), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee, R. C. Samuelson, on February 28, 1962, to a Post Office Department return receipt, and

It further appearing that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing that, in view of the foregoing, the licensee has repeatedly violated § 1.76 of the Commission's rules:

It is ordered, This 8th day of November 1962, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and § 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Acting Secretary send a copy of this Order by Certified Mail—Return Receipt Requested to the said licensee at 3115 N.E. 34th Street, Portland 12, Oregon.

Released: November 8, 1962.

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

[F.R. Doc. 62-11366; Filed, Nov. 14, 1962; 8:53 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP63-53]

SOUTHERN NATURAL GAS CO.

Notice of Application and Date of Hearing

NOVEMBER 7, 1962.

Take notice that on September 4, 1962, Southern Natural Gas Company (Applicant), Watts Building, Birmingham, Alabama, filed in Docket No. CP63-53 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 a line tap and a meter and regulator station on Applicant's Yates branch line, Carroll County, Georgia, and the sale and delivery of natural gas at such new delivery point to Atlanta Gas Light Company (Atlanta Gas), an existing customer, for resale and distribution by the latter in the City of Whitesburg, Georgia, all as more fully set forth in the application on file with the Commission and open to public inspection.

The estimated cost of Applicant's proposed facilities is $14,000, which cost will be financed from cash on hand or from funds available from current operations.

Atlanta Gas will construct and operate a distribution system in Whitesburg and a lateral line from Whitesburg to Applicant's proposed facilities. The initial cost of these facilities is estimated to be $44,000.

The application shows Whitesburg's estimated third year maximum daily and annual requirements to be 200 Mcf and 19,565 Mcf, respectively.

The application indicates that Atlanta Gas has received appropriate authorizations from Whitesburg and the Georgia Public Service Commission.

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 December 18, 1962, at 9:30 a.m., e.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 December 5, 1962. 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-11333; Filed, Nov. 14, 1962; 8:47 a.m.]

OFFICE OF EMERGENCY PLANNING

CALIFORNIA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of California, dated November 3, 1962 (27 F.R. 10778), is hereby amended to include the following county among those determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 24, 1962:

Trinity.

Dated: November 8, 1962.

EDWARD A. MCDERMOTT,
Director, Office of Emergency Planning.

[F.R. Doc. 62-11361; Filed, Nov. 14, 1962; 8:53 a.m.]

FEDERAL RESERVE SYSTEM

COUNTY TRUST CO. AND GRAMATAN NATIONAL BANK AND TRUST COMPANY OF BRONXVILLE

Order Approving Merger of Banks

In the matter of the application of The County Trust Company for approval of merger with The Gramatan National Bank and Trust Company of Bronxville.

There has come before the Board of Governors, pursuant to the Bank Merger Act of 1960 (12 U.S.C. 1828(c)), an application by The County Trust Company, White Plains, New York, a member of the Federal Reserve System, for the Board's prior approval of the merger of that bank and The Gramatan National Bank and Trust Company of Bronxville, Bronxville, New York, under the charter and title of County Trust and, as an incident to the merger, the two offices of Gramatan National would be operated as branches of County Trust. Notice of

the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Department of Justice on the competitive factors involved in the proposed merger,

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved, provided that said merger shall not be consummated (a) within seven calendar days after the date of this Order or (b) later than three months after said date.

Dated at Washington, D.C., this 7th day of November 1962.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 62-11335; Filed, Nov. 14, 1962; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 20]

LEHIGH VALLEY RAILROAD CO.

Application for Loan Guaranties

NOVEMBER 9, 1962

Notice is hereby given of the filing of the following application under part V of the Interstate Commerce Act:

Finance Docket No. 22339, filed November 8, 1962 by Lehigh Valley Railroad Company, 143 Liberty Street, New York 6, New York, for guaranty by the Interstate Commerce Commission of a loan in amount not exceeding $5,000,000. Applicant's representative: Malcolm R. Warnock, Assistant General Counsel, Lehigh Valley Railroad Company, 143 Liberty Street, New York 6, New York. Loan is for the purpose of reimbursing applicant's treasury for expenditures made from its own funds after January 1, 1957, for additions and betterments and other capital improvements, and for the maintenance of property.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 62-11354; Filed, Nov. 14, 1962; 8:51 a.m.]

[Notice 491]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 9, 1962.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and prehearing conferences will be called at 9:30 a.m., United States standard time (or 9:30 a.m., local daylight saving time, if that time is observed), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PREHEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 7832 (Sub-No. 1) (Amendment), filed August 1, 1962, published FEDERAL REGISTER issue October 31, 1962, amended November 7, 1962, and republished as amended this issue. Applicant: SAM LOWENSTEIN AND STANLEY LOWENSTEIN, a partnership, doing business as SUPER M FOODS DELIVERY, 204 Franklin Street, New York, N.Y. Applicant's representative: Charles H. Trayford, 220 East 42d Street, New York 17, N.Y. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail and chain grocery food business houses,* between Linden, N.J., on the one hand, and, on the other, Babylon, Huntington, and Bay Shore, Long Island, N.Y., and Pearl River, N.Y.

NOTE: Applicant states the proposed operation will be under a contract with Food Fair Stores, Inc., Stiles Street, Linden, N.J. The purpose of this republication is to add the destination point of Pearl River, N.Y., to the authority previously sought.

HEARING: Remains as assigned November 30, 1962, at the Hotel Dixie, 250 West 43d Street, New York, N.Y., before Examiner Edith H. Cockrill.

No. MC 10761 (Sub-No. 131), filed November 7, 1962. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich. Applicant's attorney: Howell Ellis, Suite 616-618, Fidelity Building, 111 Monument Circle, Indianapolis 4, Ind. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), serving Odenton, Md., as an offroute point in conection with applicant's authorized regular route operations.

HEARING: December 4, 1962, at the U.S. Appraisers' Stores Building, Baltimore, Md., before Joint Board No. 112.

No. MC 17803 (Sub-No. 1), filed November 7, 1962. Applicant: PREMIER TRUCKING SERVICE CO., a corporation, Box 156, Downtown Station, Omaha, Nebr. Applicant's attorney: David Axelrod, 39 South LaSalle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading), between Carol Stream, Ill., on the one hand, and, on the other, Chicago, Ill.

HEARING: November 29, 1962, at the Palmer House, Chicago, Ill., before Joint Board No. 21, or, if the Joint Board waives its right to participate, before Examiner Walter R. Lee.

No. MC 22229 (Sub-No. 33), filed November 7, 1962. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of usual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Carol Stream, Ill., as an off-route point in connection with applicant's authorized regular route operations to and from Chicago, Ill.

HEARING: November 29, 1962, at the Palmer House, Chicago, Ill., before Joint Board No. 149, or if the Joint Board waives its right to participate, before Examiner Walter R. Lee.

No. MC 23942 (Sub-No. 10), filed October 8, 1962. Applicant: ATLANTIC COAST LINE RAILROAD COMPANY, a corporation, 500 Water Street, Jacksonville 2, Fla. Applicant's representative: Richard D. Sanborn, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* moving in express service in substituted motor for rail service, between Savannah, Ga., and Waycross, Ga., from Savannah over U.S. Highway 17 to junction U.S. Highway 82, thence over U.S. Highway 82 to Waycross, and return over the same route serving the intermediate points of Blackshear, Patterson, Screven, Jessup, Ludowici, Midway, Walthourville and McIntosh, Ga.

HEARING: December 17, 1962, at the Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Joint Board No. 101.

No. MC 59680 (Sub-No. 138), filed November 6, 1962. Applicant: STRICKLAND TRANSPORTATION CO., INC., P.O. Box 5689, Dallas, Tex. Applicant's attorney: Ewell H. Muse, Jr., Suite 415, Perry Brooks Building, Austin 1, Tex. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk, and those injurious or contaminating to other lading), serving the plant site of the Gulf Oil Corporation located near the intersection of Texas Highway 146 and Interstate Highway 10, as an off-route point in connection with applicant's authorized regular route operations at Houston, Tex.

NOTE: Common control may be involved.

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[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington 25, D.C., or to the Federal Reserve Bank of New York.

[2] Voting for this action: Unanimous, with all members present.

HEARING: December 5, 1962, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Joint Board No. 77, or, if the Joint Board waives its right to participate before Examiner Alton R. Smith.

No. MC 61506 (Sub-No. 15) (Clarification), filed June 25, 1962, published in FEDERAL REGISTER issue of October 10, 1962, republished as clarified this issue. Applicant: RUSSELL TRANSFER COMPANY, INC., Athens-Augusta Highway, Washington, Ga. Applicant's attorney: Theodore M. Forbes, Jr., Citizens & Southern National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Trailers, semitrailers* and *freight containers,* loaded or empty (lading not specified), owned by the Gulf Oil Corporation, between railroad trailer-on-flatcar loading and unloading facilities in Virginia, Kentucky, North Carolina, South Carolina, Tennessee, Alabama, Georgia, and Florida on the one hand, and on the other, points within said states, the operations being restricted to transportation in connection with prior or subsequent transportation of the above-stated items by rail, and under continuing contract or contracts with the Gulf Oil Corporation.

NOTE: The purpose of this republication is to clarify the authority sought.

HEARING: Remains as assigned December 3, 1962, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Parks M. Low.

No. MC 64994 (Sub-No. 46), correction), filed October 10, 1962, published FEDERAL REGISTER, issue of November 7, 1962, and republished as corrected this issue. Applicant: HENNIS FREIGHT LINES, INC., P.O. Box 612, Winston-Salem, N.C. The purpose of this republication is to show applicant's correct docket number as No. MC 64994 (Sub-No. 46), in lieu of No. MC 64995 (Sub-No. 46), shown in previous publication in error, and to show the hearing will be held in Washington, D.C.

HEARING: Remains as assigned December 13, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Dallas B. Russell.

No. MC 73165 (Sub-No. 171), filed September 24, 1962. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, Ala. Applicant's attorney: J. Douglas Harris, 413–414 Bell Building, Montgomery, Ala. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, machinery, and machinery parts, contractors' equipment, materials and supplies, commodities which by reason of size or weight require the use of special equipment or special handling, and related contractors' materials and supplies when transported in connection with commodities, which, by reason of size or weight, require the use of special equipment or special handling,* (1) from points in Alabama, to railheads in Alabama, for subsequent movement by rail and, (2) from railheads in Alabama, after prior transportation by rail to points in Alabama and, *empty containers or other such incidental facilities* (not specified), used in transporting the commodities specified above, on return.

HEARING: November 29, 1962, at the Hotel Thomas Jefferson, Birmingham, Ala., before Joint Board No. 100.

No. MC 88905 (Sub-No. 17), (Correction) filed September 18, 1962, published issue of October 24, 1962, corrected November 5, 1962, and republished as corrected this issue. Applicant: CARL R. VAN DYKE, doing business as C. R. VAN DYKE, 87 Clinton Street, Montgomery, N.Y. Applicant's representative: A. E. Enoch, Brodhead Block, 556 Main Street, Bethlehem, Pa. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Anthracite coal* (1) from Greenwood Breaker and Colliery at Tamaqua, Pa., to Lakeville, Conn., and (2) from Scranton and Hazelton, Pa., and points within 25 miles of each to Lakeville, Conn.

NOTE: Applicant is also authorized to conduct operations in Permit No. MC 109864, so therefore, dual operations may be involved. The purpose of this republication is to show the destination point as Lakeville, Conn., in lieu of Lakeland, Conn.

HEARING: Remains as assigned December 5, 1962, at 346 Broadway, New York, N.Y., before Examiner C. Evans Brooks.

No. MC 94265 (Sub-No. 90) (Amendment), filed September 14, 1962, published FEDERAL REGISTER issue October 17, 1962, amended October 31, 1962, and republished as amended this issue. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 12388, Thomas Corner Station, Norfolk, Va. Applicant's attorney: E. Stephen Heisley, Transportation Building, Washington 6, D.C.

NOTE: The purpose of this republication is to delete the destination point "West Virginia" as shown in previous publication, and add in lieu thereof "the District of Columbia".

HEARING: Remains as assigned, November 20, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Lyle C. Farmer.

No. MC 107515 (Sub-No. 416), filed November 5, 1962. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue, SW., Atlanta 10, Ga. Applicant's attorney: Clyde W. Carver, Suite 214–217, Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts,* as defined by the Commission, from points in Iowa, to points in Alabama, North Carolina, South Carolina, Florida, and Georgia.

NOTE: Common control may be involved.

HEARING: December 5, 1962, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Francis A. Welch.

No. MC 109637 (Sub–No. 213) (Amendment), filed September 19, 1962, published FEDERAL REGISTER issue October 24, 1962, amended November 1, 1962, and republished as amended this issue. Applicant: SOUTHERN TANK LINES INC., 4107 Bells Lane, Louisville 11, Ky. Applicant's representative: H. N. Nunnally (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals,* in bulk, in tank vehicles, from points in Daviess County, Ky., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas, West Virginia, and Wisconsin.

NOTE: The purpose of this republication is to include Oklahoma as one of the destination States in the authority previously sought.

HEARING: Remains as assigned November 30, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Lyle C. Farmer.

No. MC 110878 (Sub-No. 18), filed October 23, 1962. Applicant: ARGO TRUCKING COMPANY, INC., Lower Heard Street, Elberton, Ga. Applicant's attorney: Guy H. Postell, Suite 693, 1375 Peachtree Street NE., Atlanta 9, Ga. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Oyster shells,* on flat-bed trailers with protective tarpaulins, from Jacksonville, Fla., and Mobile, Ala., to points in Georgia on and north of U.S. Highway 80.

HEARING: December 18, 1962, at the Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Joint Board No. 99.

No. MC 112497 (Sub-No. 194), filed November 2, 1962. Applicant: HEARIN TANK LINES, INC., P.O. Box 3096, 6440 Rawlins Street, Istrouma Branch, Baton Rouge, La. Applicant's attorney: Harry C. Ames, Jr., Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry commodities,* in bulk, (1) between points within a 75-mile radius of New Orleans, La., on the one hand, and, on the other, points in the United States, including Alaska, and (2) between points within a 75-mile radius of Orange, Tex., on the one hand, and, on the other, points in the United States including Alaska.

HEARING: December 10, 1962, at the Federal Office Building, 701 Loyola Avenue, New Orleans, La., before Examiner James O'D. Moran. This assignment is for applicant's presentation only.

No. MC 112617 (Sub-No. 126) (Clarification), filed August 27, 1962, published in FEDERAL REGISTER issue of October 10, 1962, clarified November 6, 1962, and republished as clarified this issue. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 5135, Cherokee Station, Louisville 5, Ky. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cotton softeners,* from Cincinnati, Ohio, to Calhoun, Tenn., and *rejected shipments,* on return.

NOTE: The purpose of this republication is to clarify the commodity description changing it from defoaming compounds to cotton softeners.

HEARING: Remains as assigned November 29, 1962, at the Kentucky Hotel, Louisville, Ky., before Joint Board No. 209.

No. MC 112617 (Sub-No. 128) (Amendment) filed September 19, 1962, published FEDERAL REGISTER issue of October 24, 1962, amended November 1, 1962, and republished as amended, this issue. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 5135, Cherokee Station, Louisville 5, Ky. Applicant's attorney: Leonard A. Jaskiewicz, Munsey Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Daviess County, Ky., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas, West Virginia, and Wisconsin, and *rejected shipments* of the above-specified commodities, on return.

NOTE: The purpose of this republication is to add "Oklahoma" as a destination state.

HEARING: Remains as assigned November 30, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Lyle C. Farmer.

No. MC 113908 (Sub-No. 105) (Correction), filed October 3, 1962, published FEDERAL REGISTER issue of October 31, 1962, and republished as corrected this issue. Applicant: ERICKSON TRANSPORT CORPORATION, MPO Box 706, 706 West Tampa, Springfield, Mo. Applicant's attorney: Turner White, III, 805 Woodruff Building, Springfield, Mo. The purpose of this republication is to show the correct name of applicant as shown above in lieu of Erickson Transit Corporation shown in previous publication, in error.

HEARING: Remains as assigned December 5, 1962, at the Arkansas Commerce Commission, Justice Building, State Capitol, Little Rock, Ark., before Examiner William R. Tyers.

No. MC 114019 (Sub-No. 100), filed October 11, 1962. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, meat, meat products* and *meat byproducts*, from Piqua, Ohio to points in Maryland, North Carolina, and Virginia.

HEARING: November 20, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Alfred B. Hurley.

No. MC 114098 (Sub-No. 42) Amendment), filed October 17, 1962, published in FEDERAL REGISTER issue of November 7, 1962, amended November 6, 1962, and republished as amended this issue. Applicant: LOWTHER TRUCKING COMPANY, a corporation, P.O. Box 2115, Charlotte 1, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, copper, brass, steel and other ferrous and nonferrous metals*, such as *sheets, blanks, bars, rods and tubing*, on flat trailers, from Springfield, Mass., Waterbury, Conn., the New York, N.Y., commercial zone and the Philadelphia, Pa., commercial zone, to points in New York, Pennsylvania, Ohio, Indiana, Michigan, Illinois, Wisconsin, Kentucky, Missouri, Arkansas, Oklahoma, Texas, Louisiana, Mississippi, Tennessee, Alabama, Virginia, Maryland, and the District of Columbia.

NOTE: The purpose of this republication is to delete North Carolina as a destination state.

HEARING: Remains as assigned December 17, 1962, at the Interstate Commerce Commission, Washington, D.C., before Examiner Frank R. Saltzman.

No. MC 115331 (Sub-No. 37), filed October 31, 1962. Applicant: TRUCK TRANSPORT, INC., 719 Buder Building, 707 Market Street, St. Louis 1, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar and blends thereof, and molasses and blends thereof*, in bulk, from points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone to points in Illinois, Indiana, Kansas, and Missouri, and *rejected shipments*, on return.

HEARING: November 30, 1962, at the Pick-Mark Twain Hotel, St. Louis, Mo., before Examiner A. Lane Cricher.

No. MC 119268 (Sub-No. 15) (Correction), filed October 7, 1962, published FEDERAL REGISTER issue October 31, 1962, corrected and republished this issue. Applicant: OSBORN, INC., 228 North Fourth Street, Gadsden, Ala. Applicant's representative: Robert E. Tate, 2031 Ninth Avenue South, Birmingham 5, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconuts and pineapples*, (1) from Jacksonville, Fla., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, and (2) from Tampa, Fla., and Charleston, S.C., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE: The purpose of this republication is to correctly show the destination points as shown above, in lieu of those shown in previous publication.

HEARING: Remains as assigned, December 19, 1962 at the Mayflower Hotel, Jacksonville, Fla., before Examiner Allen W. Hagerty.

No. MC 123075 (Sub-No. 7) (Correction), filed July 5, 1962, published FEDERAL REGISTER issue October 17, 1962, corrected October 26, 1962, and republished as corrected this issue. Applicant: HARVEY D. SHUPE AND HOWARD YOST, a partnership, doing business as SHUPE & YOST, 2721 Eighth Avenue, Greeley, Colo. Applicant's attorney: Michael T. Corcoran, 1360 Locust Street, Denver 20, Colo.

NOTE: The purpose of this republication is to delete the return movement "salt and salt products and exempt commodities", as shown in previous publication.

HEARING: Remains as assigned, December 5, 1962, at the Park East Hotel, Kansas City, Mo., before Examiner Samuel Horwich.

No. MC 124047 (Sub-No. 8) (amendment), filed July 30, 1962, published FEDERAL REGISTER issue August 22, 1962, amended November 3, 1962, and republished as amended this issue. Applicant: SCHWERMAN TRUCKING CO. OF OHIO, a corporation, 620 South 29th Street, Milwaukee 46, Wis. Applicant's attorney: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbon dioxide*, liquefied, in bulk, in tank vehicles, and *carbon dioxide*, solidified (dry ice), from Lima, Ohio, to points in Indiana and points in the Lower Peninsula of Michigan, (2) *aqua ammonia, anhydrous ammonia, nitrogen fertilizer solutions*, and *nitric acid*, in bulk, in tank vehicles; and *urea*, in bulk, in tank vehicles and in bags, from Lima, Ohio, to points in Wisconsin (except points in Kenosha, Racine and Milwaukee Counties), (3) *compressed oxygen*, in shipper-owned cylinders and trailers, and *returned shipper-owned cylinders and trailers*, between Lima, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Pennsylvania, West Virginia, and the Lower Peninsula of Michigan, (except from (a) Tuscola, Ill., (b) Louisville or Marshall, Ky., or points in Kentucky within five miles of Bradenburg, Ky.), (4) *compressed helium*, in shipper-owned cylinders and trailers, from Lima, Ohio, to points in Illinois, Indiana, Kentucky, Pennsylvania, West Virginia, and the Lower Peninsula of Michigan, and *shipper-owned cylinders and trailers*, in the transportation of compressed helium, on return, (5) *carbon dioxide*, liquefied, in bulk, in tank vehicles, and *carbon dioxide*, solidified (dry ice), from Lima, Ohio, to points in Kentucky and West Virginia, (6) *nitric acid*, in bulk, in tank vehicles, from the plant site of the Sohio Chemical Company located in or near Lima, Ohio, to points in Tennessee, (7) *urea*, from Lima, Ohio, to Buffalo, N.Y., Phillipsburg, N.J., and points within ten (10) miles of Phillipsburg, and points in Iowa, Minnesota, and Missouri, *and empty containers or other articles* used in the transportation of urea, from the above-specified destination points to Lima, Ohio, (8) *nitric acid*, in bulk, in tank vehicles, from the plant site of Sohio Chemical Company at or near Lima, Ohio, to points in that part of New York west of a line extending along the western boundaries of Clinton, Essex, Warren, Saratoga, Schenectady, Albany, Greene, Ulster, and Sullivan

Counties, N.Y., (9) *dry catalyst,* in bulk, in tank vehicles, between Louisville, Ky., and Lima, Ohio, (10) *ammonium nitrate,* in bulk, in tank vehicles, and in containers, from the plant site of Sohio Chemical Company in Lima, Ohio, to points in Indiana, Illinois, Pennsylvania and Kentucky, (11) *ammonium nitrate,* in bulk, in tank vehicles, from the plant site of Sohio Chemical Company in Lima, Ohio, to points in Michigan, (12) *ammonium nitrate,* in containers, from the plant site of Sohio Chemical Company in Lima, Ohio, to points in the Lower Peninsula of Michigan, (13) *nitric acid,* in bulk, in tank vehicles, from the plant site of the Sohio Chemical Company, at Lima, Ohio, to St. Louis, Mo., and (14) *aqua ammonia, anhydrous ammonia, nitrogen fertilizer solutions,* and *nitric acid,* in bulk, in tank vehicles, and *dry urea,* in bulk, in tank vehicles, and in containers, from the site of Sohio Chemical Company plant at or near Lima, Ohio, to points in Illinois, Indiana, Kentucky and Pennsylvania, points in the Lower Peninsula of Michigan, and points in Kenosha, Racine, and Milwaukee Counties, Wis.

NOTE: The purpose of this republication is to delete that portion of the authority set forth in item (10) in previous publication, and to include item (14) as shown above in the authority applicant desires to convert into "common carriage". The routes set forth in this publication have been renumbered.

HEARING: December 18, 1962, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James Anton.

No. MC 124414 (Republication), filed April 26, 1962, published issue of May 9, 1962, and republished this issue. Applicant: BENTLEY TRANSPORT CORP., 70–32–83d Street, Brooklyn 27, N.Y. Applicant's representative: William D. Traub, 10 East 40th Street, New York 16, N.Y. By application filed April 26, 1962, applicant sought authority to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Flat rolled steel products, such as hot rolled, cold rolled and galvanized and pickled steel sheets, coil and strip, tin plate and tin mill black plate,* between the site of the warehouse of Glendale Steel Corporation located in New York, N.Y., and points in New York and New Jersey, and *rejected and refused shipments,* on return. The application was referred to Examiner Francis A. Welch for hearing on September 18, 1962, at New York, N.Y. The hearing was held, and a Report and Order, served October 1, 1962, effective October 31, 1962, finds that applicant is fit, willing and able to perform operations as a *contract carrier* by motor vehicle, over irregular routes, under a continuing contract with Glendale Steel Corporation, of Brooklyn, N.Y. in the transportation (1) of *flat rolled steel products, and steel bars and angles,* from the site of the warehouse of Glendale Steel Corporation, located in New York, N.Y., to points in Westchester, Putnam, Dutchess, Columbia, Rensselaer, Albany, Schenectady, Greene, Ulster, Sullivan, Orange and Rockland Counties, N.Y., Camden, N.J., and points in New Jersey located on and north of a line extending eastward from Camden, N.J., along U.S. Highway 30 to junction New Jersey Highway 38, thence along New Jersey Highway 38 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, and thence along New Jersey Highway 72 to the Atlantic Ocean, and (2) *of returned shipments of the above-named commodities* from the New Jersey and New York destination points specified above to the said warehouse site in New York, N.Y. It is noted that the authorization of the transportation of steel bars and angles is in excess of the scope of the application as filed and as previously published in the FEDERAL REGISTER. Out of an abundance of caution, the application is being republished in the FEDERAL REGISTER and the issuance of authority herein shall be withheld until the lapse of 30 days from the date of such republication, during which period any proper party in interest may file a petition for further hearing.

No. MC 124762, filed September 10, 1962. Applicant: AUGUSTA CONCRETE CORPORATION, 1753 Sunset Avenue, Augusta, Ga. Applicant's attorney: J. Walker Harper, 520 Greene Street, Augusta, Ga. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Sand, gravel and crushed stone,* in truckload lots, between points in Richmond and Columbia Counties, Ga., and points in Edgefield and Aiken Counties, S.C.

NOTE: Applicant has filed an application to conduct the same operation as a common carrier in MC 124903.

HEARING: December 18, 1962, at Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Joint Board No. 131.

No. MC 124903, filed November 7, 1962. Applicant: AUGUSTA CONCRETE CORPORATION, 1753 Sunset Avenue, Augusta, Ga. Applicant's attorney: J. Walker Harper, 520 Greene Street, Augusta, Ga. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sand, gravel and crushed stone,* in truckload lots, (1) from quarries and sand pits in Aiken and Edgefield Counties, S.C., to points in Richmond and Columbia Counties, Ga., and (2) from quarries and sand pits in Richmond and Columbia Counties, Ga., to points in Aiken and Edgefield Counties, S.C.

NOTE: Applicant has filed an application to conduct the same operation as a contract carrier in MC 124762.

HEARING: December 18, 1962, at the Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Joint Board No. 131.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub-No. 336), filed November 8, 1962. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 180 Boyden Avenue, Maplewood, N.J. Applicant's attorney: Richard Fryling (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers,* in the same vehicle with passengers, between points in Edison Township, N.J., and points in Woodbridge Township, N.J., from the junction of the Metuchen-Edison Township boundary line at Amboy Avenue, over Amboy Avenue, Edison Township, to King George Post Road, Woodbridge Township, thence over King George Post Road to the junction of New Jersey Highway 440 (Old Road to New Brunswick Road), thence over New Jersey Highway 440 to the junction of U.S. Highway 9, Woodbridge Township, using appropriate access roads, and return from U.S. Highway 9 over King George Post Road and thence over the same route, for operating convenience only, serving no intermediate points except for joinder purposes at U.S. Highway 1.

HEARING: November 19, 1962, in Room 212, State Office Building, 1100 Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

APPLICATIONS FOR BROKERAGE LICENSES

MOTOR CARRIERS OF PASSENGERS

No. MC 12827, filed September 4, 1962. Applicant: JANE E. HILLSEN AND ROBERT J. MASSONGILL, a partnership, doing business as CALIFORNIA EDUCATIONAL TOURS, 1521 W. Highland, Redlands, Calif. For a license (BMC 5) to engage in operation as a *broker* at Redlands, Calif., in arranging for the transportation in interstate or foreign commerce by motor vehicle of *passengers and their baggage,* between points in California, on the one hand, and, on the other, points in the United States.

HEARING: December 17, 1962, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Joint Board No. 75, or, if the Joint Board waives its right to participate before Examiner F. Roy Linn.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN ELECTED

MOTOR CARRIERS OF PROPERTY

No. MC 15167 (Sub-No. 30) (Republication), filed May 31, 1962, published in the FEDERAL REGISTER issue of September 26, 1962, republished this issue. Applicant: PAUL F. CULLUM, doing business as CULLUM TRUCKING CO., 1281 West Side Avenue, Jersey City, N.Y. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Coke,* in bulk, in dump vehicles equipped with automatic hoists, from the site of the Koppers Company, Inc., plant at Kearny, N.J., to Baltimore, Md.

NOTE: Common control may be involved.

The purpose of this republication is to give notice that this application will be handled without oral hearing.

No. MC 66562 (Sub-No. 1926), filed November 1, 1962. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorneys: Elmer F. Slovacek, Suite 2800, 188 Randolph Tower, Chicago 1, Ill. Authority sought

to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, moving in express service, serving Walthill, Nebr., as an offroute point in connection with applicant's regular-route operations in MC 66562 Sub 1620.

NOTE: Applicant states "Pender, Nebr., is an intermediate point on its current operation between St. Paul, Minn. and Omaha, Nebr.

"It desires to extend said existing operation to render substitute motor for rail service at Walthill, Nebr., as an offroute point upon said Sub 1620. Its existing operation Sub 1620 is a substitute motor for rail operation. The proposed extension thereof to serve Walthill, Nebr., as an offroute point thereon would also constitute substitution of motor transport for rail transport currently used. As a substitute-service application, and as an extension of an existing substitute motor for rail service, the application is made for *RESTRICTED AUTHORITY* as follows: To be limited to transportation of *general commodities moving in express service*, the basic restriction 'moving in express service' to be supplemented by the conditions applicable to MC 66562 Sub 1620. The conditions applicable to Sub 1620 are: (1) The service to be performed by applicant shall be limited to express service or that which is auxiliary to or supplemental thereof, and shall be subject to the following restrictions: (a) Service at Omaha, Nebr., shall be restricted to traffic originating at or destined to points in Iowa and Nebraska, south of Sioux City, Iowa-South Sioux City, Nebr., or to traffic having an immediately prior or subsequent movement by rail or air; (b) service at Sioux City, Iowa-South Sioux City, Nebr., shall be restricted to traffic originating at or destined to points in Iowa and Nebraska north of Omaha, Nebr.-Council Bluffs, Iowa, and to traffic originating at or destined to points in Iowa or Minnesota south of Minneapolis-St. Paul, Minn., or to traffic having an immediately prior or subsequent movement by rail or air; (c) service at Minneapolis-St. Paul, Minn., shall be restricted to traffic originating at or destined to points in Iowa and Minnesota north of Sioux City, Iowa-South Sioux City, Nebr., or to traffic having an immediately prior or subsequent movement by rail or air; (2) shipments transported by applicant shall be limited to those moving on through bills of lading or express receipts; (3) the authority granted herein to the extent it authorizes the transportation of dangerous explosives, shall be limited, in point of time, to a period expiring five years from the date of the certificate; (4) such further specific conditions as the Commission, in the future, may find necessary to impose in order to restrict applicant's operations to service which is auxiliary to or supplemental of air or railway express service."

No. MC 86238 (Sub-No. 18), filed November 2, 1962. Applicant: J. C. HAGLER, JR. and T. W. HAGLER, a partnership, doing business as HAGLER TRUCK COMPANY, 605 12th Street, Augusta, Ga. Applicant's attorney: Frank A. Graham, Jr., 707 Security Federal Building, Columbia 1, S.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick and clay products*, from Augusta, Ga., to points in South Carolina more than 110 miles from Augusta, and points in North Carolina, and (2) *empty pony pallets for asphalt roofing*, from Covington, Jasper, and Vidalia, Ga., and points in that part of Georgia north and east of a line beginning at Savannah, Ga., and extending along U.S. Highway 80 to Blitchton, Ga., thence along U.S. Highway 280 to Lyons, Ga., thence along U.S. Highway 1 to Louisville, Ga., thence along Georgia Highway 24 to Eatonton, Ga., thence along U.S. Highway 129 to the Georgia-North Carolina State Line, including points on the indicated portions of the highways specified, to points in Charleston County, S.C.

NOTE: Applicant states it has authority to render the service in Permit No. MC 86238 (Sub-No. 15) limited to a transportation service to be performed under a continuing contract or contracts with Georgia-Carolina Brick & Tile Company of Augusta, Ga. The purpose of the proposed service in (1) above is to add Merry Bros. Brick & Tile Co. as a shipper.

No. MC 86687 (Sub-No. 67), filed November 6, 1962. Applicant: SEABOARD AIR LINE RAILROAD COMPANY, a corporation, 3600 West Broad Street, Richmond, Va. Applicant's attorney: Wilkes C. Robinson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Durham, N.C., and Raleigh, N.C.; from Durham over U.S. Highway 70 to Raleigh, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points.

No. MC 111812 (Sub-No. 187), filed November 4, 1962. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 747, Wilson Terminal Building, Sioux Falls, S. Dak. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), serving Henrietta, N.Y., as an off-route point for interchange only in connection with applicant's regular route operations between Plainville, Conn., and Jamestown, N.Y.

NOTE: Common control may be involved.

No. MC 119638 (Sub-No. 3) (Amendment), filed October 19, 1962, published FEDERAL REGISTER issue October 31, 1962, and republished as amended this issue. Applicant: J. W. HOFACKET AND BENNY HOFACKET, a partnership doing business as J. W. HOFACKET, Box 220, Marathon, Tex. Applicant's attorney: Leo S. Hay, 1701 Avenue Q, Lubbock, Tex. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fluorspar ore*, in bulk, (1) from port of entry on the United States-Mexico boundary line at Boquillas, Tex., to Marathon, Tex., and (2) between port of entry on the United States-Mexico boundary line at Heath Crossing, Tex., and Marathon, Tex.

NOTE: Applicant states the transportation service proposed herein will be performed under a continuing contract with The Delhi Foundry Sand Co. The purpose of this republication is to show the change of applicant's name from an individual to a partnership, and to show route (2) as a "between" movement in lieu of "from and to" movement.

No. MC 124868 (Sub-No. 1), filed November 5, 1962. Applicant: W. J. LANDES, doing business as LANDES' GARAGE, 115 South Augusta Street, Staunton, Va. Applicant's attorney: Mosby J. Williams, Peoples Federal Building, Roanoke, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden billets*, under refrigeration, (1) from Chelsea, Lincoln, Post Mills, Waits River, and Groton, Vt., and port of entry on the United States-Canada Boundary line at or near North Troy, Vt., to Monticello, Ga., and (2) from the port of entry on the United States-Canada Boundary line near North Troy, Vt., to Greenville, S.C.

NOTE: Applicant is authorized to conduct operations as a contract carrier in No. MC 117504 Subs 1 and 2 transporting the identical commodities in the same territory as applied for herein. The purpose of this application is to convert to a common carrier in lieu of a contract carrier.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Sub-No. 285), filed October 29, 1962. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago 3, Ill. Applicant's attorney: Earl A. Bagby, 371 Market Street, San Francisco 5, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, (A) "29. between Biggs Junction, Oreg., and the Oregon-Washington State line south of Maryhill, Wash.: from junction U.S. Highway 30 and U.S. Highway 97 (Biggs Junction), over U.S. Highway 97 to Oregon-Washington State line, and return over the same route, serving all intermediate points (connects with Washington Route 51)." (B) "51. between Maryhill Junction, Wash. and Washington-Oregon State line south of Maryhill, Wash.: from junction U.S. Highway 830 and U.S. Highway 97 (Maryhill Junction) over U.S. Highway 97 to Washington-Oregon State line, and return over the same route, serving all intermediate points (connects with Oregon Route 29)."

NOTE: The proposed operating authority hereinabove shown and explained is proposed to be incorporated in the designated revised and added sheets to said Certificate No. MC 1501 (Sub-No. 138).

No. MC 1501 (Sub-No. 286), filed November 5, 1962. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago 3, Ill. Applicant's attorney: W. T. Meinhold, 371

Market Street, San Francisco 5, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, (A) "87. Between Benicia Junction and Benicia, Calif.: from junction U.S. Highway 40 and unnumbered highway in South Vallejo (Benicia Junction), over unnumbered highway to Benicia. Service is authorized to be conducted in special operations only." (B) "88. Between Cordelia Junction and South Bridge Junction, Calif.: from junction U.S. Highway 40 and California Highway 21 (Cordelia Junction), over California Highway 21 to junction unnumbered highway east of Martinez (South Bridge Junction). Service is authorized to be conducted in special operations only", serving all intermediate points, in (A) and (B) above.

NOTE: The proposed operating authority hereinabove shown and explained is proposed to be incorporated in the designated revised and added sheets to said Certificate No. MC 1501 (Sub-No. 138).

No. MC 118526 (Sub No. 1), filed March 2, 1959. Applicant: PAUL GREIMANN, JR., AND PAUL B. NISTLER, doing business as ALASKA MOTOR COACHES, INC., 1805 Cushman Street, Box 1048, Fairbanks, Alaska. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Passengers and their baggage*, and *mail, express* and *newspapers*, in the same vehicle with passengers, between points in Alaska as follows: (A) In charter and scheduled service: (1) From Fairbanks over Alaska Highway 1 to Delta Junction, thence over Alaska Highway 2 via Northway Junction to the Boundary of the United States and Canada, at a point approximately 40 miles southeast of Northway Junction, and return over the same route; (2) from Northway Junction over unnumbered highway to Northway, and return over the same route; (3) from Delta Junction over Alaska Highway 1 to Junction Inn, and thence to Anchorage over Alaska Highway 3, and return over the same route, serving all intermediate points on the above-specified routes. (B) Seasonal operations: (1) Between Delta Junction and Valdez, Alaska; (2) from Delta Junction over Alaska Highway 1 to Valdez, and return over the same route, serving all intermediate points. (C) (1) From Tetlin Junction, Alaska, to Boundary, Alaska, over the Taylor Highway, and return over the same route; (2) from Fairbanks to Nenana over unnumbered highway, and return over the same route; and (3) from Porcupine to Haines, and return over the same route, serving all intermediate points on the above-specified routes.

APPLICATIONS FOR BROKERAGE LICENSES

MOTOR CARRIERS OF PASSENGERS

No. MC 12838, filed October 31, 1962. Applicant: IDEAL TRAVEL SERVICE OF THE TRIPLE CITIES, INC., 19 Avenue A, Johnson City, N.Y. Applicant's attorney: Frank A. Nemia, 53 Front Street, Binghamton, N.Y. For a license (BMC 5) to engage in operations as a *broker* at Johnson City, N.Y., in arranging for transportation in interstate or foreign commerce of *Passengers and their baggage*, in groups, between points in Broome, Tioga, Chemung, Steuben, Tompkins, Cortland, Chenango, Delaware, Otsego, Sullivan, Orange, and Schuyler Counties, N.Y., and points in the United States (excluding points in Alaska and Hawaii).

NOTICE OF FILING OF PETITIONS SEEKING MODIFICATION OF COMMODITY DESCRIPTION IF PERTINENT ACTIVE OPERATING AUTHORITY HELD BY PETITIONERS

In a report on reconsideration, decided October 16, 1961, and served November 9, 1961, in No. MC 109637 (Sub-No. 74), *Southern Tank Lines, Inc., Extension—St. Bernard, Ohio*, the Commission concluded generally that the commodity descriptions utilized in granting operating authority to motor carriers of liquid chemicals, including those prescribed in *Descriptions in Motor Carrier Certificates*, 61 M.C.C., 209, 766, and *Maxwell Co., Extension—Addyston*, 63 M.C.C., 677, should be revised for use in making future grants, and as a basis for modifying outstanding certificates and permits upon application of the holders thereof in accordance with approved procedure. The Commission found with respect to the commodity descriptions at issue, that the generic heading "liquid chemicals, in bulk, in tank vehicles," is a proper and reasonable commodity description for use in motor carrier operating authorities issued by the Commission; and that where such commodity description described is utilized, the following will be reasonable and proper definition thereof for determining the commodities which are embraced in such description:

Liquid chemicals, as used in the foregoing commodity description are those substances or materials resulting from a chemical or physical change induced by processes employed in the chemical industry, including uniting, mixing, blending, and compounding.

The subject report provided: "All motor carriers holding certificates or permits authorizing the transportation in bulk, in tank vehicles, of 'liquid chemicals as defined in the *Maxwell* case', of 'acids and chemicals as described in the *Descriptions* case', or of liquid chemicals under any other commodity description, are hereby notified that petitions will be entertained requesting the modification of such authorities to reflect the revised commodity descriptions promulgated herein. Such petitions should refer to the specific authority which the carrier desires to have modified, and should contain a certification that there is, in fact, traffic available for the transportation from and to the points it is authorized to serve, and that its operations are not dormant. The petitions should be filed in the proceedings in which the authority held was granted, these petitions will be published in the FEDERAL REGISTER, and if no objections are filed thereto, they will be disposed of without extended further proceedings. If protests are received, a hearing may be required for their disposition; but, in such event, every effort will be made to conclude the proceedings promptly." The following petitions seeking modification of pertinent operating authorities have been received:

No. MC 92983 (Sub-Nos. 119, 144, 170, 227, 231, 243, and 383) filed October 29, 1962. Petitioner: ELDON MILLER, INC., Iowa City, Iowa.

No. MC 110420, and (Sub-Nos. 81, 109, 115, 117, 132, 151, 166, 188, 192, 194, 204, 245, 252, and 285), filed October 31, 1962. Petitioner: QUALITY CARRIERS, INC., Burlington, Wis. Petitioner's attorney: James K. Knudson, 1903 N Street NW., Washington 6, D.C.

No. MC 116077 and Sub-Nos. 6, 19, 26, 89 and 99, filed October 29, 1962. Petitioner: ROBERTSON TANK LINES, INC., Houston, Tex. Petitioner's attorney: Mert Starnes, 401 Perry-Brooks Building, Austin 1, Tex. Any person or persons desiring to participate in this proceeding may file replies to said petition (original and fourteen (14) copies each) within 30 days from the date of this publication in the FEDERAL REGISTER. In the event it is deemed necessary or desirable, informal conferences between our staff members and the tank truck carriers, and any other persons who may have an interest in the matter, can be arranged for the purpose of implementing the matter. Persons responding to this publication should specifically advise whether an informal conference is desired.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-8127 (HARDIE W. JAMIESON—PURCHASE (PORTION)—W. R. HALL TRANSPORTATION AND STORAGE CO.), published in the April 18, 1962, issue of the FEDERAL REGISTER on page 3722. Application filed November 1, 1962, for temporary authority under section 210a(b).

No. MC-F-8229 (HELPHREY MOTOR FREIGHT, INC.—CONTROL AND MERGER—OKANOGAN VALLEY MOTOR FREIGHT, INC.), published in the September 19, 1962, issue of the FEDERAL REGISTER on page 9305. Supplement filed October 22, 1962, to show joinder of HAROLD MORSE and HENRY J. HOLIEN as persons in control of HELPHREY MOTOR FREIGHT, INC.

No. MC-F-8247 (ASBURY TRANSPORTATION CO.—PURCHASE—STEEL TRANSPORTERS OF CALIFORNIA), published in the October 3, 1962, issue of the FEDERAL REGISTER on page 9802. Supplement filed November 5, 1962, to show joinder of ASBURY SYSTEM, and in turn by A. J. EYRAUD, 2222 East 38th Street, Los Angeles, Calif., as parties controlling vendee.

No. MC-F-8280. Authority sought for control by H. LAUREN LEWIS, Wilson Terminal Building, P.O. Box 747, Sioux Falls, S. Dak., of WILSON STORAGE & TRANSFER COMPANY, 1500 I Ave., Sioux Falls, S. Dak. Appli-

cants' representative: H. Lauren Lewis, P.O. Box 747, Sioux Falls, S. Dak. Operating rights sought to be controlled: *General commodities,* except livestock, household goods as defined by the Commission, and commodities in bulk, as a *common carrier* over numerous regular routes, including those between Minneapolis, Minn., and Sioux Falls, S. Dak., between Huron, S. Dak., and Redfield, S. Dak., between Lake Benton, Minn., and Watertown, S. Dak., between Worthington, Minn., and Sioux Falls, S. Dak., and between Lake Andes, S. Dak., and Pickstown, S. Dak., serving certain intermediate and offroute points; *general commodities,* excepting, among others, household goods and commodities in bulk, over numerous routes, including those between Worthington, Minn., and Madelia, Minn., between Aberdeen, S. Dak., and St. Paul, Minn., between Doland, S. Dak., and St. Paul, Minn., between Sioux City, Iowa, and Omaha, Nebr., between Winnebargo, Nebr., and Fremont, Nebr., between Sioux Falls, S. Dak., and Spencer, Iowa, between Yankton, S. Dak., and Norfolk, Nebr., between Watertown, S. Dak., and Fargo, N. Dak., between Aberdeen, S. Dak., and Faith, S. Dak., between Sioux City, Iowa, and Hawarden, Iowa, serving certain intermediate and offroute points; *household goods* as defined by the Commission, and *general commodities,* excepting, among others commodities in bulk and those of unusual value, between Howard, S. Dak., and junction South Dakota highways 34 and 37, serving all intermediate and certain offroute points; *general commodities,* excepting, among others, Classes A and B explosives, catalogs, household goods, and commodities in bulk between towns and junctions over numerous U.S. and South Dakota highways; *general commodities,* except liquid commodities, in bulk, in tank vehicles, between Aberdeen, S. Dak., and Mobridge, S. Dak., and between Redfield, S. Dak., and Faith, S. Dak., serving certain intermediate and offroute points with restrictions; *general commodities* except household goods as defined by the Commission, between Sioux City, Iowa, and Omaha, Nebr., from Chicago, Ill., to Sioux City, Iowa, between Oacoma, S. Dak., and Sioux City, Iowa, between Winner, S. Dak., and Sioux City, Iowa, between Tripp, S. Dak., and Stickney, S. Dak., between Tyndall, S. Dak., and Springfield, S. Dak., serving certain intermediate and offroute points with restrictions; *general commodities,* except Classes A and B explosives, moving in express service, between Mobridge, S. Dak., and Marmarth, N. Dak., serving all intermediate and the offroute point of Haynes, N. Dak., with restrictions; over numerous alternate routes for operating convenience only; *meat, meat products, meat byproducts,* and *dairy products,* from Watertown, S. Dak., to Grand Forks, N. Dak., serving no intermediate points; *empty containers,* from Grand Forks, N. Dak., to Watertown, S. Dak., serving no intermediate points; *meat, meat products* and *meat byproducts,* from Watertown, S. Dak. (restricted against transportation of traffic through Watertown as a gateway point) to Jamestown, Bismarck, Mandan, and Minot, N. Dak. (restricted against the interlining of traffic at such destination points) serving no intermediate points; *reshipments* of the next above-specified commodities, and *empty containers* therefor, from Jamestown, Bismarck, Mandan, and Minot, N. Dak., to Watertown, S. Dak., with the same restrictions listed above, serving no intermediate points; *general commodities,* excepting, among others, household goods and commodities in bulk, over irregular routes between Minneapolis and St. Paul, Minn., on the one hand, and, on the other, the site of the Twin City Ordnance Plant, in Mounds View Township, Ramsey County, Minn.; *livestock,* between Yankton and Sioux Falls, S. Dak., on the one hand, and, on the other, Akron, Iowa, and points within 30 miles of Akron; *gravel,* from Hawarden, Iowa, to Akron, Iowa, and points within 40 miles of Akron; *meats, meat products, and meat byproducts,* from Spencer and Estherville, Iowa, to Chicago, Ill., with restrictions. H. LAUREN LEWIS holds no authority from this Commission. However, he is the controlling stockholder of MIDWEST COAST TRANSPORT, INC., Wilson Terminal Building, P.O. Box 747, Sioux Falls, S. Dak., which is authorized to operate as a *common carrier* in South Dakota, Washington, Oregon, Minnesota, Iowa, Utah, California, Nebraska, Nevada, Idaho, Illinois, Missouri, North Dakota, Wisconsin, Montana, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, New York, Pennsylvania, Delaware, Maryland, Michigan, Ohio, Virginia, West Virginia, Colorado, Kansas, Indiana, Kentucky, Arizona, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–8281. Authority sought for purchase by MORGAN DRIVE-AWAY, INC., 500 Equity Building, Elkhart, Indiana, of the operating rights and property of CAMPBELL'S SERVICE, 2720 North River Avenue, South San Gabriel, Calif., and for acquisition by RALPH H. MILLER, 500 Equity Building, Elkhart, Ind., of control of such rights and property through the purchase. Applicants attorney John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Operating rights sought to be transferred: *New and used house trailers,* in truckaway or towaway service, as a *common carrier* over irregular routes, between points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; *new trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Los Angeles County, Calif., to points in Arkansas, Colorado, Florida, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, from points within five miles of Tulsa, Okla., including Tulsa, to points within two miles of Sacramento, Calif., including Sacramento, from McMinnville, Oreg., to points in Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming, from Nampa, Idaho, to points in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming, from Boise and Caldwell, Idaho, and points in Idaho within 10 miles of each, to points in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming; *new trailers* designed to be drawn by passengers automobiles, in secondary movements, in truckaway service, from points in Los Angeles County, Calif., to points in Arkansas, Colorado, Illinois, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Texas, and Wyoming; from points within five miles of Tulsa, Okla., including Tulsa, to points within two miles of Sacramento, Calif., including Sacramento; *trailers* designed to be drawn by passenger automobiles, in initial and secondary movements, in truckaway service, from points in Los Angeles and Orange Counties, Calif., Caldwell, Idaho, and McMinnville, Oreg., to points in Alaska; *trailers,* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Fullerton, Calif., to points in Florida, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin, from Bend, Oreg., to points in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming, *trailer undercarriages, springs, wheels and tires, and related items,* used in connection with the transportation of trailers designed to be drawn by passenger automobiles, from points in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming to Bend, Oreg., from points in Arizona, Arkansas, Colorado, Florida, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming to points in Los Angeles and Orange Counties, Calif., *campers and camp coaches,* in truckaway service, from points in California to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, and Wyoming; *boats,* not exceeding 32 feet in length, and *parts and accessories therefor* when moving therewith, from Bellingham, La Conner, Marysville, and Tacoma, Wash., to points in Arizona, California, Idaho, Montana, Nevada, and Oregon; *campers and camp coaches,* designed to be installed on pick-up trucks, in truckaway service, from points in California, to points in Arkansas, Florida, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Wisconsin and Washington, from Boise, Idaho, and points within ten miles of Boise, to points in California, Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; *camper bodies,* designed for installation on pick-up trucks, with or without equipment. furniture, or ap-

pliances, from West Jordan and Tooele, Utah, to points in California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; *trailers*, designed to be drawn by passenger automobiles in initial movements, in truckaway service, from West Jordan, Utah, to points in Colorado, Montana, and Wyoming, from Helper, Utah, to points in Colorado; *trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, and *campers and camp coaches*, designed for installation on pickup trucks, in truckaway service, from points in Washington (except Veradale), to points in California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, and Wyoming. Vendee is authorized to operate as a *common carrier* in all States except Alaska and Hawaii. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 62–11351; Filed, Nov. 14, 1962; 8:51 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 9, 1962.

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. 38029: *Salt from and to points in southwestern territory.* Filed by Southwestern Freight Bureau, Agent (No. B–8293), for interested rail carriers. Rates on salt, common (sodium chloride), evaporated or rock, plain or iodized, phosphated or calcium phosphated, with or without (not exceeding 15 percent) ingredients other than salt, in carloads, between points in southwestern territory, also Natchez and Vicksburg, Miss., and Memphis, Tenn.; between points in southwestern territory, on the one hand, and points in western trunk-line territory, also Cairo, East St. Louis, Flinton, and Thebes, Ill., Kansas City, Mo.-Kan., and St. Louis, Mo., on the other; and from points in Kansas to points in southwestern territory.

Grounds for relief: Modified short-line distance formula and grouping.

Tariffs: Supplements 36 and 37 to Southwestern Freight Bureau tariffs I.C.C. 4454 and 4456, respectively.

FSA No. 38030: *Cement from Oklahoma City, Okla.* Filed by Southwestern Freight Bureau, Agent (No. B–8296), for interested rail carriers. Rates on cement and related articles, as described in the application, in carloads, from Oklahoma City, Okla., to points in southwestern territory, also Illinois, Kansas and Missouri.

Grounds for relief: Market competition, short-line distance formula.

Tariff: Supplement 94 to Southwestern Freight Bureau tariff I.C.C. 4325.

FSA No. 38031: *Cement and related articles from and to southwestern territory.* Filed by Southwestern Freight Bureau, Agent (No. B–8297), for interested rail carriers. Rates on cement and related articles, as described in the application, in carloads, from points in southwestern territory to points in Colorado, and from Joppa, Ill., to points in southern Missouri.

Grounds for relief: Market competition, and short-line distance formula.

Tariff: Supplement 94 to Southwestern Freight Bureau tariff I.C.C. 4325.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 62–11352; Filed, Nov. 14, 1962; 8:51 a.m.]

CUMULATIVE CODIFICATION GUIDE—NOVEMBER

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