



# FEDERAL REGISTER

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# Rules and Regulations

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 731—SUITABILITY

##### Correction of CFR Revised as of January 1, 1964

In paragraph (b) of § 731.201, the four lines following the semicolon should be deleted. As corrected paragraph (b) reads as follows:

##### § 731.201 Reasons for disqualification.

(b) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct;

## Title 7—AGRICULTURE

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

#### PART 987—DOMESTIC DATES PRODUCED OR PACKED IN A DESIGNATED AREA OF CALIFORNIA

##### Realignment of Representation on Date Administrative Committee and Suspension of Certain Provisions

Notice was published in the May 29, 1964, issue of the FEDERAL REGISTER (29 F.R. 7098) regarding a proposed realignment of representation on the Date Administrative Committee pursuant to § 987.22(b), and proposed suspension of certain provisions of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California (hereinafter referred to collectively as the order), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposals. None were received within the period prescribed therefor which ended June 8, 1964. However, information received during such period indicates that all of the dates packed during the 1963-64 crop year by a particular firm, heretofore considered as a handler in the group specified in § 987.22(a)(3), were not handled by such firm but rather were handled by a cooperative marketing association in the group specified in § 987.22(a)(2). On the basis set forth in the notice and this additional information, the group specified in § 987.22(a)(2) should be entitled to representation on the Committee by six members, rather than five as proposed in the

notice. The representation for the group specified in § 987.22(a)(3) would remain at one member as proposed in the notice.

After consideration of all relevant matter presented, including that in the notice, and other available information, it is hereby found: (1) That each of the respective changes in tonnage handled in the groups specified in § 987.22(a)(2) and (3) is equivalent to more than one-half of the basic 14.28 percent for a member; (2) that the realignment, as hereinafter set forth, of representation on the Date Administrative Committee will provide representation as prescribed in § 987.22(b); and (3) in view of the realignment which will reduce the representation of the group specified in § 987.22(a)(3) to one member, that certain provisions of § 987.24 prescribing detailed nomination procedures for producers and handlers of such group obstruct the nomination of the representative, and thus section 8c(7)(C) of the act (7 U.S.C. 608c(7)(C)), and should be suspended.

Therefore, it is ordered, As follows: 1. The Subpart—Administrative Rules and Regulations (§§ 987.100 to 987.174) is hereby amended by inserting immediately preceding § 987.131 a new section reading:

##### § 987.122 Realignment of representation on the Date Administrative Committee.

The representation or membership on the Committee is realigned pursuant to § 987.22(b) to provide as follows:

(a) As to the group specified in § 987.22(a)(1), one member from handlers, each of whom produced during the then current crop year to February 28 at least 51 percent of all of the dates handled by him during such period, and producers, each of whom delivered to such handlers during the then current crop year to February 28 at least 50 percent of his deliveries to all handlers during such period.

(b) As to the group specified in § 987.22(a)(2), six members from cooperative marketing associations of whom three shall be employees and serve as handler members of the Committee, and three shall be from among producer members of such associations.

(c) As to the group specified in § 987.22(a)(3), one member from all other handlers and producers.

##### § 987.24 [Amended]

2. The following provisions are hereby suspended:

(a) The second sentence of § 987.24(a);

(b) In the second sentence of § 987.24(b): "respective", "and of the handlers in the group specified in § 987.22(a)(3)", "and each such handler", and "particular", so that the effective provisions of the sentence read as follows: "At the meetings of the cooperative mar-

keting associations in the group specified in § 987.22(a)(2), each such association shall be entitled to vote for each position to be filled as a representative for the group; and each such vote shall be weighted by the tonnage of dates acquired from producers and certified, for handling or for further processing, through February 28 of the then current crop year."; and

(c) The third sentence of § 987.24(b).

It is hereby further found that good cause exists for not postponing the effective time of these actions until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003(c)) in that: (1) The relevant provisions of the said amended marketing agreement and order require each year the nomination by industry groups and the selection by the Secretary of the membership of the Date Administrative Committee for the term of office beginning May 15; (2) consolidation of certain date handlers on which information recently has become available necessitated realignment of representation on the Committee, suspension of certain nomination procedures, and new nominations on the basis of such actions before the 1964-65 membership can be selected accordingly; (3) the 1963-64 term of office for Committee membership has expired, and the nomination and selection of 1964-65 membership should be concluded as soon as possible; and (4) postponing the effective time of these actions beyond the date of publication in the FEDERAL REGISTER would serve no useful purpose and unduly delay the nomination and selection of Committee membership.

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

Dated: June 22, 1964, to become effective upon publication in the FEDERAL REGISTER.

GEORGE L. MEHREN,  
Assistant Secretary.

[F.R. Doc. 64-6321; Filed, June 24, 1964; 8:48 a.m.]

### Chapter XIV—Commodity Credit Corporation, Department of Agriculture

#### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[C.C.C. Grain Price Support Regulations, 1964-Crop Wheat Supp.]

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

##### Subpart—1964 Crop Wheat Loan and Purchase Program

The General Regulations Governing Price Support for the 1964 and Subsequent Crops (29 F.R. 2686 and 7662) issued by the Commodity Credit Corporation which contain regulations of a general nature with respect to price support loan and purchase operations are sup-

plemented for the 1964 crop of wheat as follows:

Sec.	
1421.2121	Purpose.
1421.2122	Availability.
1421.2123	Compliance requirements.
1421.2124	Eligible wheat.
1421.2125	Determination of quality.
1421.2126	Sedimentation, protein and durum determinations.
1421.2127	Determination of quantity.
1421.2128	Warehouse receipts.
1421.2129	Service charges.
1421.2130	Warehouse charges.
1421.2131	Maturity of loans.
1421.2132	Settlement.
1421.2133	Support rates.

**AUTHORITY:** The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 107, 401, 63 Stat. 1051, 1054; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421.

#### § 1421.2121 Purpose.

This supplement contains additional program provisions which, together with the applicable provisions of the General Regulations Governing Price Support for the 1964 and Subsequent Crops and any amendments thereto, apply to loans and purchases for 1964-crop wheat. Such regulations are referred to herein as General Regulations.

#### § 1421.2122 Availability.

Producers desiring price support must file an application not later than January 31, 1965. Loans will be available through January 31, 1965, in States having a maturity date of February 28, 1965, and through February 28, 1965, in States having a maturity date of March 31, 1965.

#### § 1421.2123 Compliance requirements.

(a) *General.* A producer shall not be eligible for price support on wheat produced in 1964 if the 1964 wheat acreage on the farm on which such wheat is produced is in excess of the wheat acreage allotment.

(b) *Effect of unknowingly exceeding the acreage allotment.* The acreage of wheat on a farm shall not be deemed to be in excess of the acreage allotment unless the operator knowingly exceeded such allotment. If the acreage allotment is in fact exceeded, such allotment shall be considered as having been knowingly exceeded unless the operator of the farm establishes to the satisfaction of the county committee in accordance with subparagraph (1), (2), or (3) of this paragraph that the farm allotment has not knowingly been exceeded and the determination of the county committee is approved by the State Executive Director.

(1) *Erroneous notice of acreage allotment.* An otherwise eligible producer shall not be ineligible for loans or purchases if the farm is not considered overplanted under the provisions of § 728.1184 of this title (26 F.R. 4733) and any amendments thereto, because of reliance on an erroneous notice of allotment.

(2) *Erroneous notice of measured acreage.* An otherwise eligible producer shall not be ineligible for price support if the farm is not considered overplanted under the provisions of § 718.10 of this title (24 F.R. 4228), and any amend-

ments thereto, because of reliance on an erroneous notice of measured acreage.

(3) *Failure to timely measure acreage or notify operator.* The acreage allotment for the farm will not be considered to be knowingly exceeded if (i) through no fault of the farm operator or any producer on the farm the acreage was not measured or the farm operator was not notified of the measured acreage in time to dispose of the excess acreage prior to harvest, (ii) the excess acreage was relatively small, and (iii) the farm operator establishes that because of the relative smallness of the excess and the unavailability to him of any recent measurements of the field acreages on the farm, he had no reason to believe the acreage was in excess of the farm acreage allotment.

(c) *Application for review and request for reconsideration.* Any producer who is dissatisfied with any determination with respect to compliance with his acreage allotment may appeal under the provisions of Part 711 of this title (26 F.R. 10204) and any amendments thereto.

(d) *Allotments on other farms.* In order to be eligible for price support the producer is not required to comply with the acreage allotment for wheat on any farm other than the farm on which the wheat tendered for price support is produced.

(e) *Definitions.* The terms "wheat acreage", "farm" and "wheat acreage allotment" as used in this section shall have the meaning assigned to them by Part 728 of this title (28 F.R. 3574) and any amendments thereto (Regulations Pertaining to Farm Acreage Allotments, Small Farm Bases and Annual Yields for 1964 and Subsequent Crop Years).

#### § 1421.2124 Eligible wheat.

(a) *General.* To be eligible for loan or for purchase, the wheat (1) may be of any class, (2) must be merchantable for food, feed or other uses as determined by CCC, (3) must not contain mercurial compounds or other substances poisonous to man or animals, (4) must not contain one or more rodent pellets, or comparable amounts of other filth, per pint of wheat (liquid measure), or 1 percent or more by weight of kernels visibly damaged by weevils or other insects, (5) must have been produced in the commercial wheat producing area, and (6) must not be feed wheat planted for harvest on acreage included in the feed grain base under the 1964-1965 Feed Grain Program Regulations (29 F.R. 590) and any amendments thereto.

(b) *Warehouse-stored loan grade requirements.* The wheat must also meet the following requirements as a condition of eligibility for a warehouse storage loan:

(1) The wheat must grade No. 3 or better; except that it may grade No. 5 or better because of containing "Durum" and/or "Red Durum" and it may grade Sample or better on the factors of test weight and/or total damage (other than heat damage) provided the test weight is not less than 40 lbs. per bushel.

(2) If of the class Mixed wheat, the wheat must consist of mixtures of grades

of eligible wheat as specified in subparagraph (1) of this paragraph, provided such mixtures are the natural products of the field.

(3) The wheat may have the special grade designations "Garlicky" and/or "Smutty".

(4) The wheat must not grade Ergoty or Treated.

(5) Wheat which grades "Weevily" is not eligible unless the warehouse receipt issued for such wheat is accompanied by a supplemental certificate which indicates the warehouseman will deliver wheat which does not grade "Weevily" and which is otherwise of an eligible grade and quality. When the warehouse receipt shows "Weevily", the grade, grading factors, and the quantity shown on the supplemental certificate must be as specified in § 1421.2128(c).

(6) Wheat which contains in excess of 13.5 percent moisture (14.5 percent if Durum or Mixed Wheat predominately Durum) is not eligible unless the warehouse receipt issued for such wheat is accompanied by a supplemental certificate which indicates the warehouseman will deliver wheat containing not over 13.5 percent moisture (14.5 percent if Durum or Mixed Wheat predominantly Durum) which is otherwise of an eligible grade and quality. The grade, grading factors and the quantity shown on the supplemental certificate must be as specified in § 1421.2128(c).

#### § 1421.2125 Determination of quality.

(a) *Regular grading factors.* The class, subclass, grade, grading factors and all other quality factors shall be based on Official Grain Standards of the United States for Wheat, which are effective June 1, 1964, whether or not such determinations are made on the basis of an official inspection. See § 1421.2126 for sedimentation, protein and "Durum" determinations.

(b) *Sanitation.* Determinations with respect to sanitation requirements shall be made in accordance with instructions issued by CCC.

#### § 1421.2126 Sedimentation, protein and durum determinations.

(a) *Sedimentation and protein tests.* Sedimentation and protein tests are (except for undesirable varieties) required on Hard Red Winter, Hard Red Spring and Hard White Wheat of the varieties, Baart, Bluestem and Burt and shall be made as provided in this section.

(1) *Farm-storage loans.* If a producer at time of request for a farm-storage loan also requests that premiums for sedimentation value and protein content be applied to the basic rate, the county office will draw a representative sample(s) and arrange for or provide sedimentation and protein tests on the wheat to be placed under loan. The premium or discount applicable to the values determined by such tests, shall be applied to the basic rate at the time the loan is made and in settlement upon delivery to CCC of the identical wheat. A total fee for both tests of \$3.00 per sample shall be borne by the producer.

(2) *Warehouse-storage loans and wheat stored in approved warehouses*

prior to purchase by CCC. In the case of wheat stored in an approved warehouse on which the producer wishes to obtain a warehouse storage loan or which he wishes to sell to CCC, the applicable sedimentation and protein test shall be made on the same representative sample of wheat which shall be obtained at the time the wheat is received at the warehouse. (i) In the case of sedimentation tests, the sedimentation value shall be determined on the basis of certificates issued by an inspector licensed or authorized by the United States Department of Agriculture under the Agricultural Marketing Act of 1946, as amended, and the regulations thereunder (Part 68 of this title), and (ii) in the case of protein tests, the protein content shall be determined on the basis of certificates issued by a protein laboratory approved by CCC. The certificates issued under subdivisions (i) and (ii) of the subparagraph are referred to herein as official sedimentation and protein certificates, respectively. The cost of such tests shall not be for the account of CCC.

(3) *Deliveries under farm-storage loans and for purchase by CCC—(i) Delivery to approved warehouse.* On deliveries of farm-storage loan wheat and deliveries of wheat for purchase by CCC to an approved warehouse, sedimentation and protein tests shall be made in the same manner as in subparagraph (2) of this paragraph, except that a sedimentation test shall not be made if it had previously been made in accordance with subparagraph (1) of this paragraph. CCC will assume the cost of tests under this subdivision (i) of this subparagraph.

(ii) *Delivery to other than approved warehouse.* On deliveries of farm-storage loan wheat (other than wheat on which tests were previously made under subparagraph 1 of this paragraph) and wheat for purchase by CCC delivered to other than an approved warehouse, ASCS county offices will provide sedimentation and protein tests and assume the cost of such tests.

(b) *Durum subclass determination.* If a producer at time of request for a farm-storage loan on Durum wheat, requests that premiums for Hard Amber or Amber Durum be applied to the basic rate, the county office will draw a representative sample(s) and arrange for or provide the test to determine the subclass of the Durum wheat to be placed under loan. If the wheat tested is classed as Hard Amber or Amber Durum, the applicable premium shall be applied to the basic rate for loan-making purposes and another test shall be made at time of settlement. A fee of \$3.00 per sample for the test at the time the loan is made shall be borne by the producer.

#### § 1421.2127 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 60 pounds of wheat free of dockage.

(a) *In warehouse.* The quantity of wheat in an approved warehouse on which a warehouse-storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on

the warehouse receipt, or on the supplemental certificate if applicable. If the wheat has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall represent a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the wheat, when received, and 13.5 percent (14.5 if Durum or Mixed wheat predominately Durum).

(b) *On farm.* The quantity eligible to be placed under farm storage loan shall be determined in accordance with § 1421.67 of the General Regulations. The quantity acquired by CCC from farm storage shall be determined by weight. In determining the quantity of sacked wheat by weight, a deduction of  $\frac{3}{4}$  of a pound for each sack shall be made.

(c) *Dockage.* When the quantity is determined by weight, the percentage of dockage shall be determined and the weight of such dockage shall be deducted from the gross weight in determining the net quantity of the wheat.

#### § 1421.2128 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and quality of wheat.

(b) *Entries (all wheat).* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show: (1) Gross weight and net bushels, (2) class and subclass, (3) grade (including special grades), (4) test weight, (5) moisture content if over 13.5 percent (14.5 if Durum or Mixed wheat predominately Durum), (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, and (8) whether the wheat arrived by rail, truck or barge.

(c) *Where warehouse receipt shows "Weevily" and/or excess moisture.* If a warehouse receipt tendered for loan indicates the wheat grades "Weevily" and/or contains over 13.5 percent moisture (14.5 if Durum or Mixed wheat predominately Durum), the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.2124(b) (5) and (6) in order for the wheat to be eligible for price support. The grade, grading factors and the quantity to be delivered must be shown on the supplemental certificate as follows: (1) When the warehouse receipt shows "Weevily" and the wheat has been conditioned to correct the weevily condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt. (2) When the warehouse receipt indicates a moisture content of over 13.5 percent (14.5 if Durum or Mixed wheat predominately Durum) and the wheat has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity

after drying or blending the wheat to a moisture content of not over 13.5 percent (14.5 if Durum or Mixed wheat predominately Durum). The quantity shown shall reflect a drying or blending shrink as specified in § 1421.2127(a). (3) The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt. (4) In the case of conditions specified in subparagraph (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Sedimentation and protein entries and certificates for hard wheat.* In the case of the classes of hard wheat specified in § 1421.2126(a), entries for sedimentation value and protein content must be shown on the warehouse receipt or supplemental certificate or both, except that no entry for sedimentation value shall be shown on farm-storage loan deliveries where such determination was made at the time of the loan. Warehouse receipts must be accompanied by official sedimentation certificates, where applicable, and by official protein certificates or copies thereof.

(e) *Liens.* The warehouse receipts may be subject to liens for warehouse charges only to the extent indicated in § 1421.2130.

(f) *Freight bill requirements.* Warehouse receipts representing wheat which has been shipped by rail or water from a country shipping point to a designated terminal point, or shipped by rail or water from a country shipping point to a storage point and stored in-transit to a designated terminal point, must be accompanied by registered freight bills or by a certificate containing similar information. These registered freight bills or certificates must be representative as to origin and date of movement of the wheat and must reflect the total freight rate from origin to designated terminal point including penalty for out-of-line haul, if any. The form of the certificate will be prescribed by the ASCS commodity office, shall be signed by the warehouseman, and may be made a part of the supplemental certificate.

#### § 1421.2129 Service charges.

A service charge of one-half cent per bushel will be made for the quantity of wheat acquired by CCC and such charge shall be handled in accordance with § 1421.60.

#### § 1421.2130 Warehouse charges.

(a) *Handling and storage liens.* Warehouse receipts and the wheat represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the wheat is deposited in the warehouse for storage. Warehouse receipts and the wheat represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage

charges from the date of deposit at rates approved by the Interstate Commerce Commission. In no event shall a warehouseman be entitled to satisfy the lien by sale of the wheat when CCC is holder of the warehouse receipt.

(b) *Deduction of storage charges—UGSA warehouses.* The table shown below provides the deduction for storage charges to be made from the amount of the loan or purchase price in the case of wheat stored in an approved warehouse operated under the Uniform Grain Storage Agreement. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipt that all warehouse charges except receiving and loading out charges have been prepaid through the applicable loan maturity date, no storage deductions shall be made. If such written evidence is not submitted, the beginning date to be used for computing the storage deduction on wheat stored in warehouses operating under the Uniform Grain Storage Agreement shall be the latest of the following: (1) The date of deposit, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid. If the foregoing dates are not shown, the date of the warehouse receipt shall be used.

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES BY MATURITY DATES

Maturity date of Feb. 28, 1965	Deduction (cents per bushel)	Maturity date of Mar. 31, 1965
Prior to Apr. 25, 1964 <sup>1</sup>	12	Prior to May 26, 1964 <sup>1</sup>
Apr. 25–May 21, 1964	11	May 26–June 21, 1964
May 22–June 17, 1964	10	June 22–July 18, 1964
June 18–July 14, 1964	9	July 19–Aug. 14, 1964
July 15–Aug. 10, 1964	8	Aug. 15–Sept. 10, 1964
Aug. 11–Sept. 6, 1964	7	Sept. 11–Oct. 7, 1964
Sept. 7–Oct. 3, 1964	6	Oct. 8–Nov. 3, 1964
Oct. 4–Oct. 30, 1964	5	Nov. 4–Nov. 30, 1964
Oct. 31–Nov. 26, 1964	4	Dec. 1–Dec. 27, 1964
Nov. 27–Dec. 23, 1964	3	Dec. 28, 1964–Jan. 23, 1965
Dec. 24, 1964–Jan. 19, 1965	2	Jan. 24–Feb. 19, 1965
Jan. 20–Feb. 28, 1965	1	Feb. 20–Mar. 31, 1965

<sup>1</sup> Dates storage charges start, all dates inclusive.

(c) *Deduction of storage charges—Eastern common carriers.* In the case of wheat stored in an approved warehouse operated by an Eastern common carrier, there shall be deducted in computing the loan or purchase price the amount of the approved tariff rate for storage (not including elevation), which will accumulate from the date of deposit through the applicable maturity date unless written evidence is submitted with the warehouse receipt that such charges have been prepaid. The county office shall request the ASCS commodity office to determine the amount of such charges. Where the producer presents evidence showing the elevation charges have been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charges prepaid by the producer.

#### § 1421.2131 Maturity of loans.

Loans mature on demand but not later than: February 28, 1965, on wheat stored in the States of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia,

Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia; and March 31, 1965, on wheat stored in all other States.

#### § 1421.2132 Settlement.

Notwithstanding the provisions of § 1421.72(c), the following shall apply:

(a) *Deliveries of farm-storage loan hard wheat.* In the case of delivery to CCC of hard wheat under farm-storage loan on which sedimentation and protein tests were made at the time of the loan as provided in § 1421.2126(a)(1), the same sedimentation value and protein content used in making the loan shall be applied in settlement provided the identical wheat so tested and mortgaged is delivered to CCC.

(b) *Sanitation requirements—all wheat.* If the wheat delivered is of a quality which does not meet the sanitation requirements of § 1421.2124(a)(4), the wheat shall be sold for uses other than for human consumption. The settlement value shall be the same as the sales price, except that if CCC is unable to sell the wheat for the use specified above, the settlement value shall be the market value determined by CCC, as of the date of delivery.

#### § 1421.2133 Support rates.

Farm stored wheat loans will be made at the applicable basic county support rate adjusted, where applicable, for the undesirable variety discount, the Weed Control discount and as provided in § 1421.2126. The support rate for warehouse-storage loans and for wheat acquired under a loan or by purchase shall be the applicable basic support rate adjusted in accordance with the following provisions of this section, and in the case of settlement of loans and purchases as further provided in §§ 1421.72 and 1421.2132.

(a) *Support rates as designated terminal markets.* (1) The support rates established for designated terminal markets apply to wheat shipped on a domestic interstate freight rate basis. The support rate at the designated terminal market for any wheat shipped at other than the domestic interstate freight rate shall be reduced by the difference between the rate of freight paid and the domestic interstate freight rate.

(2) The support rates established for designated terminal markets also apply to wheat which has been shipped by rail or water from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges. If the amount of paid-in freight is insufficient to guarantee the minimum proportional domestic interstate freight rate, if any, from the terminal market to a recognized market determined by the appropriate ASCS commodity office, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the

minimum proportional domestic interstate freight rate. If the wheat is stored at any designated terminal market and neither registered freight bills nor registered freight certificates are presented, the support rate shall be reduced by the actual amount of paid-in freight required to guarantee the proportional outbound rate from the terminal market to a recognized market determined by the appropriate ASCS commodity office.

(3) The support rate for wheat received by truck and stored at any designated terminal market shall be determined by deducting from the terminal rate 3.25 cents per bushel plus the actual amount of paid-in freight required to guarantee the proportional outbound rate from the terminal market to a recognized market determined by the appropriate ASCS commodity office.

(4) Notwithstanding the foregoing provisions of this paragraph, in determining the support rate for wheat shipped by rail or water and stored at any of the following terminal markets there shall be deducted from the applicable terminal rate, the transportation cost, if any, as determined by the appropriate ASCS commodity office, for moving the wheat to a tidewater facility located within the same switching limits:

Long Beach, Los Angeles, Oakland, San Francisco, Stockton, and Wilmington, California.

Baton Rouge and New Orleans, Louisiana.

Baltimore, Maryland.

Duluth, Minnesota.

Astoria and Portland, Oregon.

Albany and New York, New York.

Philadelphia, Pennsylvania.

Beaumont, Galveston, Houston, Corpus

Christi and Port Arthur, Texas.

Norfolk, Virginia.

Kalama, Longview, Seattle, Tacoma and Vancouver, Washington.

Superior, Wisconsin.

(5) Notwithstanding the foregoing provisions of this paragraph, in determining the support rate for wheat received by truck and stored at any of the terminal markets listed in subparagraph (4) of this paragraph, there shall be deducted from the applicable terminal rate an amount of 3.25 cents per bushel, plus the transportation cost, if any, as determined by the appropriate ASCS commodity office, for moving the wheat to a tidewater loading facility located within the same switching limits.

(b) *Support rates for wheat in approved warehouse storage at other than designated terminal markets.* Except for the States designated in paragraph (c) of this section, in determining the support rate for wheat which is shipped by rail or water and which is stored in approved warehouses (other than those situated in the designated terminal markets) there shall be deducted from the support rate for the appropriate designated terminal market, as determined by CCC, an amount equal to the transit balance, if any, of the through-freight rate from the point of origin for such wheat to such terminal market: *Provided*, That on any wheat shipped at other than the domestic interstate freight rate, the support rate shall be further reduced by the difference between the freight rate paid and the domestic interstate freight rate from

the point of origin of such wheat to the point of destination or appropriate terminal market: And provided further, That in the case of wheat stored at any railroad transit point, taking a penalty by reason of out-of-line movement to the appropriate designated market, or for any other reason, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing wheat in such position.

(c) *Support rates in approved warehouse storage determined by the ASCS commodity office.* In the States of Delaware, Kentucky, Maryland, New Jersey, North Carolina, Tennessee, Virginia, and West Virginia, the ASCS commodity office shall, upon request of the county committee, determine the support rate for wheat stored in approved warehouses (except those situated at designated terminal markets) which was shipped by rail in the movement of natural market direction as approved by CCC, by adding to the county rate for the county from which the wheat was shipped an amount per bushel equal to the receiving and loading-out charges computed in accordance with the applicable rates of the Uniform Grain Storage Agreement in effect at the time the loan is made and an amount equal to the transit value of the freight paid from the points of origin to markets designated by CCC. The warehouse receipts must be accompanied by the original paid freight bills or a certificate signed by the warehouseman as set forth in § 1421.2128(f). If the wheat is stored in approved warehouses located at transit points, taking a penalty by reason of backhaul, or out-of-line of normal market movements, such penalty or other costs by reason of such movement, as determined by CCC shall be deducted from the support rates as determined in this paragraph.

(d) *Basic support rates (Terminals).* Basic support rates for loan and settlement purposes for grade No. 1 wheat stored in approved warehouses at the terminal markets listed below are as follows:

Terminal market	Rate per bushel
Astoria, Oregon	\$1.47
Portland, Oregon	1.47
Kalama, Washington	1.47
Longview, Washington	1.47
Seattle, Washington	1.47
Tacoma, Washington	1.47
Vancouver, Washington	1.47
Long Beach, California	1.55
Los Angeles, California	1.55
Oakland, California	1.55
San Francisco, California	1.55
Stockton, California	1.55
Wilmington, California	1.55
Louisville, Kentucky	1.56
Memphis, Tennessee	1.56
Atchison, Kansas	1.53
Council Bluffs, Iowa	1.53
Kansas City, Kansas	1.53
Kansas City, Missouri	1.53
St. Joseph, Missouri	1.53
Omaha, Nebraska	1.53
Sioux City, Iowa	1.53
Calro, Illinois	1.57
Chicago, Illinois	1.57
East St. Louis, Illinois	1.57
Milwaukee, Wisconsin	1.57
St. Louis, Missouri	1.57
Duluth, Minnesota	1.63

Terminal Market—Continued

	Rate per bushel
Minneapolis, Minnesota	\$1.63
St. Paul, Minnesota	1.63
Superior, Wisconsin	1.63
Albany, New York	1.69
Baltimore, Maryland	1.69
Norfolk, Virginia	1.69
Philadelphia, Pennsylvania	1.69
New York, New York	1.69
Corpus Christi, Texas	1.77
Galveston, Texas	1.77
Houston, Texas	1.77
Beaumont, Texas	1.77
Port Arthur, Texas	1.77
New Orleans, Louisiana	1.77
Baton Rouge, Louisiana	1.77

(e) *Basic support rates (counties).*

(1) Basic county support rates per bushel for loan and settlement purposes for farm-stored and country warehouse-stored wheat are established for wheat grading No. 1 and are as specified below in this paragraph. Farm-storage loans and country warehouse storage loans, except as otherwise provided in paragraphs (b) and (c) of this section and subparagraph (2) of this paragraph will be based on the support rate established for the county in which the wheat is stored.

(2) If two or more approved warehouses are located in the same or adjoining towns, villages, or cities having the same domestic interstate freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

ALABAMA

All counties..... \$1.40

ARIZONA

County	Rate per bushel	County	Rate per bushel
Apache	\$0.96	Mohave	\$1.03
Cochise	1.26	Navajo	.96
Coconino	.96	Pima	1.31
Gila	1.04	Pinal	1.34
Graham	1.19	Santa Cruz	1.23
Greenlee	1.04	Yavapai	1.00
Maricopa	1.34	Yuma	1.36

ARKANSAS

Arkansas	\$1.46	Howard	\$1.30
Ashley	1.43	Independence	1.39
Baxter	1.28	Izard	1.30
Benton	1.23	Jackson	1.46
Boone	1.26	Jefferson	1.44
Bradley	1.38	Johnson	1.27
Calhoun	1.36	Lafayette	1.39
Carroll	1.24	Lawrence	1.45
Chicot	1.44	Lee	1.46
Clark	1.35	Lincoln	1.44
Clay	1.46	Little River	1.38
Cleburne	1.46	Logan	1.24
Cleveland	1.34	Lonoke	1.46
Columbia	1.39	Madison	1.24
Conway	1.43	Marion	1.27
Craighead	1.46	Miller	1.39
Crawford	1.24	Mississippi	1.46
Crittenden	1.46	Monroe	1.46
Cross	1.46	Montgomery	1.28
Dallas	1.35	Nevada	1.37
Desha	1.45	Newton	1.26
Drew	1.43	Ouachita	1.37
Faulkner	1.44	Perry	1.29
Franklin	1.25	Phillips	1.46
Fulton	1.33	Pike	1.29
Garland	1.32	Poinsett	1.46
Grant	1.34	Polk	1.28
Greene	1.46	Pope	1.28
Hempstead	1.38	Prairie	1.46
Hot Spring	1.33	Pulaski	1.45

ARKANSAS—Continued

County	Rate per bushel	County	Rate per bushel
Randolph	\$1.46	Stone	\$1.31
St. Francis	1.46	Union	1.39
Saline	1.33	Van Buren	1.36
Scott	1.28	Washington	1.24
Searcy	1.27	White	1.46
Sebastian	1.27	Woodruff	1.46
Sevier	1.30	Yell	1.28
Sharp	1.33		

CALIFORNIA

Alameda	\$1.42	Placer	\$1.41
Alpine	1.31	Plumas	1.31
Amador	1.42	Riverside	1.37
Butte	1.39	Sacramento	1.42
Calaveras	1.42	San Benito	1.40
Colusa	1.41	San Bernar-	
Contra Costa	1.42	dino	1.40
El Dorado	1.39	San Diego	1.36
Fresno	1.40	San Joaquin	1.44
Glenn	1.40	San Luis	
Humboldt	1.25	Obispo	1.36
Imperial	1.38	San Mateo	1.42
Inyo	1.21	Santa Barbara	1.35
Kern	1.39	Santa Clara	1.41
Kings	1.40	Santa Cruz	1.39
Lake	1.37	Shasta	1.29
Lassen	1.24	Sierra	1.23
Los Angeles	1.41	Siskiyou	1.29
Madera	1.42	Solano	1.41
Marin	1.42	Sonoma	1.41
Mariposa	1.39	Stanislaus	1.43
Mendocino	1.33	Sutter	1.40
Merced	1.43	Tehama	1.34
Modoc	1.28	Tulare	1.39
Mono	1.17	Tuolumne	1.43
Monterey	1.38	Ventura	1.40
Napa	1.41	Yola	1.42
Orange	1.38	Yuba	1.40

COLORADO

Adams	\$1.15	Kit Carson	\$1.17
Alamosa	1.04	La Plata	.98
Arapahoe	1.15	Larimer	1.15
Archuleta	.98	Las Animas	1.14
Baca	1.17	Lincoln	1.15
Bent	1.16	Logan	1.15
Boulder	1.15	Mesa	1.02
Chaffee	1.03	Moffat	.96
Cheyenne	1.17	Montezuma	.98
Conejos	1.03	Montrose	.96
Costilla	1.05	Morgan	1.15
Crowley	1.15	Otero	1.15
Custer	1.09	Ouray	.96
Delta	.96	Phillips	1.17
Denver	1.15	Pitkin	1.02
Dolores	.98	Prowers	1.17
Douglas	1.15	Pueblo	1.15
Eagle	1.02	Rio Blanco	.99
Elbert	1.15	Rio Grande	1.03
El Paso	1.15	Routt	.96
Fremont	1.10	Saguache	1.03
Garfield	1.02	San Miguel	.96
Grand	1.02	Sedgwick	1.18
Huerfano	1.12	Summit	1.02
Jackson	1.03	Washington	1.15
Jefferson	1.15	Weld	1.15
Kiowa	1.17	Yuma	1.17

CONNECTICUT

All counties..... \$1.47

DELAWARE

Kent	\$1.52	Sussex	\$1.51
New Castle	1.52		

FLORIDA

All counties..... \$1.43

GEORGIA

All counties..... \$1.43

IDAHO

Ada	\$1.18	Benewah	\$1.24
Adams	1.16	Bingham	1.12
Bannock	1.14	Blaine	1.14
Bear Lake	1.11	Boise	1.18

## RULES AND REGULATIONS

## IDAHO—Continued

County	Rate per bushel	County	Rate per bushel
Bonner	\$1.16	Jerome	\$1.17
Bonneville	1.11	Kottenal	1.23
Boundary	1.16	Latah	1.24
Butte	1.12	Lemhi	1.11
Camas	1.14	Lewis	1.21
Canyon	1.18	Lincoln	1.15
Caribou	1.13	Madison	1.10
Cassia	1.17	Minidoka	1.17
Clark	1.09	Nez Perce	1.24
Clearwater	1.21	Oneida	1.16
Custer	1.12	Owyhee	1.18
Elmore	1.17	Payette	1.18
Franklin	1.16	Power	1.14
Fremont	1.09	Shoshone	1.12
Gem	1.18	Teton	1.08
Gooding	1.16	Twin Falls	1.19
Idaho	1.20	Valley	1.17
Jefferson	1.11	Washington	1.18

## ILLINOIS

County	Rate per bushel	County	Rate per bushel
Adams	\$1.32	Lee	\$1.40
Alexander	1.40	Livingston	1.36
Bond	1.40	Logan	1.37
Boone	1.43	McDonough	1.33
Brown	1.33	McHenry	1.43
Bureau	1.39	McLean	1.35
Calhoun	1.40	Macon	1.40
Carroll	1.38	Macoupin	1.40
Cass	1.35	Madison	1.40
Champaign	1.38	Marion	1.40
Christian	1.40	Marshall	1.37
Clark	1.35	Mason	1.35
Clay	1.35	Massac	1.36
Clinton	1.40	Menard	1.35
Coles	1.37	Mercer	1.33
Cook	1.44	Monroe	1.40
Crawford	1.33	Montgomery	1.40
Cumberland	1.37	Morgan	1.39
De Kalb	1.43	Moultrie	1.39
DeWitt	1.35	Ogle	1.43
Douglas	1.38	Peoria	1.36
DuPage	1.42	Perry	1.40
Edgar	1.35	Platt	1.38
Edwards	1.36	Pike	1.37
Effingham	1.39	Pope	1.30
Fayette	1.40	Pulaski	1.40
Ford	1.35	Putnam	1.40
Franklin	1.40	Randolph	1.40
Fulton	1.35	Richland	1.34
Gallatin	1.34	Rock Island	1.34
Greene	1.40	St. Clair	1.40
Grundy	1.40	Saline	1.33
Hamilton	1.40	Sangamon	1.39
Hancock	1.32	Schuyler	1.34
Hardin	1.27	Scott	1.40
Henderson	1.33	Shelby	1.39
Henry	1.36	Stark	1.38
Iroquois	1.40	Stephenson	1.42
Jackson	1.40	Tazewell	1.35
Jasper	1.34	Union	1.40
Jefferson	1.40	Vermillion	1.39
Jersey	1.40	Wabash	1.37
Jo Daviess	1.37	Warren	1.34
Johnson	1.31	Washington	1.40
Kane	1.43	Wayne	1.38
Kankakee	1.41	White	1.35
Kendall	1.39	Whiteside	1.39
Knox	1.34	Will	1.41
Lake	1.42	Williamson	1.40
LaSalle	1.39	Winnebago	1.43
Lawrence	1.34	Woodford	1.35

## INDIANA

County	Rate per bushel	County	Rate per bushel
Adams	\$1.31	Dearborn	\$1.33
Allen	1.31	Decatur	1.35
Bartholomew	1.36	De Kalb	1.31
Benton	1.37	Delaware	1.31
Blackford	1.33	Dubois	1.38
Boone	1.32	Elkhart	1.37
Brown	1.33	Fayette	1.33
Carroll	1.36	Floyd	1.40
Cass	1.37	Fountain	1.32
Clark	1.40	Franklin	1.33
Clay	1.34	Fulton	1.42
Clinton	1.34	Gibson	1.34
Crawford	1.37	Grant	1.32
Daviess	1.30	Greene	1.31

## INDIANA—Continued

County	Rate per bushel	County	Rate per bushel
Hamilton	\$1.32	Parke	\$1.32
Hancock	1.33	Perry	1.37
Harrison	1.33	Pike	1.34
Hendricks	1.33	Porter	1.43
Henry	1.33	Posey	1.34
Howard	1.34	Pulaski	1.43
Huntington	1.31	Putnam	1.32
Jackson	1.37	Randolph	1.32
Jasper	1.42	Ripley	1.34
Jay	1.31	Rush	1.33
Jefferson	1.34	St. Joseph	1.42
Jennings	1.35	Scott	1.37
Johnson	1.33	Shelby	1.33
Knox	1.32	Spencer	1.37
Kosciusko	1.36	Starke	1.43
Lagrange	1.32	Steuben	1.31
Lake	1.43	Sullivan	1.34
La Porte	1.43	Switzerland	1.34
Lawrence	1.37	Tippecanoe	1.35
Madison	1.33	Tipton	1.32
Marion	1.33	Union	1.33
Marshall	1.42	Vanderburgh	1.39
Martin	1.31	Vermillion	1.39
Miami	1.36	Vigo	1.39
Monroe	1.39	Wabash	1.34
Montgomery	1.33	Warren	1.37
Morgan	1.31	Warrick	1.39
Newton	1.43	Washington	1.39
Noble	1.32	Wayne	1.32
Ohio	1.33	Wells	1.31
Orange	1.39	White	1.43
Owen	1.31	Whitley	1.33

## IOWA

County	Rate per bushel	County	Rate per bushel
Adair	\$1.31	Jefferson	\$1.31
Adams	1.33	Johnson	1.35
Allamakee	1.38	Jones	1.35
Appanoose	1.29	Keokuk	1.32
Audubon	1.34	Kossuth	1.38
Benton	1.36	Lee	1.32
Black Hawk	1.37	Linn	1.36
Boone	1.35	Louisa	1.31
Bremer	1.37	Lucas	1.29
Buchanan	1.36	Lyon	1.36
Buena Vista	1.36	Madison	1.33
Butler	1.37	Mahaska	1.33
Calhoun	1.36	Marion	1.32
Carroll	1.34	Marshall	1.36
Cass	1.33	Mills	1.35
Cedar	1.32	Mitchell	1.40
Cerro Gordo	1.39	Monona	1.34
Cherokee	1.35	Monroe	1.30
Chickasaw	1.38	Montgomery	1.35
Clarke	1.30	Muscatine	1.31
Clay	1.37	O'Brien	1.37
Clayton	1.36	Osceola	1.37
Clinton	1.33	Page	1.35
Crawford	1.35	Falo Alto	1.38
Dallas	1.35	Plymouth	1.35
Davis	1.30	Pocahontas	1.37
Decatur	1.29	Polk	1.35
Delaware	1.36	Pottawattamie	1.35
Des Moines	1.32	Poweshiek	1.34
Dickinson	1.38	Ringgold	1.29
Dubuque	1.35	Sac	1.35
Emmet	1.39	Scott	1.33
Fayette	1.37	Shelby	1.35
Floyd	1.39	Sioux	1.35
Franklin	1.37	Story	1.36
Fremont	1.35	Tama	1.36
Greene	1.35	Taylor	1.32
Grundy	1.37	Union	1.31
Guthrie	1.31	Van Buren	1.30
Hamilton	1.37	Wapello	1.31
Hancock	1.38	Warren	1.33
Hardin	1.37	Washington	1.32
Harrison	1.35	Wayne	1.28
Henry	1.30	Webster	1.37
Howard	1.39	Winnebago	1.40
Humboldt	1.37	Winneshiek	1.38
Ida	1.34	Woodbury	1.35
Iowa	1.34	Worth	1.40
Jackson	1.32	Wright	1.37
Jasper	1.35		

## KANSAS

County	Rate per bushel	County	Rate per bushel
Allen	\$1.35	Atchison	\$1.35
Anderson	1.34	Barber	1.24

## KANSAS—Continued

County	Rate per bushel	County	Rate per bushel
Barton	\$1.24	Lyon	\$1.31
Bourbon	1.36	McPherson	1.26
Brown	1.34	Marion	1.27
Butler	1.27	Marshall	1.31
Chase	1.29	Meade	1.21
Chautauqua	1.29	Miami	1.35
Cherokee	1.32	Mitchell	1.26
Cheyenne	1.20	Montgomery	1.31
Clark	1.21	Morris	1.29
Clay	1.28	Morton	1.23
Cloud	1.27	Nemaha	1.32
Coffey	1.32	Neosho	1.35
Comanche	1.22	Ness	1.24
Cowley	1.27	Norton	1.24
Crawford	1.33	Osage	1.32
Decatur	1.22	Osborne	1.26
Dickinson	1.27	Ottawa	1.27
Doniphan	1.37	Pawnee	1.24
Douglas	1.35	Phillips	1.24
Edwards	1.24	Pottowattamie	1.31
Eik	1.29	Pratt	1.24
Ellis	1.24	Rawlins	1.21
Ellsworth	1.26	Reno	1.26
Finney	1.21	Republic	1.27
Ford	1.23	Rice	1.26
Franklin	1.35	Riley	1.31
Geary	1.29	Rooks	1.25
Gove	1.22	Rush	1.24
Graham	1.24	Russell	1.25
Grant	1.20	Saline	1.27
Gray	1.22	Scott	1.21
Greely	1.20	Sedgewick	1.27
Greenwood	1.30	Seward	1.24
Hamilton	1.20	Shawnee	1.33
Harper	1.26	Sheridan	1.22
Harvey	1.27	Sherman	1.20
Haskell	1.21	Smith	1.26
Hodgeman	1.24	Stafford	1.24
Jackson	1.33	Stanton	1.18
Jefferson	1.35	Stevens	1.20
Jewell	1.27	Sumner	1.27
Johnson	1.37	Thomas	1.21
Keary	1.20	Trego	1.24
Kingman	1.26	Wabaunsee	1.31
Kiowa	1.24	Wallace	1.20
Labette	1.33	Washington	1.28
Lane	1.22	Wichita	1.20
Leavenworth	1.36	Wilson	1.31
Lincoln	1.26	Woodson	1.33
Linn	1.38	Wyandotte	1.37
Logan	1.21		

## KENTUCKY

County	Rate per bushel	County	Rate per bushel
Adair	\$1.38	Fleming	\$1.39
Allen	1.37	Franklin	1.39
Anderson	1.39	Fulton	1.35
Ballard	1.35	Gallatin	1.38
Barren	1.37	Garrard	1.40
Bath	1.39	Grant	1.39
Bell	1.38	Graves	1.35
Boone	1.38	Grayson	1.37
Bourbon	1.40	Green	1.39
Boyd	1.40	Greenup	1.40
Boyle	1.40	Hancock	1.36
Bracken	1.39	Hardin	1.37
Brethitt	1.38	Harrison	1.39
Breckenridge	1.36	Hart	1.37
Bullitt	1.38	Henderson	1.35
Butler	1.36	Henry	1.38
Caldwell	1.36	Hickman	1.35
Calloway	1.35	Hopkins	1.36
Campbell	1.38	Jackson	1.38
Carlisle	1.35	Jefferson	1.38
Carroll	1.38	Jessamine	1.40
Carter	1.39	Johnson	1.38
Casey	1.39	Kenton	1.38
Christian	1.36	Knox	1.38
Clark	1.40	Larue	1.38
Clay	1.38	Laurel	1.39
Clinton	1.39	Lawrence	1.39
Crittenden	1.35	Lee	1.39
Cumberland	1.38	Lewis	1.40
Daviess	1.35	Lincoln	1.40
Edmonson	1.36	Livingston	1.35
Elliott	1.39	Logan	1.36
Estill	1.39	Lyon	1.36
Fayette	1.40	McCracken	1.35



KENTUCKY—Continued

Table with 4 columns: County, Rate per bushel, County, Rate per bushel. Lists counties like McCreary, McLean, Madison, etc.

Summary row for Kentucky: All counties ----- \$1.41

LOUISIANA

Summary row for Louisiana: All counties ----- \$1.43

MAINE

Summary row for Maine: All counties ----- \$1.43

MARYLAND

Table with 4 columns: County, Rate per bushel, County, Rate per bushel. Lists counties like Allegany, Anne Arundel, Baltimore, etc.

MASSACHUSETTS

Summary row for Massachusetts: All counties ----- \$1.46

MICHIGAN

Table with 4 columns: County, Rate per bushel, County, Rate per bushel. Lists counties like Alcona, Alger, Allegan, Alpena, Antrim, etc.

MINNESOTA

Table with 4 columns: County, Rate per bushel, County, Rate per bushel. Lists counties like Aitkin, Anoka, Becker, Beltrami, Benton, etc.

Summary row for Minnesota: All counties ----- \$1.34

MISSISSIPPI

Summary row for Mississippi: All counties ----- \$1.34

MISSOURI

Table with 4 columns: County, Rate per bushel, County, Rate per bushel. Lists counties like Adair, Andrew, Atchison, Audrain, Barry, etc.

MISSOURI—Continued

Table with 4 columns: County, Rate per bushel, County, Rate per bushel. Lists counties like Pemiscot, Perry, Pettis, Phelps, Pike, etc.

MONTANA

Table with 4 columns: County, Rate per bushel, County, Rate per bushel. Lists counties like Beaverhead, Big Horn, Blaine, Broadwater, Carbon, etc.

NEBRASKA

Table with 4 columns: County, Rate per bushel, County, Rate per bushel. Lists counties like Adams, Antelope, Arthur, Banner, Blaine, Boone, Box Butte, etc.

## RULES AND REGULATIONS

## NEBRASKA—Continued

County	Rate per bushel	County	Rate per bushel
Red Willow	\$1.24	Stanton	\$1.32
Richardson	1.32	Thayer	1.31
Rock	1.25	Thomas	1.24
Saline	1.33	Thurston	1.33
Sarpy	1.35	Valley	1.23
Saunders	1.35	Washington	1.35
Scotts Bluff	1.16	Wayne	1.30
Seward	1.34	Webster	1.23
Sheridan	1.18	Wheeler	1.31
Sherman	1.29	York	1.32
Sioux	1.15		

## NEVADA

All counties	\$1.23
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## NEW HAMPSHIRE

All counties	\$1.45
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## NEW JERSEY

Bergen	\$1.51	Middlesex	\$1.51
Burlington	1.51	Monmouth	1.50
Camden	1.52	Morris	1.50
Cape May	1.48	Ocean	1.50
Cumberland	1.51	Passaic	1.51
Essex	1.51	Salem	1.52
Gloucester	1.52	Somerset	1.50
Hunterdon	1.49	Sussex	1.50
Mercer	1.51	Warren	1.48

## NEW MEXICO

Bernalillo	\$1.17	Mora	\$1.17
Catron	1.08	Otero	1.20
Chaves	1.24	Quay	1.27
Coffax	1.16	Rio Arriba	.98
Eddy	1.27	Roosevelt	1.25
De Baca	1.22	Sandoval	1.17
Dona Ana	1.17	San Juan	.98
Espanola	1.22	San Miguel	1.17
Grant	1.02	Santa Fe	1.14
Guadalupe	1.22	Sierra	1.17
Harding	1.20	Socorro	1.17
Hidalgo	1.11	Taos	1.03
Lea	1.26	Torrance	1.18
Lincoln	1.20	Union	1.22
Luna	1.14	Valencia	1.12
McKinley	1.02		

## NEW YORK

Albany	\$1.53	Oneida	\$1.48
Allegany	1.46	Onandaga	1.46
Broome	1.46	Ontario	1.46
Cattaraugus	1.42	Orange	1.49
Chautauque	1.46	Orleans	1.45
Chemung	1.38	Oswego	1.46
Chenango	1.46	Otsego	1.48
Clinton	1.43	Putnam	1.49
Columbia	1.51	Rensselaer	1.52
Cortland	1.46	Rockland	1.48
Delaware	1.47	St. Lawrence	1.42
Dutchess	1.49	Saratoga	1.51
Erie	1.44	Schenectady	1.52
Essex	1.46	Schoharie	1.50
Franklin	1.40	Schuyler	1.46
Fulton	1.47	Seneca	1.46
Genesee	1.46	Steuben	1.46
Greene	1.50	Suffolk	1.45
Herkimer	1.49	Sullivan	1.44
Jefferson	1.43	Tioga	1.46
Lewis	1.44	Tompkins	1.46
Livingston	1.46	Ulster	1.49
Madison	1.46	Warren	1.49
Monroe	1.46	Washington	1.50
Montgomery	1.52	Wayne	1.46
Nassau	1.47	Westchester	1.50
Niagara	1.46	Wyoming	1.46
		Yates	1.46

## NORTH CAROLINA

All counties	\$1.45
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## NORTH DAKOTA

Adams	\$1.24	Cass	\$1.40
Barnes	1.38	Cavaller	1.32
Benson	1.30	Dickey	1.39
Billings	1.23	Divide	1.22
Bottineau	1.25	Dunn	1.23
Bowman	1.23	Eddy	1.33
Burke	1.24	Emmons	1.32
Burleigh	1.30	Foster	1.35

## NORTH DAKOTA—Continued

County	Rate per bushel	County	Rate per bushel
Golden Valley	\$1.20	Ramsey	\$1.32
Grand Forks	1.39	Ransom	1.40
Grant	1.24	Renville	1.24
Griggs	1.37	Richland	1.43
Hettinger	1.24	Rolette	1.28
Kidder	1.32	Sargent	1.42
La Moure	1.37	Sheridan	1.30
Logan	1.34	Sioux	1.26
McHenry	1.27	Slope	1.24
McIntosh	1.34	Stark	1.24
McKenzie	1.20	Steele	1.38
McLean	1.27	Stutsman	1.35
Mercer	1.25	Towner	1.29
Morton	1.26	Traill	1.39
Mountrail	1.24	Walsh	1.37
Nelson	1.36	Ward	1.25
Oliver	1.26	Wells	1.32
Pembina	1.36	Williams	1.23
Pierce	1.29		

## OHIO

Adams	\$1.30	Licking	\$1.32
Allen	1.31	Logan	1.30
Ashland	1.33	Lorain	1.33
Ashtabula	1.36	Lucas	1.31
Athens	1.32	Madison	1.31
Auglaize	1.31	Mahoning	1.35
Belmont	1.33	Marion	1.32
Brown	1.30	Medina	1.33
Butler	1.30	Meigs	1.30
Carroll	1.33	Mercer	1.31
Champaign	1.30	Miami	1.31
Clark	1.30	Monroe	1.33
Clermont	1.30	Montgomery	1.30
Clinton	1.30	Morgan	1.33
Columbiana	1.34	Morrow	1.32
Coshocton	1.33	Muskingum	1.33
Crawford	1.32	Noble	1.33
Cuyahoga	1.33	Ottawa	1.32
Darke	1.33	Paulding	1.31
Defiance	1.30	Perry	1.32
Delaware	1.32	Pickaway	1.31
Erie	1.32	Pike	1.30
Fairfield	1.32	Portage	1.33
Fayette	1.30	Poble	1.30
Franklin	1.32	Putnam	1.31
Fulton	1.30	Richland	1.33
Galla	1.30	Ross	1.31
Geauga	1.36	Sandusky	1.32
Greene	1.30	Scioto	1.30
Guernsey	1.33	Seneca	1.32
Hamilton	1.30	Shelby	1.31
Hancock	1.32	Stark	1.33
Hardin	1.32	Summit	1.33
Harrison	1.33	Tribune	1.36
Henry	1.30	Tuscarawas	1.33
Highland	1.30	Union	1.32
Hocking	1.32	Van Wert	1.31
Holmes	1.33	Vinton	1.32
Huron	1.32	Warren	1.30
Jackson	1.30	Washington	1.33
Jefferson	1.34	Wayne	1.33
Knox	1.32	Williams	1.31
Lake	1.34	Wood	1.32
Lawrence	1.30	Wyandot	1.32

## OKLAHOMA

Adair	\$1.29	Dewey	\$1.28
Alfalfa	1.28	Ellis	1.27
Atoka	1.29	Garfield	1.29
Beaver	1.26	Garvin	1.29
Beckham	1.29	Grady	1.29
Blaine	1.29	Grant	1.27
Bryan	1.29	Greer	1.29
Caddo	1.29	Harmon	1.29
Canadian	1.29	Harper	1.26
Carter	1.29	Haskell	1.29
Cherokee	1.29	Hughes	1.29
Choctaw	1.29	Jackson	1.29
Cimarron	1.24	Jefferson	1.29
Cleveland	1.29	Johnston	1.29
Coal	1.29	Kay	1.28
Comanche	1.29	Kingfisher	1.29
Cotton	1.29	Kiowa	1.29
Craig	1.30	Latimer	1.29
Creek	1.29	Le Flore	1.29
Custer	1.29	Lincoln	1.29
Delaware	1.29	Logan	1.29

## OKLAHOMA—Continued

County	Rate per bushel	County	Rate per bushel
Love	\$1.29	Pittsburg	\$1.29
McClain	1.29	Pontotoc	1.29
McCurtain	1.29	Pottawatomie	1.29
McIntosh	1.29	Pushmataha	1.29
Major	1.29	Roger Mills	1.28
Marshall	1.29	Rogers	1.28
Mayes	1.28	Seminole	1.29
Murray	1.29	Sequoyah	1.29
Muskogee	1.29	Stephens	1.29
Noble	1.28	Texas	1.26
Nowata	1.30	Tillman	1.29
Okfuskee	1.29	Tulsa	1.28
Oklahoma	1.29	Wagoner	1.28
Oklmulgee	1.29	Washington	1.30
Osage	1.27	Washita	1.29
Ottawa	1.30	Woods	1.27
Pawnee	1.29	Woodward	1.27
Payne	1.29		

## OREGON

Baker	\$1.23	Lake	\$1.28
Benton	1.27	Lane	1.24
Clackamas	1.31	Lincoln	1.21
Clatsop	1.27	Linn	1.27
Columbia	1.29	Malheur	1.18
Coos	1.17	Marion	1.30
Crook	1.30	Morrow	1.31
Curry	1.15	Mupitnomah	1.34
Deschutes	1.30	Polk	1.29
Douglas	1.19	Sherman	1.33
Gilliam	1.32	Tillamook	1.33
Grant	1.30	Umatilla	1.30
Harney	1.15	Union	1.25
Hood River	1.32	Wallowa	1.22
Jackson	1.15	Wasco	1.36
Jefferson	1.33	Washington	1.33
Josephine	1.12	Wheeler	1.30
Klamath	1.29	Yamhill	1.31

## PENNSYLVANIA

Adams	\$1.49	Lackawanna	\$1.45
Allegheny	1.39	Lancaster	1.49
Armstrong	1.37	Lawrence	1.38
Beaver	1.36	Lebanon	1.47
Bedford	1.42	Lehigh	1.49
Berks	1.49	Lucerne	1.45
Blair	1.41	Luzerne	1.43
Bradford	1.45	McKean	1.41
Bucks	1.51	Mercer	1.36
Butler	1.38	Mifflin	1.44
Cambria	1.40	Monroe	1.47
Carbon	1.47	Montgomery	1.51
Centre	1.42	Montour	1.44
Chester	1.50	Northampton	1.49
Clarion	1.38	Northumberland	1.44
Clearfield	1.40	Perry	1.46
Clinton	1.42	Pike	1.43
Columbia	1.46	Potter	1.40
Crawford	1.36	Schuylkill	1.46
Cumberland	1.47	Snyder	1.44
Dauphin	1.46	Somerset	1.41
Delaware	1.51	Sullivan	1.46
Elk	1.41	Susquehanna	1.45
Erie	1.36	Tioga	1.45
Fayette	1.40	Union	1.44
Forest	1.37	Venango	1.36
Franklin	1.47	Warren	1.36
Fulton	1.45	Washington	1.36
Greene	1.38	Wayne	1.44
Huntingdon	1.43	Westmoreland	1.38
Indiana	1.40	Wyoming	1.46
Jefferson	1.40	York	1.49
Juniata	1.44		

## RHODE ISLAND

All counties	\$1.47
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## SOUTH CAROLINA

All counties	\$1.43
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## SOUTH DAKOTA

Aurora	\$1.31	Butte	\$1.26
Beadle	1.37	Campbell	1.33
Bennett	1.20	Charles Mix	1.29
Bon Homme	1.31	Clark	1.39
Brookings	1.40	Clay	1.35
Brown	1.38	Codington	1.41
Brule	1.32	Corson	1.26
Buffalo	1.32	Custer	1.18

SOUTH DAKOTA—Continued

County	Rate per bushel	County	Rate per bushel
Davison	\$1.33	McCook	\$1.35
Day	1.40	McPherson	1.35
Deuel	1.39	Marshall	1.41
Dewey	1.26	Meade	1.25
Douglas	1.30	Mellette	1.25
Edmunds	1.36	Miner	1.37
Fall River	1.15	Minnehaha	1.36
Faulk	1.36	Moody	1.39
Grant	1.43	Pennington	1.26
Gregory	1.27	Perkins	1.24
Haakon	1.29	Potter	1.34
Hamlin	1.40	Roberts	1.43
Hand	1.36	Sanborn	1.36
Hanson	1.34	Shannon	1.18
Harding	1.24	Spink	1.38
Hughes	1.34	Stanley	1.33
Hutchinson	1.31	Stull	1.33
Hyde	1.34	Todd	1.25
Jackson	1.28	Tripp	1.26
Jerauld	1.36	Turner	1.35
Jones	1.30	Union	1.35
Kingsbury	1.39	Walworth	1.34
Lake	1.39	Washabaugh	1.28
Lawrence	1.26	Yankton	1.33
Lincoln	1.35	Ziebach	1.23
Lyman	1.32		

TENNESSEE

Anderson	\$1.43	Lauderdale	\$1.35
Bedford	1.40	Lawrence	1.39
Benton	1.37	Lewis	1.39
Bledsoe	1.41	Lincoln	1.41
Blount	1.44	Loudon	1.43
Bradley	1.43	McMinn	1.43
Campbell	1.43	McNairy	1.36
Cannon	1.39	Macon	1.38
Carroll	1.36	Madison	1.35
Carter	1.46	Marion	1.41
Cheatham	1.38	Marshall	1.40
Chester	1.36	Mauzy	1.39
Claborn	1.45	Meigs	1.42
Clay	1.39	Monroe	1.44
Cocke	1.44	Montgomery	1.37
Coffey	1.40	Moore	1.40
Crockett	1.35	Morgan	1.42
Cumberland	1.41	Oblon	1.35
Davidson	1.38	Overton	1.40
Decatur	1.37	Perry	1.38
DeKalb	1.39	Pickett	1.40
Dickson	1.38	Polk	1.44
Dyer	1.35	Putnam	1.40
Fayette	1.35	Rhea	1.42
Fentress	1.41	Roane	1.42
Franklin	1.41	Robertson	1.37
Gibson	1.35	Rutherford	1.39
Giles	1.40	Scott	1.42
Grainger	1.44	Sequatchie	1.41
Greene	1.45	Sevier	1.44
Grundy	1.40	Shelby	1.35
Hamblen	1.45	Smith	1.39
Hamilton	1.42	Stewart	1.37
Hancock	1.46	Sullivan	1.47
Hardeman	1.36	Sumner	1.37
Hardin	1.37	Tipton	1.35
Hawkins	1.47	Trousdale	1.38
Haywood	1.35	Unicoi	1.45
Henderson	1.37	Union	1.44
Henry	1.36	Van Buren	1.40
Hickman	1.38	Warren	1.40
Houston	1.37	Washington	1.46
Humphreys	1.37	Wayne	1.38
Jackson	1.39	Weakley	1.35
Jefferson	1.44	White	1.40
Johnson	1.46	Williamson	1.39
Knox	1.44	Wilson	1.38
Lake	1.35		

TEXAS

Andrews	\$1.28	Bexar	\$1.41
Archer	1.29	Blanco	1.41
Armstrong	1.29	Borden	1.29
Atascosa	1.40	Bosque	1.40
Bailey	1.29	Bowie	1.33
Bandera	1.38	Briscoe	1.29
Bastrop	1.42	Brown	1.38
Baylor	1.29	Burleson	1.45
Bee	1.40	Burnet	1.38
Bell	1.42	Caldwell	1.42

TEXAS—Continued

County	Rate per bushel	County	Rate per bushel
Calhoun	\$1.42	Kimble	\$1.36
Callahan	1.29	King	1.29
Carson	1.29	Kinney	1.30
Castro	1.29	Knox	1.29
Chambers	1.43	Lamar	1.33
Cherokee	1.43	Lamb	1.29
Childress	1.29	Lampasas	1.38
Clay	1.31	Limestone	1.42
Cochran	1.29	Lipscomb	1.27
Coke	1.29	Live Oak	1.40
Coleman	1.35	Llano	1.38
Collin	1.38	Loving	1.22
Collingsworth	1.29	Lubbock	1.29
Comal	1.42	Lynn	1.29
Comanche	1.32	McCulloch	1.37
Concho	1.35	McLennan	1.42
Cooke	1.33	Martin	1.28
Coryell	1.33	Mason	1.38
Cottie	1.29	Maverick	1.27
Crosby	1.29	Medina	1.40
Culberson	1.21	Menard	1.35
Dallam	1.26	Midland	1.27
Dallas	1.38	Milam	1.44
Dawson	1.29	Mills	1.38
Deaf Smith	1.29	Mitchell	1.29
Delta	1.36	Montague	1.33
Denton	1.38	Moore	1.27
DeWitt	1.42	Motley	1.29
Dickens	1.29	Navarro	1.41
Dimmit	1.31	Nolan	1.29
Donley	1.29	Ochiltree	1.27
Eastland	1.30	Oldham	1.29
Edwards	1.29	Palo Pinto	1.33
Ellis	1.40	Parker	1.36
El Paso	1.19	Parmer	1.29
Erath	1.34	Pecos	1.21
Falls	1.42	Potter	1.29
Fannin	1.33	Presidio	1.19
Fisher	1.29	Randall	1.29
Floyd	1.29	Real	1.35
Foard	1.29	Reeves	1.22
Gaines	1.29	Refugio	1.40
Galveston	1.59	Roberts	1.27
Garzo	1.29	Robertson	1.42
Gillespie	1.37	Rockwall	1.38
Glasscock	1.29	Runnels	1.33
Gollad	1.41	San Saba	1.38
Gray	1.28	Schleicher	1.27
Grayson	1.33	Scurry	1.29
Guadalupe	1.42	Shackelford	1.29
Hale	1.29	Sherman	1.26
Hall	1.29	Somervell	1.38
Hamilton	1.34	Stephens	1.33
Hansford	1.26	Sterling	1.29
Hardeman	1.29	Stonewall	1.29
Harris	1.58	Sutton	1.25
Hartley	1.27	Swisher	1.29
Haskell	1.29	Tarrant	1.39
Hays	1.42	Taylor	1.31
Hemphill	1.27	Terry	1.29
Hill	1.41	Throckmorton	1.31
Hockley	1.29	Tom Green	1.29
Hood	1.37	Travis	1.42
Howard	1.29	Uvalde	1.35
Hudspeth	1.20	Van Zandt	1.38
Hunt	1.37	Victoria	1.42
Hutchinson	1.27	Waller	1.55
Irion	1.26	Ward	1.24
Jack	1.33	Wharton	1.53
Jackson	1.45	Wheeler	1.28
Jeff Davis	1.20	Wichita	1.29
Johnson	1.40	Wilbarger	1.29
Jones	1.29	Williamson	1.42
Karnes	1.40	Wilson	1.40
Kaufman	1.39	Wise	1.35
Kendall	1.38	Yoakum	1.29
Kerr	1.29	Young	1.33
	1.37	Zavala	1.31

UTAH

Beaver	\$1.19	Garfield	\$0.98
Box Elder	1.16	Grand	1.02
Cache	1.16	Iron	1.17
Carbon	1.02	Juab	1.17
Daggett	1.02	Kane	.98
Davis	1.17	Millard	1.19
Duchesne	1.05	Morgan	1.17
Emery	1.02	Piute	.98

UTAH—Continued

County	Rate per bushel	County	Rate per bushel
Rich	\$1.02	Uintah	\$1.02
Salt Lake	1.17	Utah	1.17
San Juan	.98	Wasatch	1.05
San Pete	.97	Washington	1.17
Sevier	.97	Wayne	.98
Summit	1.17	Weber	1.17
Tooele	1.17		

VERMONT

All counties	\$1.45
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VIRGINIA

Accomac	\$1.46	King William	\$1.46
Albemarle	1.45	Lancaster	1.46
Alleghany	1.43	Lee	1.44
Amelia	1.46	Loudoun	1.45
Amherst	1.45	Louisa	1.45
Appomattox	1.46	Lunenburg	1.46
Arlington	1.45	Madison	1.45
Augusta	1.45	Mathews	1.46
Bath	1.43	Mecklenburg	1.45
Bedford	1.45	Middlesex	1.46
Bland	1.43	Montgomery	1.43
Botetourt	1.44	Nansemond	1.45
Brunswick	1.45	Nelson	1.45
Buchanan	1.43	New Kent	1.46
Buckingham	1.46	Norfolk	1.45
Campbell	1.45	Northampton	1.46
Caroline	1.46	Northumber-	
Carroll	1.44	land	1.46
Charles City	1.46	Nottaway	1.46
Charlotte	1.46	Orange	1.45
Chesterfield	1.46	Page	1.45
Clarke	1.45	Patrick	1.44
Craig	1.43	Pittsylvania	1.45
Culpeper	1.45	Powhatan	1.46
Cumberland	1.46	Prince Edward	1.46
Dickenson	1.43	Prince George	1.46
Dinwiddie	1.46	Prince William	1.45
Elizabeth		Princess Anne	1.45
City	1.46	Pulaski	1.44
Essex	1.46	Rappahan-	
Fairfax	1.45	nock	1.45
Fauquier	1.45	Richmond	1.46
Floyd	1.44	Roanoke	1.44
Fluvanna	1.45	Rockbridge	1.45
Franklin	1.44	Rockingham	1.45
Frederick	1.45	Russell	1.44
Giles	1.43	Scott	1.44
Gloucester	1.46	Shenandoah	1.45
Goochland	1.46	Smyth	1.44
Grayson	1.44	Southampton	1.45
Greene	1.45	Spotsylvania	1.46
Greensville	1.45	Stafford	1.46
Halifax	1.45	Surry	1.45
Hanover	1.46	Sussex	1.45
Henrico	1.46	Tazewell	1.43
Henry	1.44	Warren	1.45
Highland	1.43	Warwick	1.46
Isle of Wight	1.45	Washington	1.44
James City	1.46	Westmoreland	1.46
King and		Wise	1.44
Queen	1.46	Wythe	1.44
King George	1.46	York	1.46

WASHINGTON

Adams	\$1.28	Lewis	\$1.27
Asotin	1.24	Lincoln	1.27
Benton	1.31	Mason	1.26
Chelan	1.29	Okanogon	1.27
Clallam	1.18	Pacific	1.26
Clark	1.34	Pend Oreille	1.12
Columbia	1.29	Pierce	1.32
Cowlitz	1.31	San Juan	1.29
Douglas	1.28	Skagit	1.29
Ferry	1.07	Skamania	1.35
Franklin	1.30	Snohomish	1.30
Garfield	1.27	Spokane	1.24
Grant	1.29	Stevens	1.20
Grays Harbor	1.26	Thurston	1.28
Island	1.29	Wahkiakum	1.31
Jefferson	1.20	Walla Walla	1.30
King	1.33	Whatcom	1.28
Kitsap	1.24	Whitman	1.25
Kittitas	1.34	Yakima	1.33
Klickitat	1.33		

RULES AND REGULATIONS

WEST VIRGINIA

County	Rate per bushel	County	Rate per bushel
Barbour	\$1.40	Mineral	\$1.42
Berkeley	1.44	Mingo	1.39
Boone	1.44	Monogalia	1.38
Braxton	1.39	Monroe	1.42
Brooke	1.37	Morgan	1.43
Cabell	1.37	Nicholas	1.41
Calhoun	1.38	Ohio	1.37
Clay	1.39	Pendleton	1.43
Doddridge	1.37	Pleasants	1.36
Payette	1.41	Pocahontas	1.43
Gilmer	1.38	Preston	1.40
Grant	1.42	Putnam	1.37
Greenbrier	1.43	Raleigh	1.40
Hampshire	1.43	Randolph	1.42
Hancock	1.37	Ritchie	1.37
Hardy	1.43	Roane	1.37
Harrison	1.39	Summers	1.43
Jackson	1.36	Taylor	1.40
Jefferson	1.45	Tucker	1.42
Kanawha	1.38	Tyler	1.36
Lewis	1.39	Upshur	1.40
Lincoln	1.38	Wayne	1.38
Logan	1.39	Webster	1.41
McDowell	1.41	Wetzel	1.37
Marion	1.38	Wirt	1.37
Marshall	1.37	Wood	1.36
Mason	1.37	Wyoming	1.40
Mercer	1.42		

WISCONSIN

Adams	\$1.37	Marathon	\$1.40
Ashland	1.48	Marquette	1.37
Barron	1.45	Menomonee	1.35
Bayfield	1.42	Milwaukee	1.43
Brown	1.36	Monroe	1.37
Buffalo	1.41	Oconto	1.34
Burnett	1.50	Oneida	1.35
Calumet	1.38	Outagamie	1.37
Chippewa	1.46	Ozaukee	1.41
Clark	1.43	Pepin	1.43
Columbia	1.39	Pierce	1.44
Crawford	1.36	Polk	1.49
Dane	1.40	Portage	1.40
Dodge	1.40	Price	1.45
Door	1.31	Racine	1.43
Douglas	1.48	Richland	1.37
Dunn	1.46	Rock	1.42
Eau Claire	1.43	Rusk	1.47
Florence	1.31	St. Croix	1.46
Fond du Lac	1.39	Sauk	1.39
Forest	1.41	Sawyer	1.44
Grant	1.35	Shawano	1.35
Green	1.41	Sheboygan	1.40
Green Lake	1.38	Taylor	1.45
Iowa	1.38	Trempeleau	1.39
Iron	1.42	Vernon	1.37
Jackson	1.39	Vilas	1.32
Jefferson	1.41	Walworth	1.45
Juneau	1.36	Washburn	1.42
Kenosha	1.43	Washington	1.41
Kewaunee	1.33	Waukesha	1.42
La Crosse	1.38	Waupaca	1.35
Lafayette	1.38	Waushara	1.36
Langlade	1.33	Winnebago	1.38
Lincoln	1.33	Wood	1.43
Manitowoc	1.38		

WYOMING

Albany	\$1.09	Natrona	\$1.01
Big Horn	.98	Niobrara	1.11
Campbell	1.06	Park	.98
Carbon	1.03	Platte	1.15
Converse	1.07	Sheridan	1.04
Crook	1.08	Sublette	1.02
Fremont	.98	Sweetwater	1.02
Goshen	1.15	Teton	1.08
Hot Springs	.98	Uinta	1.02
Johnson	1.04	Washakie	.98
Laramie	1.15	Weston	1.10
Lincoln	1.02		

(f) Premiums and discounts. The following premiums and discounts, as applicable, shall be applied to the basic support rate for warehouse storage loans and for wheat acquired by CCC under a loan or by purchase:

(1) Class premiums and discounts:

	Cents per bushel
(i) Premiums:	
Hard Amber Durum <sup>1</sup>	+10
Amber Durum <sup>1</sup>	+5
(ii) Discounts:	
Red Durum	-20
Mixed Wheats (Do not apply more than one of the Mixed Wheat discounts):	
Mixed Wheat (including Mixed Wheat containing less than 5 percent of wheats of the classes Durum and/or Red Durum)	-2
Mixed Wheat (containing from 5 percent to 10 percent of Wheat of the Classes Durum and/or Red Durum)	-6
Mixed Wheat (containing more than 10 percent of Wheats of the Classes Durum and/or Red Durum)	-15
(2) Grade Premium and discount:	
(i) Premium:	
No. 1 Heavy, No. 2 Heavy and No. 3 Heavy	+1
(ii) Discounts:	
No. 2	-1
No. 3	-2
No. 4 or No. 5 because of containing Durum and/or Red Durum <sup>2,3</sup>	-6

No. 4, No. 5 or "Sample" on the factor of test weight:

HARD RED SPRING	
Test weight	Cents per bushel
53.0-54.9	-4
50.0-52.9	-6
49	-9
48	-12
47	-15
46	-18
45	-21
44	-25
43	-29
42	-33
41	-37
40	-41

ALL OTHER CLASSES

Total damaged	Cents per bushel
Test weight	
54.0-55.9	-4
51.0-53.9	-6
50	-9
49	-12
48	-15
47	-18
46	-21
45	-24
44	-28
43	-32
42	-36
41	-40
40	-44

No. 4, No. 5 or "Sample" on account of total damaged kernels (other than heat damaged):<sup>1</sup>

Total damaged (percent)	Cents per bushel
7.1-8.0	-1
8.1-9.0	-2
9.1-10.0	-3
10.1-11.0	-4
11.1-12.0	-5
12.1-13.0	-6
13.1-14.0	-7
14.1-15.0	-8
15.1-16.0	-10
16.1-17.0	-12
17.1-18.0	-14
18.1-19.0	-16
19.1-20.0	-18
20.1-21.0	-20
21.1-22.0	-22

See footnote at end of tables.

Total damaged (percent)

22.1-23.0	-24
23.1-24.0	-26
24.1-25.0	-28
25.1-26.0	-30
26.1-27.0	-32
27.1-28.0	-34
28.1-29.0	-36
29.1-30.0	-38
30.1 and above	-45

Smut—Degree Basis: Cents per bushel

Light Smutty	-2
Smutty	-6
Garlic—Degree Basis:	
Light Garlicky	-5
Garlicky	-10

(3) Variety Discount  
The following varieties listed by class will be subject to discount. These varieties are referred to in these regulations as "undesirable varieties". The discount is in addition to any other applicable discount:

Hard Red Winter	Hard Red Spring	Durum	White	Soft Red Winter
Blue Jacket.	C. T. 231.	Golden Ball.	Fifty Fold.	Kan-Queen.
Cache. <sup>4</sup>	Gasser.	Pelliss.	Florence.	Kawwala.
Chiefkan.	Henry. <sup>5</sup>	Pentad.	Greeson.	Nured.
Cimarron.	Lathrop. <sup>5</sup>		Rex.	Sea-breeze.
	Kinney.		Sonora.	
Early Blackhull.	Premier.			
Kanking.	Progress.			
Kharkof.	Russell. <sup>6</sup>			
MC 22.				
New Chief.	Spink-cota.			
	Sturgeon.			
Pawnee.				
Sel. 33.				
Purkof.				
Red Chief.				
Red Hull.				
Red Jacket.				
Stafford.				
Wasatch. <sup>7</sup>				
Yogo.				

(4) Sedimentation value premiums and discounts for Hard Red Winter, Hard Red Spring and Hard White Wheat of the varieties Baart, Bluestem and Burt:<sup>1</sup>

Sedimentation value	Cents per bushel
22 and below	-6
23-25	-5
26-28	-4
29-31	-3
32-34	-2
35-37	-1
38-42	0
43-45	+1
46-48	+2
49-51	+3
52-54	+4
55-57	+5
58-60	+6
61-63	+7
64-66	+8
67 and above	+9

(5) Protein premiums and discounts for Hard Red Winter, Hard Red Spring and Hard White Wheat of the varieties Baart, Bluestem and Burt:<sup>1</sup>

Protein content (percent)	Cents per bushel
9.4 and below	-4
9.5-9.9	-3
10.0-10.4	-2
10.5-10.9	-1
11.0-11.9	0
12.0-12.4	+1
12.5-12.9	+2
13.0-13.4	+3
13.5-13.9	+4

Protein content (percent)	Cents per bushel
14.0-14.4	+5
14.5-14.9	+6
15.0-15.4	+7
15.5-15.9	+8
16.0-16.4	+9
16.5-16.9	+10
17.0-17.4	+11
17.5 and above	+12

- (6) Weed control discount (where required by section 1421.74) ----- -10
- (7) Other quality discounts to be established by CCC for settlements of loans and purchases.

<sup>1</sup> Not applicable to any of the undesirable varieties listed in variety discount schedule, nor to wheat grading below No. 3 on factors other than test weight.

<sup>2</sup> These discounts are in addition to any other applicable numerical grade discount.

<sup>3</sup> Not applicable to any of the mixed wheats or Red Durum. For discounts applicable to mixed wheat containing Durum and/or Red Durum, see subparagraph (1), (ii) of this paragraph.

<sup>4</sup> Where total damaged kernels are no more than 30 percent this discount shall be in addition to all other applicable discounts and wheat otherwise grading No. 1 Heavy, No. 1, No. 2 Heavy, or No. 2 shall be discounted 2 cents per bushel in lieu of the numerical grade premiums or discount. Where total damaged kernels exceed 30 percent, no additional discounts shall be applied except the variety discount.

<sup>5</sup> Only in Minnesota, North Dakota, and South Dakota.

<sup>6</sup> Except in Idaho and Utah.

<sup>7</sup> Except in Colorado, Idaho, and Utah.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 18, 1964.

H. D. GODFREY,  
Executive Vice President,  
Commodity Credit Corporation.

[F.R. Doc. 64-6231; Filed, June 24, 1964; 8:45 a.m.]

# Title 18—CONSERVATION OF POWER AND WATER RESOURCES

## Chapter I—Federal Power Commission

[Docket No. R-228; Order 272-A]

### PART 11—ANNUAL CHARGES

#### Costs of Administration

JUNE 18, 1964.

The issue before us concerns our authority to adjust annual charges to licensees for reimbursing the United States for its costs in administering Part I of the Federal Power Act (16 U.S.C. 791-823), which before 1935 was the Federal Water Power Act of 1920 (41 Stat. 1063). We are required to fix these charges by subsection 10(e) (16 U.S.C. 803(e)).

Union Electric Co., licensee for the Bagnell Project, Project No. 459, on the Osage River, Mo., filed an application on December 20, 1963, for rehearing of Order No. 272, issued on November 20, 1963, (30 FPC -----, 28 F.R. 9648) which establishes a new system for fixing annual

charges.<sup>1</sup> We granted rehearing on January 19, 1964, to permit consideration of this application.

Union Electric's license, issued on February 25, 1926, states in article 21: "The licensee shall pay to the United States reasonable annual charges for the purpose of reimbursing the United States for the costs of the administration of the Act \* \* \* Such charges shall be determined in accordance with the provisions of Regulation 14 [of the Commission's rules and regulations]" \* \* \*

Regulation 14, adopted in 1921: *Provided*: " \* \* \* After the maximum rates hereinabove prescribed have become effective with respect to any license, they shall thereafter continue without change with respect to such license unless or until the commission or Congress shall make reductions in such rates of charge."

Union Electric contends that Order No. 272, under which its annual charges would be higher than under Regulation 14, imposes a new condition upon its license in contravention of section 6 of the Federal Power Act (16 U.S.C. 799), stating that "licenses \* \* \* may be altered \* \* \* only upon mutual agreement between the licensee and the Commission \* \* \*"

The original subsection 10(e), as adopted in 1920 and in existence as of the time the license for Project No. 459 was issued, read like the present section except that the final phrase relating to adjustment of charges then applied specifically only to changes for the expropriation of excess profits and not to annual charges for reimbursing the Government for administrative costs.<sup>2</sup> However, the 1935 Amendments to the Federal Water Power Act clarified the Commission's authority by providing that any charges may be adjusted.<sup>3</sup> Thus, the issue here

<sup>1</sup> Before Order No. 272, annual charges generally were fixed by assigning a charge per power unit, either horsepower or kilowatt-hours. Order No. 272 substituted a system of distributing the actual annual costs of administering Part I among the licensees in the proportion of each licensee's horsepower and kilowatt-hours to all licensees' horsepower and kilowatt-hours.

<sup>2</sup> A comparative print of subsection 10(e)'s 1935 amendment reads:

"(e) That the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the Commission for the purpose of reimbursing the United States for the costs of the administration of this Part; for recompensing it for the use, occupancy, and enjoyment of its lands or other property; and for the expropriation to the Government of excessive profits until the respective States shall make provision for preventing excessive profits or for the expropriation thereof to themselves, or until the period of amortization as herein provided is reached, and in fixing such charges the Commission shall seek to avoid increasing the price to the consumers of power by such charges, and any such charges [for the expropriation of excessive profits] may be adjusted from time to time by the Commission as conditions may require \* \* \* [Italicized words are additions; bracketed words are deletions.]"

<sup>3</sup> The rather bare legislative history of this amendment indicated that it was introduced by the Commission to make the Commission's authority to adjust all 10(e) charges "explicit" (Hearings before House Committee on Interstate and Foreign Commerce, 74th

is not whether the Commission has authority to adjust annual charges in any license issued after enactment of the 1935 Amendments.<sup>4</sup> And the issue is not whether the Commission had authority prior to 1935 to prescribe for adjustment of annual charges in licenses. Rather, the issue is the significance of the Commission's action in issuing a license to petitioner which clearly proscribed any upward adjustment in annual charges.

The legislative history of the Federal Water Power Act reveals several important efforts to include a provision enabling the Commission to adjust annual charges. Initially, Rep. Sherley of Kentucky succeeded in amending H.R. 16053, 63d Cong., 2d Sess. (1914) to provide:

The Secretary of War may provide as a condition of such approval for the payments to the United States of reasonable annual charges for the benefits that accrue to the grantee by the authority given under this act, and at the end of twenty years, and every ten years thereafter, the Secretary of War may readjust the annual charges as may then be just and reasonable.<sup>5</sup>

When the House was considering H.R. 3184 which, as amended, became the Federal Water Power Act, the Sherley Amendment had its sequel in the unsuccessful Little Amendment. Representative Little of Kansas proposed to amend the bill to allow adjustment of all annual charges at these intervals.<sup>6</sup> He said that an annual charge which was reasonable at the beginning of the license would be nothing comparatively, at the end.

Representative Small of North Carolina and McArthur of Oregon opposed the Little Amendment in debate on the ground that it would discourage investment in the hydroelectric industry. Representatives Ferris of Oklahoma and Sims of Tennessee argued that since the Commission could provide for adjusting annual charges in the licenses, the Little Amendment was unnecessary. Representative Sims made abundantly clear that adjustment was not possible without a license provision allowing it:

Mr. Little. But they have to do it when they issue the license or they forever forfeit any chance to adjust the charges to changing conditions.

Mr. Sims. They have to put it in the license.<sup>7</sup>

The Little Amendment was rejected, and H.R. 3184 was passed and sent to the Senate.

The Senate report on the bill<sup>8</sup> proposed an amendment which, while it would have confined the purposes for which annual charges could be fixed,

Cong., 1st Sess. at 390) and "express" (House Report No. 1318, 74th Cong., 1st Sess. 24). See also Hearings before the Senate Committee on Interstate Commerce, 74th Cong., 1st Sess. at 237, S. Report No. 621, 74th Cong., 1st Sess. 45.

<sup>4</sup> Since January 1, 1937, the Commission has pursued a policy of providing in licenses that annual charges for administrative costs are adjustable.

<sup>5</sup> 51 Cong. Rec. 12759 (1914).

<sup>6</sup> 58 Cong. Rec. 2221 (1919).

<sup>7</sup> 58 Cong. Rec. 2223 (1919).

<sup>8</sup> S. 180, 66th Cong., 1st Sess. (1919)

would have permitted their periodic adjustment:

That the licensee shall pay for the license herein granted such reasonable annual charges as may be fixed by the Commission, for the purpose of reimbursing the United States for the cost of the administration of the Act in relation to water powers developed under its jurisdiction, in the proportion that the water power developed by the project covered by said license bears to the total water power developed by all projects under the Act, and for that purpose such charges may be readjusted from time to time, not oftener than once in two years \* \* \*

The Senate in approving H.R. 3184 adopted this amendment." The House being in disagreement with the Senate amendments, the bill was referred to conference committee, in which the underlined language was omitted and the language as finally enacted in subsection 10(e) was worked out. The conference committee did not offer any explanation of the language finally adopted.

The legislative history thus shows that Congress rejected the two proposals which would have expressly authorized the Commission to adjust annual charges, even though both proposals contained a minimum period for successive adjustments.

As indicated, we do not here have to decide whether in the light of such history the Commission prior to the 1935 amendment might have had the power to provide for adjusting such fees. We need only find that the Commission had no statutory duty to provide for adjusting fees and could legally provide for a fee which could not be modified for the life of the license.

In the light of the foregoing legislative history, we conclude that the Commission had the power to specify in Union Electric's 1925 license that it would not increase the fees for administering the Act during the term of the license, and that, under the statutory scheme, this provision cannot be superseded without petitioner's agreement.

Upon consideration of the entire record in this proceeding,

The Commission finds, It is appropriate and in the public interest in administering Part I of the Federal Power Act that Order No. 272 be amended as hereinafter provided.

Acting pursuant to the authority granted by the Federal Power Act, particularly subsection 10(e) and section 309 thereof (16 U.S.C. 803(e), 825(h)),

The Commission orders, (A) Section 11.20 of the Commission's regulations under the Federal Power Act, Subchapter B, Chapter I of Title 18 of the Code of Federal Regulations is amended as follows:

Insert in paragraph (a) of § 11.20 a new subparagraph (5) and amend (c). Section 11.20 then will read in full as follows:

**§ 11.20 Costs of administration.**

Reasonable annual charges will be assessed by the Commission against each

licensee to reimburse the United States for the costs of administration of Part I of the Federal Power Act as follows:

(a) For licensees, other than State or municipal, of projects of more than 2,000 horsepower of installed capacity:

(1) A determination shall be made for each fiscal year of the costs of administration of Part I of the Federal Power Act chargeable to such licensees, from which shall be deducted such administrative costs allocated by the Commission to minor part licenses for which administrative charges are waived under section 10(i) of the Act and those fixed by the Commission in determining head-water benefit payments.

(2) For each calendar year the costs of administration determined under subparagraph (1) of this paragraph shall be assessed against such licensee in the proportion that the annual charge factor for each such project bears to the total of the annual charge factors under all such outstanding licenses.

(3) The annual charge factor for each such project shall be its authorized installed capacity (horsepower); plus 150 times its annual energy output in kilowatt-hours divided by one million.

(4) To enable the Commission to determine such charges annually, each such licensee shall file with the Commission, on or before February 1 of each year, a statement under oath showing the gross amount of power generated (or produced by non-electrical equipment) by the project during the preceding calendar years, expressed in kilowatt hours.

(5) No licensee under a license issued prior to August 26, 1935, shall be required to pay annual charges in an amount greater than that prescribed in such license.

(c) For licensees of projects of 2,000 horsepower or less of installed capacity the charge for costs of administration shall be 5 cents per horsepower with a minimum charge of \$5 per annum for each such license except for those licenses for which administrative charges are waived under section 10(i) of the Act. No licensee under a license issued prior to August 26, 1935, shall be required to pay annual charges in an amount greater than that prescribed in such license.

(Secs. 10(e) and 309 (16 U.S.C. 803(e), 825(h)))

(B) The amendments prescribed herein will be effective retroactively to January 1, 1964.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 64-6297; Filed, June 24, 1964;  
8:45 a.m.]

## Title 29—LABOR

### Chapter IV—Office of Labor-Management and Welfare-Pension Reports, Department of Labor

#### SUBCHAPTER A—LABOR-MANAGEMENT REPORTS

#### PART 451—LABOR ORGANIZATIONS AS DEFINED IN THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

##### State or Local Central Body

The definition of "labor organization" in section 3(i) of the Labor-Management Reporting and Disclosure Act of 1959 (cf. also subsection 3(j)(5)) excepts therefrom a "State or local central body." The purpose of this amendment is to clarify the Department's statement of interpretative position regarding the meaning of "State or local central body". (29 CFR 451.5)

Accordingly, under the authority of sections 3, 208, 401, 73 Stat. 520, 529, 532; 29 USC 402, 438, 481; Secretary's Order No. 24-63 (28 F.R. 9172), and Secretary's Order No. 25-63 (28 F.R. 9173) § 451.5 of 29 CFR Part 451 is hereby amended to read as follows.

##### § 451.5 "State or local central body."

(a) The definition of "labor organization" in section 3(i) and the examples of labor organizations deemed to be engaged in an industry affecting commerce in section 3(j)(5) both except from the term "labor organization" a "State or local central body." As used in these two sections, the phrase "State or local central body" means an organization that:

(1) Is chartered by a federation of national or international unions; and

(2) Admits to membership local unions and subordinate bodies of national or international unions that are affiliated with the chartering federation within the State or local central body's territory and any local unions or subordinate bodies directly affiliated with the federation in such territory; and

(3) Exists primarily to carry on educational, legislative and coordinating activities.

(b) The term does not include organizations of local unions or subordinate bodies (1) of a single national or international union; or (2) of a particular department of a federation or similar association of national or international unions.

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

Signed at Washington, D.C., this 15th day of June 1964.

JAMES J. REYNOLDS,  
Labor-Management Services  
Administrator.

[F.R. Doc. 64-6306; Filed, June 24, 1964;  
8:47 a.m.]

**Title 32—NATIONAL DEFENSE****Chapter VII—Department of the Air Force****SUBCHAPTER W—AIR FORCE PROCUREMENT INSTRUCTION****MISCELLANEOUS AMENDMENTS TO SUBCHAPTER**

Subchapter W of Title 32 is amended as follows:

**PART 1001—GENERAL PROVISIONS****Subpart A—Introduction**

1. A second sentence is added to § 1001.109-51(a), and this paragraph now reads as follows:

**§ 1001.109-51 Deviations, contract clauses.**

(a) Deviations from clauses prescribed in Subchapter A, Chapter 1 of this title and this subchapter will be held to a minimum and will not be made unless approved as required by §§ 1001.109-2 or 1001.109-3. Deviations from §§ 1004.2002 (a) and 1007.3603, Part I(c) of this subchapter may be approved only at Secretarial level of the Air Force.

**§§ 1001.113—1001.113-2 [Deleted]**

2. Delete §§ 1001.113 through 1001.113-2.

Subpart B is revised to read as follows:

**Subpart B—Definition of Terms****§ 1001.201 Definitions.****§ 1001.201-1 Change orders.**

AFLC field procurement activities, APRFE, and Air Defense Command will not use Change Orders (DD Forms 1319) when the criteria of § 1001.201-50 and Subpart C, Part 1054 of this subchapter, concerning Contract Change Notifications (AFPI Forms 35) are applicable. This restriction applies only to central procurement activities.

**§ 1001.201-18 Sources of supplies.**

(a) The following definition applies to contracts for supplies which will be manufactured and furnished outside the United States, its possessions, and Puerto Rico. The term "sources of supplies" includes:

(1) Manufacturers.  
(2) Construction contractors.  
(3) Regular dealers in the supplies to be procured as defined in § 12.603 of this title.

(4) Intermediaries, provided such sources are not prohibited by local foreign law. An intermediary will be deemed to be any one of the following:

(i) A person (or firm) who owns, operates, or maintains a place of business, regularly engaged in performing certain services which directly or indirectly increase the value of the materials, supplies, articles, or equipment being procured (services to consist of such functions as the recovery from consignees and redistribution to manufacturers and producers of containers and packing materials; receiving, storing, repacking, and reshipping of items being procured; collection, consolidation, assembling, packing, and shipping of

items being procured, etc.; and not the functions of mere soliciting of business, taking of orders, rendering assistance to manufacturers or producers by preparing receiving payment documents, arranging for transportation facilities, etc.).

(ii) A person (or firm) who owns, operates, or maintains a place of business, regularly engaged in the importing and exporting business, provided the items being procured are not to be imported from within the United States, its possessions, or Puerto Rico.

(iii) Agencies or instrumentalities of a foreign government.

**§ 1001.201-50 Contract change notification.**

A written order signed by a contracting officer directing the making of changes of the kind authorized by the provisions of the contract in the supplies or services called for thereunder, and usually containing an estimated price or cost for such changes. Following such a written order, the necessary revisions in other provisions of the contract, which are brought about by such order, will be made by a supplemental agreement which will establish the firm price or cost. CCNs will be used according to Subpart C, Part 1054 of this subchapter.

**§ 1001.201-51 Contractor.**

Any person, partnership, company, or corporation (or any combination of these) that is a party to a contract with the United States.

**§ 1001.210-54 Local purchase.**

The authorized purchase, with appropriated funds, of materials, and supplies and services, including construction and utilities, by an Air Force installation (normally an Air Force base) for its own use or in logistical support of another activity. Local purchase is not confined to the immediate geographical area surrounding the base.

**§ 1001.201-55 Base procurement activity.**

Any Air Force installation that is engaged in local purchase and is located within the United States, its possessions or Puerto Rico. The base procurement office is the centralized purchasing office on an Air Force installation engaged in local purchase.

**§ 1001.201-57 Central procurement.**

The purchasing of consolidated Air Force requirements (supplies or services) by certain designated agencies, such as AFLC, AFSC, MATS, ACIC, ATC, AFCS, Department of the Army or Navy, and DSA.

**§ 1001.201-58 AFPA-write out.**

AFLC field procurement activities means the purchasing activities (excluding base procurement) of AFLC, air materiel areas located in the CONUS.

**§ 1001.201-59 Foreign central procurement activity.**

Any AFLC/AFSC installation that is engaged in central procurement and is located outside the United States, its possessions, or Puerto Rico.

**§ 1001.201-60 Oversea commands.**

Major air commands located in possessions of the United States, and in Puerto Rico, Alaska and Hawaii, as well as those in foreign countries.

**§ 1001.201-61 Continental United States (CONUS).**

The 48 states contiguous to each other and the District of Columbia. Does not include Alaska and Hawaii.

**§ 1001.201-62 Contract Management Regions (CMRs).**

The activity exercising command responsibility over AFPROs, CMDs, and Test Site offices.

**§ 1001.201-63 Title I and Title II architect-engineer services.**

(a) *Title I architect-engineer services.* Any services required to be furnished by an architect-engineer in connection with the preparation, coordination, and approval of preliminary and final designs, drawings, specifications, estimates of cost, and other technical documents and data essential to the development of advance and master plans, military construction projects (including family housing projects) and the maintenance, alteration, and repair of constructed facilities. Title I may include reviewing, checking, coordinating, and recommending approval of shop drawings and material samples submitted by construction contractors to assure that they conform to the requirements and intent of the approved construction contract drawings and specifications when no Title II contract is to be let.

(b) *Title II architect-engineer services.* Any services required to be furnished by an architect-engineer in connection with the general supervision and detailed field inspection of the construction of a project to insure that all phases of the construction work are performed in strict compliance with the intent and requirements of the approved construction contract documents, and the furnishing of such other technical services during the construction period as may be required and specified. Title II includes post construction architect-engineers services, such as: assisting in final inspection, preparing "as built" drawings, supervising operating and other tests, and preparing operating and maintenance instructions

**§ 1001.201-64 Breakout.**

The process whereby parts, components, and subsystems and/or systems are isolated and listed for consideration of the method of procurement to be used for their acquisition. As a result of the breakout process, the items listed may then be acquired direct from the actual manufacturer or from industry on a competitive basis, where such method of procurement is technically and economically feasible and does not result in degradation of the items listed.

**§ 1001.201-65 Procurement cycle.**

The procurement cycle consists of a series of events, actions, and decisions leading to completion of a single procurement transaction or combination of

related transactions. For overall management purposes the procurement cycle starts with the preparation of a plan to fulfill the requirements of an objective and ends with the final retirement of the file. For operational purposes within the procurement function the cycle starts with receipt of an acceptable request for purchase action in the procuring activity and ends with completed contractual performance. For complex programs any procurement cycle may be divided into major phases of responsibility and further subdivided into milestones of progress leading to predetermined goals.

#### Subpart C—General Policies

§§ 1001.302-3; 1001.302-50; 1001.305-3 [Amended]

1. Amend §§ 1001.302-3 (a) and (b), 1001.302-50 (a) through (c) and 1001.305-3 (a) through (d) to read: "No implementation."

§§ 1001.302-4; 1001.305-2; 1001.351 [Deleted]

2. Delete §§ 1001.302-4, 1001.305-2 and 1001.351.

3. Revise § 1001.318 to read as follows:  
§ 1001.318 Contracts conditioned upon the availability of funds.

(a) To provide administrative lead time and to overcome delays in the early part of a new fiscal year covering procurements to be effective July 1st of each year, the procedures cited in the following subparagraphs may be followed:

(1) Determine that the requirement is one specifically for operation and maintenance and is continuing in nature, that is, from one fiscal year to the next; that such requirement is necessary for normal operation; and that Congress consistently appropriates funds for such a requirement.

(2) If an affirmative determination is made by the contracting officer on all aspects of subparagraph (1) of this paragraph, the clause in § 1.318 of this title may be included in the respective RFP or IFB, which can be issued sufficiently early in the procurement cycle to enable definitization and issuance of the contract a reasonable length of time prior to July 1st.

(3) After receipt of the proposals/bids, completion of the evaluation, etc., an award may be made a reasonable length of time prior to July 1st and contract distributed prior to actual receipt of evidence of fund availability.

(4) In transmitting a contract to the contractor which contains an "Availability of Funds" clause, attention must be invited to the specific clause together with a caution to the contractor not to commence performance until he is notified that funds are available.

(5) The contracting officer will contact the contractor and notify him of fund availability immediately upon being notified that funds have been certified in writing by the comptroller activity.

(6) The notification in subparagraph (5) of this paragraph will then be reflected by adding the fund citation to the contract by change order.

(b) The procedure in paragraph (a) of this section will not be used in solicitations for informational or planning purpose, nor will it be used in construction procurements or other individual procurement action not specifically in the category called for in paragraph (a) (1) of this section.

#### Subpart D—Procurement Responsibility and Authority

§§ 1001.403; 1001.404 [Deleted]

1. Delete §§ 1001.403 and 1001.404.

§ 1001.465 [Amended]

2. In § 1001.465(e) (2) delete present subdivision (iii) and redesignate subparagraph (3) as subdivision (iii).

#### Subpart E—Contingent or Other Fees

§ 1001.506 [Deleted]

Delete § 1001.506.

Subpart G, Small Business Concerns, is deleted.

#### Subpart J—Publicizing Procurement Actions

§§ 1001.1002-50; 1001.1003-3; 1001.1005-8 [Deleted]

1. Delete §§ 1001.1002-50, 1001.1003-3 and 1001.1005-8.

§ 1001.1002-51 [Amended]

2. Amend § 1001.1002-51(a) (2), (3), and (5), and paragraphs (b) through (d) to read: "No implementation."

#### Subpart L—Specifications, Plans, and Drawings

§ 1001.1203 [Deleted]

Delete § 1001.1203.

Subpart N,—Preference for United States-Flag Privately Owned Ocean Carriers, is deleted.

Subpart U, Industry Advisory Committees, is deleted.

### PART 1002—PROCUREMENT BY FORMAL ADVERTISING

§ 1002.000 [Deleted]

Delete § 1002.000.

#### Subpart A—Use of Formal Advertising

§§ 1002.102; 1002.102-1 [Deleted]

1. Delete §§ 1002.102 and 1002.102-1.

#### Subpart B—Solicitation of Bids

§ 1002.201 [Amended]

1. In § 1002.201(a) (17) (xiii), in the second sentence of the Note, the words "the production or of work" should read "the production of or work."

§§ 1002.203; 1002.203-1; 1002.206 through 1002.250 [Deleted]

2. Delete §§ 1002.203, 1002.203-1, and 1002.206 through 1002.250.

§ 1002.205 [Amendment]

3. In § 1002.205 delete the text and retain only the heading.

4. Revise §§ 1002.205-51 and 1002.251 to read as follows:

§ 1002.205-51 Commodity class catalogs (commodity lists).

This section applies to all procurement activities unless otherwise provided in subsequent paragraphs.

(a) A commodity and services list or catalog will be attached to each Standard Form 129 mailed to firms desiring to be placed on the bidders list. The purpose of this document is to allow potential suppliers to easily identify and select items or services they are capable of furnishing. The lists or catalogs will be revised when necessary and a semi-annual review will be made to insure that they are up to date. The catalog or list may contain check blocks for marking by the supplier or AFPI Form 24 may be used.

(b) Each issuing activity will make automatic distribution of sufficient copies of commodity class catalogs or commodity lists, and revisions, to small business specialists at CMDs and CMOs and to contractor relations activities at AFLC/AFSC field procurement activities, to facilitate servicing interested suppliers. Distribution of said publications will be made in advance of that made to contractors to obviate previous instances where contractors possessed commodity lists and revisions prior to their receipt by the Air Force organizations listed in this paragraph.

§ 1002.251 Assistance not to be rendered.

No person employed by or serving with the Department will render assistance to bidders in preparing bids.

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

§§ 1002.402; 1002.406-3; 1002.407-5 (g); 1002.409 [Deleted]

Delete §§ 1002.402, 1002.406-3, 1002.407-5 (g) and 1002.409.

#### Subpart E—Solicitations of Proposals and Quotations

§ 1003.503-1 [Corrected]

In 29 F.R. 5790, May 1, 1964, "§ 1003.503-1" is corrected to read "§ 1002.503-1."

### PART 1003—PROCUREMENT BY NEGOTIATION

#### Subpart C—Determinations and Findings

Revise § 1003.303 to read as follows:

§ 1003.303 Determinations and findings below the Secretarial level.

The authority to make determinations and findings under § 3.303(a) (1) of this title is limited to Head of the Procuring Activity, AFSC/AFLC.

#### Subpart D—Types of Contracts

§ 1003.410-50 [Deleted]

Delete § 1003.410-50.

#### Subpart F—Small Purchases

In § 1003.653, revise paragraphs (b), (f) and (g) and delete paragraph (h), as follows:

§ 1003.653 Blanket delivery orders.

\* \* \*



(b) Upon receipt of the purchase request, the contracting officer will submit a delivery order (DD Form 1155) to the contractor for the estimated requirements for the period covered. The delivery order will not itemize the items listed on the contract, but will cite the appropriate accounting classification and will contain a statement similar to the following:

(f) The procedures set forth in this section are authorized to obtain:

(1) Products listed in Supply Bulletins issued by the Defense Subsistence Supply Center. However, permission must be obtained from the supplier if not specifically authorized by the Supply Bulletin.

(2) Commissary requirements not listed in Supply Bulletins.

(3) All services of a recurring nature.

(4) All other supplies provided the procurement office schedules deliveries.

(g) When it is desired to allow the requiring activity to schedule deliveries not authorized in paragraph (f) of this section, request for approval with complete justification will be forwarded to AFIC (MCPPL). Authority previously granted under this section or the superseded § 1053.1804 of this subchapter remain valid.

(h) [Deleted]

**§ 1004.2402 Contracts for vehicle maintenance.**

(e) *Scheduling work.* (1) The vehicle maintenance activity will maintain a separate Contract Vehicle Maintenance Work Order Control Register, AFPI Form 36, for each vehicle maintenance contract or accounting classification to be used thereunder. Each monthly register will be identified with the contract number and a delivery order number issued by the contracting officer. This activity will, at the same time, maintain a running balance on funds certified on the contract (if indefinite quantity type) or delivery order.

(2) All work to be performed by the contractor will be specified on a work order initiated by the vehicle maintenance activity. The work order will contain date, contract number, delivery order number, work to be done, labor costs, and material costs, etc. After posting to the control register the contracting officer and the contractor will be forwarded the required number of copies of the work order. Costs later determined to exceed or to be less than originally stated on the work order will be adjusted on the control register and the contracting officer notified of changes. The control register will be

posted with the work order number, date, amount, and accounting classification.

**PART 1007—CONTRACT CLAUSES  
Subpart JJ—Contracts for Care of Remains**

1. In § 1007.3603 the Schedule is revised to read as follows:

**§ 1007.3603 Schedule.**

(b) *Area of Performance.* This contract shall include calling at the place where death occurs or where remains are located when such place is on the installation(s) designated as using installations or any other place within a radius of 30 miles of the contractor's establishment, receiving remains and removing them to the contractor's mortuary or other place of preparation. The contractor will from time to time be required to go beyond the 30 mile radius in performance of this contract. When required to go beyond the 30 mile radius, the contractor will be paid on a per loaded mile basis for the distance traveled outside the 30 mile radius.

(c) *Personnel.* The supplies, services, and transportation described below are for care of remains of all deceased personnel, regardless of race, for whom services may be ordered by the Government.

(f) *Supplies, services, and transportation.*

Item No.	Supplies, services, and transportation	Quantity (estimate)	Unit	Price unit	Amount
1	For a type I casket, supplies, services and all transportation within a 30-mile radius of the contractor's establishment, in accordance with specification MIL-C-9876A (USAF), pars. 3 (subpars. 3.1, 3.2) 4, and 5.	-----	Each-----	-----	-----
2	For a type II casket, supplies, services and all transportation within a 30-mile radius of the contractor's establishment, in accordance with specification MIL-C-9876A (USAF), pars. 3 (subpars. 3.1 and 3.2) 4, and 5.	-----	.....do.....	-----	-----

If an AF Aerial Port of Entry is to be a using activity, the following will be added to the Schedule, or will be used as a separate schedule:

2. Revise §§ 1007.3604-25, 1007.3604-26, 1007.3604-28 and 1007.3604-29 to read as follows:

**§ 1007.3604-25 Facility requirements.**

(MARCH 1964)

(a) Have a preparation room which is clean, orderly, free of extraneous items, well ventilated, properly equipped and supplied.

(b) Have a chapel, reposing room or rooms, storage for remains and office facilities which are considered adequate by the Contracting Officer.

(c) Furniture and furnishings which present a clean and well kept appearance. Decorating shall be in good taste and well maintained.

(d) External appearance of the establishment need not be pretentious or imposing; however, the general appearance of building grounds and surrounding area shall give the impression of a clean, well maintained establishment.

**§ 1007.3604-26 Coordination.**

(MARCH 1964)

Necessary coordination shall be effected with the Contractor's funeral director as to the time remains will be ready for inspection, shipment and shipment schedules.

**§ 1007.3604-28 Preparation of remains at other than contractor's establishment.**

(MARCH 1964)

Preparation of remains at a place other than the Contractor's establishment shall require the concurrence of the Contracting Officer. It is understood by the Contractor that such concurrence shall not be forthcoming, nor shall any subcontract be approved, where such action would directly or indirectly tend to allow segregation of services or facilities on the basis of race.

**§ 1007.3604-29 Oversize casket.**

(MARCH 1964)

When an oversize casket is required for any remains prepared under this contract, and no price therefor has been established in the schedule, the additional cost shall be allowed as approved by the Contracting Officer. Caskets exceeding either an inside width of 23 inches or an inside length of 80 inches shall be considered oversize.

**§ 1007.3604-33 [Deleted]**

3. Delete § 1007.3604-33.

**Subpart KK—Clauses and Arrangements for Negotiated Utility Service Contracts**

In § 1007.3709-2 delete the last sentence of the introduction and revise paragraph (d) of the clause to read as follows:

**PART 1004—SPECIAL TYPES AND METHODS OF PROCUREMENT**

**Subpart T—Preparation and Use of Contracts for Care of Remains**

In § 1004.2002(a) add new subparagraphs (4) through (6) as follows:

**§ 1004.2002 Contracts for care of remains of deceased Government personnel.**

(a) \* \* \*

(4) All contracts for facilities and services procured on an individual basis will contain the following representation directly above the contractor's signature: "The contractor represents that he will, upon request, provide facilities and services for deceased Armed Forces personnel regardless of race." A base or installation commander may grant authority to omit this representation if he is satisfied that such deviation is absolutely necessary.

(5) All IFBs, RFPs, and RFQs for contracts for Care of Remains will contain the following statement as Information to Bidders:

Bids containing an exception on the basis of race will be considered non-responsive and will be rejected. Further, no subcontract will be approved if it directly or indirectly tends to allow segregation of services or facilities on the basis of race.

(6) Deviation to subparagraph (5) of this paragraph may only be granted at Secretarial level of the Air Force.

**Subpart X—Contract Vehicle Maintenance**

In § 1004.2402 add new paragraph (e) as follows:

§ 1007.3709-2 Connection and termination charges.

(d) Termination prior to completion of facilities. The Government reserves the right to terminate this contract at any time prior to completion of the facilities provided for herein with respect to which the Government is to pay a connection charge. In the event the Government exercises this right, the Contractor shall be paid fair compensation, exclusive of profit, with respect to such facilities.

**Subpart NN—Special Clauses**

1. Revise the clause in § 1007.4006 as follows:

§ 1007.4006 Delivery of aircraft.

DELIVERY OF AIRCRAFT (MARCH 1964)

Unless otherwise provided in this contract:  
(a) All aircraft shall be delivered completely set up, serviced, tested and ready for flight at the flying field where they are to be finally inspected;

(b) The Contractor shall furnish all fuel, oil, and cooling fluid necessary (1) For engine tests and flight tests required to be made under the provisions of Military Specification MIL-A-8730A (USAF) dated April 14, 1958, plus any amendment thereof set forth in the schedule and (2) for fly-away, in amounts designated by the ferry pilot, for each aircraft delivery. (End of clause.)

The date of applicable amendment to MIL-A-8730A (USAF) will be specifically identified in the contract schedule, e.g., Amendment No. 4 now applies and is dated October 17, 1961.

§ 1007.4011 [Amended]

2. In § 1007.4011 add the date "(Oct. 1957)" to the clause title.

**PART 1008—TERMINATION OF CONTRACTS**

§ 1008.000 [Deleted]

Delete § 1008.000.

**Subpart A—Definition of Terms**

§§ 1008.101-50 — 1008.101-53; 1008.101-55—1008.101-59 [Deleted]

Delete §§ 1008.101-50 through 1008.101-53 and 1008.101-55 through 1008.101-59.

**Subpart B—General Principles Applicable to the Settlement of Fixed-Price Type Contracts Terminated for Convenience and to the Settlement of All Terminated-Cost-Reimbursement Type Contracts**

§§ 1008.200-57; 1008.251 [Deleted]

Delete §§ 1008.200-57 and 1008.251.  
Subpart C, Additional Principles Applicable to the Settlement of Terminated Fixed Price Type Contracts, is deleted.

**Subpart E—Disposition of Termination Inventory**

§§ 1008.502; 1008.502-1 [Deleted]

Delete §§ 1008.502 and 1008.502-1.

**Subpart G—Clauses**

§ 1008.700 [Deleted]

Delete § 1008.700.

**PART 1009—PATENTS, DATA AND COPYRIGHTS**

**Subpart A—Patents**

§§ 1009.103-50; 1009.107-50 [Deleted]

Delete §§ 1009.103-50 and 1009.107-50.

**Subpart B—Data and Copyrights**

§§ 1009.202-50; 1009.204; 1009.204-2 [Deleted]

Delete §§ 1009.202-50, 1009.204 and 1009.204-2.

**Subpart K—Processing and Clearance of Invention, Subcontract and Royalty Reports**

§ 1009.1109 [Deleted]

Delete § 1009.1109.

**PART 1011—FEDERAL, STATE AND LOCAL TAXES**

**Subpart C—State and Local Taxes**

1. In §§ 1011.356, 1011.356-1 and 1011.356-2 "Maryland" is deleted wherever it appears. These sections now read as follows:

§ 1011.356 North Carolina sales and use taxes.

(a) The provisions of this section (including §§ 1011.356-1 and 1011.356-2) relate to Air Force prime contracts calling for construction type work (whether or not formally designated as construction contracts) to be performed either wholly or partially in the State of North Carolina.

(b) The Armed Services Tax Group (DOD) is contemplating litigation of sales and use taxes imposed by the State of North Carolina on contractor-purchases of materials and supplies used in performing construction type work under contracts with the Federal Government. North Carolina does not impose such taxes on contractor-purchases of construction materials and supplies used in performing contracts with the State or its political subdivisions. It is believed, therefore, that said taxes unconstitutionally discriminate against the Federal Government and those with whom it deals within the rule of Phillips Chemical Co. v. Dumas Independent School District, 361 U.S. 376 (1960) and U.S. & Olin Mathieson Corporation v. Dept. of Rev. of the State of Illinois, 191 F. Supp. 723 (1961).

§ 1011.356-1 Fixed price contracts.

NORTH CAROLINA SALES AND USE TAXES  
(SEPTEMBER 1961)

The North Carolina Sales and Use Taxes on materials and supplies used in the performance of construction type work for the United States are, to the extent applicable hereto, included in the contract price.

(2) \* \* \*

The contractor shall maintain accurate records of all payments of North Carolina sales and use taxes on materials and supplies used in the performance of this contract.

§ 1011.356-2 Cost type contracts.

A special tax clause is not required to be included in affected type contracts. Contractors are nevertheless expected to comply with any instructions which may hereafter be issued by Air Force contracting officers relative to the above-referenced taxes. Failure of the contractor to comply with such instructions could result in disallowance of said taxes as items of cost under the contract (§ 15.205-41 of this title). Contractors should be required to maintain accurate records of all sales and use taxes paid to the State of North Carolina on materials and supplies used in performing construction type work for the Federal Government.

2. Add § 1011.357 as follows:

§ 1011.357 Maryland sales and use tax.

(a) *Scope.* The provisions of this section relate to contracts calling for construction-type work (whether or not formally designated as construction contracts) performed or to be performed in the State of Maryland.

(b) *Instructions to contractors.* (1) On March 19, 1963, the Court of Appeals of Maryland held that Sales/Use Tax Rule No. 70 which required payment of Maryland sales and use taxes on contractor-purchases of materials and supplies to be physically incorporated in and made a part of Federal construction projects unconstitutionally discriminated against the United States and its contractors (Comptroller v. Pittsburg-Des Moines Steel Co., 189 A.2d 107; cert. denied, 84 S. Ct. 58). The Court's decision was predicated upon the fact that similar purchases by construction contractors with the State and its political subdivisions are accorded an exemption under section 326(a), Art. 81, Md. Ann. Code. The Retail Sales Tax Division, Comptroller of Maryland, has since issued a letter (RSTD 406-10/63) addressed to "All Sales Tax Licensees" acknowledging the exempt status of contractor-purchases of materials and supplies incorporated in and made a part of completed construction for the U.S. Government.

(2) Administrative contracting officers will promptly instruct affected contractors to (i) Claim refunds, according to section 348, Art. 81, Md. Ann. Code, of Maryland sales and use taxes heretofore paid on such materials and supplies, where said taxes have been passed on to the Government through inclusion in price, reimbursement, overhead allocation or price escalation under AF contracts, and (ii) pay over the amounts so recovered to the United States according to the terms of said contracts.

(3) Contractors performing under current contracts will be instructed that to the extent of the Government's interest they should cease paying Maryland sales and use taxes on materials and supplies which are to be incorporated in and made a part of government construction. Where authorized by the contract terms, action will be taken to reduce the prices of such contracts to reflect the tax savings resulting from the exemption.

(c) Amounts recovered by the AF procuring activities as a result of the foregoing instructions should be reported directly to AFLC (MCJ), in triplicate.

**PART 1013—GOVERNMENT PROPERTY**

**Subpart A—General**

§ 1013.101 [Amended]

1. In § 1013.101 delete the reference, retaining only the heading.  
2. In § 1013.102-3(c), the second project approval is revised to read as follows:

§ 1013.102-3 Facilities.

\*\*\*\*\*  
(c) \*\*\*\*\*  
\$500,000 or less, Hq AFSC DCS (P&P); Commander/Vice Commander AFSC Division (ASD/BSO/SSD/ESD/RTD).  
\*\*\*\*\*

**Subpart U—Adjustment of Discrepancies Incident to the Shipment of Government Property**

In § 1013.2105(a) revise subparagraph (6) to read as follows:

§ 1013.2105 Settlement under Government bill of lading as result of carrier's acceptance of responsibility and agreement to repair.

\*\*\*\*\*  
(a) \*\*\*\*\*  
(6) Upon satisfactory delivery and acceptance, the property administrator will furnish detailed advice to the Directorate of Adjudication, Air Force Accounting and Finance Center, 3800 York Street, Denver, Colorado, indicating: (i) That repairs were satisfactorily made and (ii) that the Government bore no costs thereof, thereby clearing the indorsement of exception previously placed on the bill of lading.  
\*\*\*\*\*

**PART 1014—INSPECTION AND ACCEPTANCE**

§ 1014.000 [Deleted]

Delete § 1014.000.

**PART 1030—APPENDIXES TO AIR FORCE PROCUREMENT INSTRUCTION**

§ 1030.2 Appendix B—Manual for control of Government property in possession of contractors.

Part I—Introduction

B-103.54 [Deleted]

Delete item B-103.54.

§ 1030.3 Appendix C—Manual for control of Government property in possession of non-profit research and development contractors.

Part I—Introduction

C-103.53; C-103.54 [Deleted]

Delete items C-103.53 and C-103.54.

**PART 1054—CONTRACT ADMINISTRATION**

Subpart R, Renegotiation Board Inquiries, is deleted.

Subpart S, Performance Data on DPSC Contractors, is deleted.

**PART 1059—AIRCRAFT AND GFAE PROCUREMENT**

**Subpart F—Special Procurements**

Revise §§ 1059.662 and 1059.604(a) (2) and (3) to read as follows:

§ 1059.602 Procurement of training equipment.

(a) *Definitions* (see section D, part one, volume I, AFM 67-1).  
(b) *Policy*. The normal practice will be to procure all training equipment on a competitive basis to the greatest extent economically and technically feasible.

(1) Training equipment common to more than one system and Flight Simulators will normally be procured as Category II per AFR 70-9 (System Procurement).

(2) The appropriate category of procurement, as defined in AFR 70-9, for those training equipments peculiar to a specific system, will be determined after receipt of contractor's training equipment planning information or applicable performance specification. Such training equipment will not be purchased as Category I except as provided for in AFR 70-9.

(3) Where the use of Category I procurement is unavoidable, due to economic, technical, and other compelling considerations, the use of "make-or-buy," § 3.902 of this title is to be implemented to the maximum extent possible. Each individual training device must be identified and subject to a "make-or-buy" decision. For example, within a mobile training unit, each individual trainer will be subject to a "make-or-buy" decision. Where the decision is "buy," every effort will be put forth to require the prime contractor to achieve optimum competition. In no event should a decision to "make" be approved by the Air Force where it represents an expansion of the prime's facilities at government expense while adequate facilities already exist elsewhere in industry.

(c) *Procedures*. (1) The cognizant procuring office will require system prime contractors to submit training equipment planning information prepared according to applicable specifications beginning with and as a part of the systems technical proposals. The contractor will also be required to provide estimated costs associated therewith including initial spares and supporting technical data.

(2) Qualitative and quantitative requirements (see AFR 375-4 (System Program Documentation) and AFR 50-19 (Management of Training Equipment)).

(3) Configuration Changes (see AFR 65-3 (Configuration Management), AFR 50-19, and AFR 57-4 (Modification/Modernization of Systems and Equipment)).

(i) According to instruction contained in applicable ANA Bulletin 445 or 390A, weapon systems prime contractors will be required to automatically indicate by addendum to weapon systems ECPs any instance wherein the ECP also affects the supporting training equipment. This pertains only to changes recommended for incorporation on the training equipment while it is in production.

(ii) Changes to training equipment not in support of a specific system will be accomplished according to AFR 50-19 and AFR 57-4.

§ 1059.604 Procurement of petroleum and chemical products for aircraft and missiles.

(a) \*\*\*\*\*  
(2) "On-site." Any AF activity which has generating capacity in excess of its current requirements and which, for economy and urgency, can fill requirements of other AF activities, regardless of the distance involved.

(3) "Off-site." Any AF activity which has neither adequate generating capacity nor an economical commercial source of supply to meet its current requirements.

\*\*\*\*\*  
(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-2314) [AFPI Rev. No. 40, Mar. 31, 1964; AFPC Nos. 27, Apr. 22, 1964; 29, May 8, 1964; 30, May 11, 1964]

By order of the Secretary of the Air Force.

FREDERICK A. RYKER,  
Lt. Colonel, U.S. Air Force,  
Chief, Special Activities  
Group, Office of The Judge  
Advocate General.

[F.R. Doc. 64-6307; Filed, June 24, 1964; 8:47 a.m.]

**Title 43—PUBLIC LANDS: INTERIOR**

**Chapter II—Bureau of Land Management, Department of the Interior**

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3408]

[Sacramento 048741]

**CALIFORNIA**

**Withdrawal for Forest Service Recreation Areas**

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

Subject to valid existing rights, the following described national forest lands within the Sierra National Forest in California 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, Department of Agriculture, for utilization of the surface as recreation areas. The lands shall be subject to leasing under the mineral leasing laws. No part of the surface of the lands shall be used in connection with prospecting, mining, and removal of the minerals:

## RULES AND REGULATIONS

## MOUNT DIABLO MERIDIAN

*Nelder Grove Recreation Area*

T. 6 S., R. 22 E.,

Sec. 4, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;Sec. 5, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;Sec. 6, lots 1, 2, E $\frac{1}{2}$  lot 3, S $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;Sec. 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;Sec. 8, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ .*Huntington Lake Recreation Area*

T. 8 S., R. 25 E.,

Sec. 1, S $\frac{1}{2}$ SW $\frac{1}{4}$  and SE $\frac{1}{4}$ ;Sec. 10, S $\frac{1}{2}$ S $\frac{1}{2}$ ;Sec. 11, S $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ ;

Sec. 12;

Sec. 13;

Sec. 14, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;Sec. 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , and E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;Sec. 16, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , and E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;Sec. 21, E $\frac{1}{2}$ NE $\frac{1}{4}$ ;Sec. 22, NE $\frac{1}{4}$ , W $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ NW $\frac{1}{4}$ .

T. 8 S., R. 26 E.,

Sec. 5, S $\frac{1}{2}$ ;Sec. 6, lots 6, 7, E $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Secs. 7, 8, 17, and 18;

Sec. 19, N $\frac{1}{2}$ ;Sec. 20, N $\frac{1}{2}$ .

Containing approximately 9445 acres.

STEWART L. UDALL,  
*Secretary of the Interior.*

JUNE 19, 1964.

[F.R. Doc. 64-6308; Filed, June 24, 1964;  
8:47 a.m.]

# Proposed Rule Making

## INTERSTATE COMMERCE COMMISSION

[Docket No. 3666; Notice 65]

### EXPLOSIVES AND OTHER DANGEROUS ARTICLES

[49 CFR Parts 73, 78, 79]

#### Notice of Proposed Rule Making

JUNE 5, 1964.

The Commission is in receipt of applications for early amendment of the above-entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway. The proposed amendments are set forth below, and the reasons therefor and a cross-index are shown below.

Applications for the proposed amendments have been the subject of exchanges and study by various interested parties, in which substantial agreement has been reached.

Any party desiring to make representations in favor of or against the proposed amendments may do so through the submission of written data, views, or arguments. The original and five copies of such submission may be filed with the Commission on or before July 6, 1964. The proposed amendments are subject to change or changes that may be made as a result of such submissions.

Notice to the general public will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy of the notice with the Director, Office of the Federal Register.

(62 Stat. 738, 74 Stat. 808; 18 U.S.C. 834)

By the Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board.

[SEAL] HAROLD D. McCoy,  
Secretary.

#### PART 73—SHIPPERS

##### Subpart C—Flammable Liquids; Definition and Preparation

In § 73.119 amend paragraphs (a) (12); (e) (2); (f) (3) and (4); and (h) (26 F.R. 9400, Oct. 6, 1961) (21 F.R. 7599, Oct. 4, 1956) (16 F.R. 9374, Sept. 15, 1951) (24 F.R. 3596, May 5, 1959) (16 F.R. 5323, June 6, 1951) to read as follows:

§ 73.119 Flammable liquids not specifically provided for.

(a) \* \* \*

(12) Spec. 103,<sup>2</sup> 103-W, 103AL-W, 103D-W, 104,<sup>2</sup> 104-W, 105A100,<sup>2</sup> 105A-100AL-W 105A100-W, 106A500,<sup>2</sup> 106A-500-X, 106A800-X-NC, 106A800-NCI,<sup>2</sup>

110A500-W, 111A60AL-W, 111A60-F-1, 111A60-W-1, 111A100-W-3, 111A100-W-4, 111A100-W-6, 112A200-W, 112A400-F, 114A340-W, ARA-II,<sup>2</sup> ARA-III,<sup>2</sup> ARA-IV,<sup>2</sup> or ARA-IV-A<sup>2</sup> (§§ 79.100, 79.101, 79.200, 79.201, 79.300, and 79.301 of this chapter). Tank cars. For cars equipped with expansion domes, manway closures must be so designed that pressure will be released automatically by starting the operation of removing the manway cover. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner. (See § 73.432 for shipping instructions.)

(e) \* \* \*

(2) Spec. 103,<sup>2</sup> 103-W, 103AL-W, 103D-W, 104,<sup>2</sup> 104-W, 105A100,<sup>2</sup> 105A100AL-W, 105A100-W, 106A500,<sup>2</sup> 106A500-X, 106A-800-X-NC, 106A800-NCI,<sup>2</sup> 110A500-W, 111A60AL-W, 111A60-F-1, 111A60-W-1, 111A100-W-3, 111A100-W-4, 111A100-W-6, 112A200-W, 112A400-F, 114A340-W, ARA-II,<sup>2</sup> ARA-III,<sup>2</sup> ARA-IV,<sup>2</sup> or ARA-IV-A<sup>2</sup> (§§ 79.100, 79.101, 79.200, 79.201, 79.300, and 79.301 of this chapter). Tank cars. Cars having expansion domes must be equipped with manway closures, identification marks, and dome placards as prescribed in (f) (4), (g), (h), and (h) (1) of this section. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner. (See No. 1 of paragraph (f) (3) of this section.)

(f) \* \* \*

(3) Spec. 105A100,<sup>2</sup> 105A100AL-W, 105A100-W, 106A500,<sup>2</sup> 106A500-X, 106A-800-X-NC, 106A800-NCI,<sup>2</sup> 110A500-W, 111A100-W-4, 112A200-W, 112A400-F, 114A340-W, or ARA-IV-A,<sup>2</sup> (§§ 79.100, 79.101, 79.200, 79.201, 79.300, 79.301 of this chapter) or (see Note 1 of this subparagraph). Tank cars. Spec. 104,<sup>2</sup> 104-W, 111A100-W-3 and ARA-IV<sup>1</sup> (§§ 79.200, 79.201 of this chapter) tank cars are authorized under the conditions prescribed in paragraphs (f) (4), (g), (h), and (h) (1) of this section and Note 3 of this subparagraph. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner.

NOTE 1: Tanks built in compliance with American Railway Association specifications for class IV-A<sup>1</sup> tank cars authorized for use effective October 1, 1925, may be continued in service for the transportation of ethyl chloride and other liquids which do not have a vapor pressure exceeding 28 pounds per square inch, gauge pressure, at 100 F, provided there is stenciled on each side of the tank immediately below the valve protecting housing the words "Liquids having vapor pressure exceeding 28 pounds per square inch at 100 F. must not be loaded into this tank" in letters and figures at least 1 inch high. These tank cars must be retested as prescribed in current spec. 105A100-W except that safety valves must open at pressure not exceeding 35 pounds, and be vapor tight at 28 pounds per square inch.

(No change in Note 2.)

NOTE 3: Spec. 104<sup>1</sup> or 104-W or ARA-IV<sup>1</sup> tank cars are authorized provided that they are equipped with approved fittings designed to provide for the loading, unloading, gauging, sampling, and taking temperature of the contents without removing the manway closure; that safety valves are set to open at pressure of 35 pounds (with a tolerance of plus or minus 3 pounds), and are vapor tight at 28 pounds per square inch gauge pressure; that bottom discharge outlets are of the same type as authorized for specification 104<sup>1</sup> or 104-W tank cars; and that there is stenciled on each side of the tank above the specification mark, in letters and figures at least 1 inch high, "For vapor pressures not exceeding 40 pounds per square inch, absolute, at 100 F." Because of the present emergency and until further order of the Commission, spec. ICC-104<sup>1</sup> or 104-W tank cars, equipped with safety valves set to open at pressure of 35 pounds (with a tolerance of plus or minus 3 pounds) and which are vapor tight at 28 pounds per square inch, gauge pressure, are authorized provided that they are stenciled as required above.

(4) Spec. 103,<sup>1</sup> 103-W, 103AL-W, 104,<sup>1</sup> 104-W, 111A60AL-W, 111A60-F-1, 111A60-W-1, ARA-II,<sup>1</sup> ARA-III,<sup>1</sup> or ARA-IV<sup>1</sup> (§§ 79.200, 79.201 of this chapter). Tank cars. Cars must have their manway closures equipped with approved safeguards making removal of closures from manway openings practically impossible while car interior is subjected to vapor pressure of lading. These cars must be stenciled on each side of domes in line with the ladders, and in a color contrasting to the color of the dome, with the identification mark as prescribed in paragraph (g) of this section.

(h) Dome placards. Spec. 103,<sup>1</sup> 103AL-W, 103-W, 104,<sup>1</sup> 104-W, 111A60AL-W, 111A60-F-1, 111A60-W-1, ARA-II,<sup>1</sup> ARA-III,<sup>1</sup> or ARA-IV<sup>1</sup> (§§ 79.200, 79.201 of this chapter). Tank cars. Cars loaded with materials described in paragraphs (e) and (f) of this section must, in addition to the "Dangerous" placards, be protected by special dome placards, at least 4½ by 10½ inches, with legible wording as follows:

(No change in placard or Note 1.)

In § 73.123 amend paragraph (a) (5) (27 F.R. 11852, Dec. 1, 1962) to read as follows:

§ 73.123 Ethyl chloride.

(a) \* \* \*

(5) Spec. 105A100,<sup>1</sup> 105A100-W, 111A100-W-4, 112A200-W, 112A400-F, or ARA-IV-A<sup>1</sup> (§§ 79.100, 79.101 of this chapter). Tank cars. See Note 1 of § 73.119(f) (3). (See § 73.432 for shipping instructions.)

In § 73.124 amend paragraph (a) (5) and Note 1 (25 F.R. 6625, July 14, 1960)

<sup>1</sup> Use of existing tank cars authorized, but new construction not authorized.

<sup>2</sup> Use of existing tank cars authorized, but new construction not authorized.

(21 F.R. 4564, June 26, 1956) to read as follows:

§ 73.124 Ethylene oxide.

(a) \* \* \*

(5) Spec. 105A100,<sup>1</sup> 105A100-W, 111A100-W-4, or ARA-IV-A<sup>1</sup> (§§ 79.100, 79.101, 79.200, 79.201 of this chapter). Tank cars. Spec. 105A200-W, 105A300-W, 105A400-W, 105A500-W and 105A600-W (§§ 79.100, 79.101 of this chapter) must be restenciled 105A100-W and be equipped with safety valves of the type and size used on spec. 105A100-W tank cars. Openings in tank heads to facilitate application of nickel lining are authorized and must be closed in an approved manner. See Note 1 of § 73.119 (f) (3). (See § 73.432 for shipping instructions.)

NOTE 1: Because of the present emergency and until further order of the Commission, specification ARA-IV<sup>1</sup> and ICC-104<sup>1</sup> and 104-W (§§ 79.200, 79.201, of this chapter) tank cars, converted as follows, are authorized for use. Tanks must be tested to 75 pounds per square inch hydrostatic pressure and show no leakage with lagging removed. Bottom discharge outlet must be removed, the opening closed with a riveted plate, and a sump applied. Safety valves must be removed and replaced by two safety valves of the type and size used on ICC-105A100<sup>1</sup> or 105A100-W (§§ 79.100, 79.101 of this chapter) tank cars but set to open at 60 pounds per square inch instead of 75 pounds. The various approved dome fittings now required on ICC-105A100<sup>1</sup> or 105A100-W tank cars, must be installed in an approved manner to provide for the loading, unloading, gauging, sampling, and taking of temperature of contents without removing the manway closure. Tank jacket must be stenciled immediately above the mark ARA-IV,<sup>1</sup> ICC-104,<sup>1</sup> or ICC-104-W with the words "For Ethylene Oxide Only."

In § 73.125 amend paragraph (a) (4) (15 F.R. 8301, Dec. 2, 1950) to read as follows:

§ 73.125 Alcohol.

(a) \* \* \*

(4) Because of the present emergency and until further order of the Commission, existing tank cars complying with spec. 103,<sup>1</sup> 103-W, ARA-III,<sup>1</sup> AAR 203,<sup>1</sup> or AAR 203-W<sup>1</sup> (§§ 79.200, 79.201 of this chapter), previously used for the transportation of wine, are authorized when stenciled "Alcohol Only" and equipped with safety valves of the type required on spec. 103<sup>1</sup> tank cars.

In § 73.134 amend paragraph (a) (2) (26 F.R. 4995, June 6, 1961) to read as follows:

§ 73.134 Aluminum triethyl, aluminum trimethyl, pyroforic fuel, pyroforic solutions, zinc ethyl, triisobutyl aluminum, ethyl aluminum sesquichloride, diethyl aluminum chloride, ethyl aluminum dichloride, methyl aluminum sesquichloride, methyl aluminum sesquibromide, methylmagnesium bromide in ethyl ether in concentrations not over 40 percent, and mixtures or solutions thereof.

(a) \* \* \*

(2) Spec. 105A300-W, 106A500,<sup>1</sup> 106A500-X, or 110A500-W (§§ 79.100, 79.101,

<sup>1</sup> Use of existing tank cars authorized, but new construction not authorized.

79.300, 79.301 of this chapter) tank cars. Authorized for aluminum triethyl, aluminum trimethyl, and mixtures or solutions thereof, pyroforic fuel, and triisobutyl aluminum, ethyl aluminum sesquichloride, diethyl aluminum chloride, ethyl aluminum dichloride, methyl aluminum sesquichloride, methyl aluminum sesquibromide, and mixtures or solutions thereof only. Specs. 106A500,<sup>1</sup> 106A500-X and 110A500-W tanks must not be filled to a density exceeding 80 percent of the water capacities of the tanks and tanks must be equipped with an approved spring-relief safety valve. Tanks must be loaded on cars and motor vehicles in such a manner that the safety relief valve will always be in the vapor phase.

(No change in Note 1.)

In § 73.135 amend paragraphs (a) (7) and (8) (22 F.R. 4790, July 9, 1957) to read as follows:

§ 73.135 Dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.

(a) \* \* \*

(7) Spec. 103,<sup>1</sup> 103-W, 111A60-F-1, or 111A60-W-1 (§§ 79.200, 79.201 of this chapter). Tank cars, without bottom discharge outlet.

(8) Spec. 105A100,<sup>1</sup> 105A100-W, or 111A100-W-4 (§§ 79.100, 79.101, 79.200, 79.201 of this chapter). Tank cars.

In § 73.136 amend paragraphs (a) (6) and (7) (22 F.R. 4790, July 9, 1957) to read as follows:

§ 73.136 Methyl dichlorosilane and trichlorosilane.

(a) \* \* \*

(6) Spec. 103,<sup>1</sup> 103-W, 111A60-F-1, or 111A60-W-1 (§§ 79.200, 79.201 of this chapter). Tank cars, without bottom discharge outlet.

(7) Spec. 105A100,<sup>1</sup> 105A100-W, or 111A100-W-4 (§§ 79.100, 79.101, 79.200, 79.201 of this chapter). Tank cars.

In § 73.141 amend paragraph (a) (7) (26 F.R. 9401, Oct. 6, 1961) to read as follows:

§ 73.141 Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.

(a) \* \* \*

(7) Spec. 103-W, 105A100,<sup>1</sup> 105A100-W, 111A60-F-1, or 111A60-W-1 (§§ 79.100, 79.101, 79.200, 79.201 of this chapter). Tank cars. Specs. 103-W, 111A60-F-1, and 111A60-W-1 tank cars equipped with bottom outlets must have bottom outlets effectively sealed. Bottom washout permitted.

In § 73.145 amend paragraph (a) (6) (25 F.R. 6625, July 14, 1960) to read as follows:

§ 73.145 Dimethylhydrazine, unsymmetrical, and methylhydrazine.

(a) \* \* \*

(6) Spec. 103-W, 103C-W, 105A100-W, or 111A100-W-4 (§§ 79.100, 79.101,

79.200, 79.201 of this chapter). Tank cars. Authorized for dimethylhydrazine, unsymmetrical only. Tank cars must be equipped with steel safety valves of approved design and 103-W tank cars must not be equipped with bottom outlets. Specs. 105A200-W, 105A300-W, 105A400-W, 105A500-W, and 105A600-W (§§ 79.100, 79.101 of this chapter) tanks must be restenciled 105A100-W and be equipped with safety valves of the type and size used on spec. 105A100-W tank cars.

In § 73.148 amend paragraph (a) (4) (25 F.R. 3100, Apr. 12, 1960) to read as follows:

§ 73.148 Monoethylamine.

(a) \* \* \*

(4) Spec. 106A500,<sup>1</sup> 106A500-X, or 110A500-W (§§ 79.300, 79.301 of this chapter). Tank cars.

(No change in Note 1.)

Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

In § 73.163 amend paragraph (a) (6) (22 F.R. 4790, July 9, 1957) to read as follows:

§ 73.163 Chlorate of soda, chlorate of potash, and other chlorates.

(a) \* \* \*

(6) Chlorates wet with 10 percent or more of water are authorized for shipment in tank cars, spec. 103,<sup>1</sup> 103-W, 111A60-F-1, or 111A60-W-1 (§§ 79.200, 79.201 of this chapter), when equally distributed therein.

In § 73.190 amend paragraph (b) (3) (23 F.R. 7647, Oct. 3, 1958) to read as follows:

§ 73.190 Phosphorus, white or yellow.

(b) \* \* \*

(3) Spec. 103,<sup>1</sup> 103-W, 111A60-F-1 or 111A60-W-1 (§§ 79.200, 79.201 of this chapter). Tank cars without bottom outlet for discharge of lading and with approved dome fittings, external heater systems, and with insulation at least 4 inches in thickness, except that thickness of insulation may be reduced to 2 inches over external heater coils. Bottom washout nozzle of approved design may be applied. The material must be immersed in water or be blanketed with an inert gas and be loaded at a temperature not exceeding 140 F. The water must be loaded in the dome to not more than 50 percent of the capacity of the dome. After unloading, the tank must be filled to its entire capacity with an inert gas or to its entire capacity and the dome to not more than 50 percent of its capacity with water having a temperature not exceeding 140 F and placarded with the caution placard prescribed in § 74.555 of this chapter before the car is offered for return movement.

(No change in Note 1.)

In § 73.224 amend paragraph (a) (3) (24 F.R. 3597, May 5, 1959) to read as follows:

§ 73.224 Cumene hydroperoxide, dicumyl peroxide, diisopropylbenzene hydroperoxide, paramenthane hydroperoxide, and tertiary butylisopropyl benzene hydroperoxide.

(a) \* \* \*  
 (3) Spec. 103,<sup>1</sup> 103-W, 103A,<sup>1</sup> 103A-W, 111A60-F-1, 111A60-W-1, 111A100-F-2 or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars. Authorized for 90 percent or less cumene hydroperoxide in a nonvolatile solvent, paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent and diisopropylbenzene hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent only. Specs. 103,<sup>1</sup> 103-W, 111A60-F-1 and 111A60-W-1 tank cars must have bottom outlets effectively sealed from the inside.

**Subpart E—Acids and Other Corrosive Liquids; Definition and Preparation**

In § 73.247 amend paragraphs (a) (13), (14), (16) (27 F.R. 11853, Dec. 1, 1962) (26 F.R. 4996, June 6, 1961) to read as follows:

§ 73.247 Acetyl chloride, antimony pentachloride, benzoyl chloride, chromyl chloride, pyro sulfur chloride, silicon chloride, sulfur chloride (mono and di), sulfur chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.

(a) \* \* \*  
 (13) Spec. 103A,<sup>1</sup> 103A-W, 105A300-W, 111A-100-F-2, or 111A100-W-2 (§§ 79.100, 79.101, 79.200, 79.201 of this chapter) tank cars, except that for tin tetrachloride (anhydrous) spec. 105A300-W tank cars must be used.

(14) Spec. 103A,<sup>1</sup> 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars. Authorized for titanium tetrachloride, anhydrous only. Tank cars shall have safety valves of approved design and not subject to rapid deterioration by the lading.

(16) Spec. 106A500,<sup>1</sup> 106A500-X, or 110A500-W (§§ 79.300, 79.301 of this chapter). Tank cars. Authorized for antimony pentachloride and titanium tetrachloride (anhydrous) only. Titanium tetrachloride (anhydrous) tanks must not be equipped with safety devices.

In § 73.248 amend paragraphs (a) (4), (5) (22 F.R. 4790, July 9, 1957) to read as follows:

§ 73.248 Acid sludge, sludge acid, spent sulfuric acid, or spent mixed acid.

(a) \* \* \*  
 (4) Spec. 103A,<sup>1</sup> 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars, provided the product is sufficiently liquid to be unloaded through the dome or manway.  
 (5) Spec. 103,<sup>1</sup> 103-W, 111A60-F-1, or 111A60-W-1 (§§ 79.200, 79.201 of this chapter). Tank cars, provided the prod-

uct is too viscous to be unloaded through the dome or manway.

In § 73.249 amend paragraph (a) (5) (23 F.R. 7648, Oct. 3, 1958) to read as follows:

§ 73.249 Alkaline corrosive liquids, n.o.s., alkaline caustic liquids, n.o.s., alkaline corrosive battery fluids, and sodium aluminate, liquid.

(a) \* \* \*  
 (5) Spec. 103,<sup>1</sup> 103-W, 103A,<sup>1</sup> 103A-W, 103B,<sup>1</sup> 103B-W, 104,<sup>1</sup> 104-W, 105A100,<sup>1</sup> 105A100-W, 111A60-F-1, 111A60-W-1, 111A100-F-2, 111A100-W-2, 111A100-W-3, 111A100-W-4, or 111A100-W-5 (§§ 79.100, 79.101, 79.200, 79.201 of this chapter). Tank cars.

In § 73.251 amend paragraph (a) (2) (21 F.R. 9357, Nov. 30, 1956) to read as follows:

§ 73.251 Boron trichloride.

(a) \* \* \*  
 (2) Spec. 105A300-W, 106A500,<sup>1</sup> or 106A500-X (§§ 79.100, 79.101, 79.300, 79.301 of this chapter). Tank cars.

In § 73.253 amend paragraph (a) (7) (26 F.R. 4996, June 6, 1961) to read as follows:

§ 73.253 Chloroacetyl chloride.

(a) \* \* \*  
 (7) Spec. 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars. Tanks must have a nickel cladding of 1/16 inch minimum thickness. Nickel cladding in tanks must have a minimum nickel content of at least 99 percent pure nickel.

In § 73.254 amend paragraph (a) (4) (22 F.R. 4790, July 9, 1957) to read as follows:

§ 73.254 Chlorosulfonic acid and mixtures of chlorosulfonic acid-sulfur trioxide.

(a) \* \* \*  
 (4) Spec. 103A,<sup>1</sup> 103A-W, 103C-W, 103E-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.255 amend paragraph (a) (4) (22 F.R. 4790, July 9, 1957) to read as follows:

§ 73.255 Dimethyl sulfate.

(a) \* \* \*  
 (4) Spec. 103A,<sup>1</sup> 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.262 amend paragraph (a) (6) (23 F.R. 7648, Oct. 3, 1958) to read as follows:

§ 73.262 Hydrobromic acid.

(a) \* \* \*  
 (6) Spec. 103B,<sup>1</sup> 103B-W, or 111A100-W-5 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.263 amend paragraph (a) (9) (23 F.R. 7648, Oct. 3, 1958) to read as follows:

§ 73.263 Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, sodium chlorite solution, and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.

(a) \* \* \*  
 (9) Spec. 103B,<sup>1</sup> 103B-W or 111A100-W-5 (§§ 79.200, 79.201 of this chapter). Tank cars. Authorized for acid not over 38 percent strength by weight. Except for hydrochloric (muriatic) acid of 22° Baume strength, and other fuming acids, safety vent of approved design equipped with frangible disc having 1/2 inch breather hole in the center thereof or a safety vent of approved design equipped with carbon discs permitting continuous venting may be used.

(No change in Note 1.)

In § 73.264 amend paragraphs (a) (8), (11), (b) (2), (6) and Note 1 (22 F.R. 4790, July 9, 1957) (23 F.R. 7648, Oct. 3, 1958) (22 F.R. 2226, Apr. 4, 1957) to read as follows:

§ 73.264 Hydrofluoric acid.

(a) \* \* \*  
 (8) Spec. 103A,<sup>1</sup> 103A-W, 105A100,<sup>1</sup> 105A100-W, 111A100-F-2, 111A100-W-2, 111A100-W-4, or ARA-IV<sup>1</sup> (§§ 79.100, 79.101, 79.200, 79.201, of this chapter). Unlined metal tanks which have been subjected to adequate passivity or neutralization process. (See Note 1 to subparagraph (7) of this paragraph.) Authorized only for acid of 60 to 80 percent strength. If tanks are washed out with water they must be resubjected to passivity before reshipment.

(No change in Notes.)

(11) Spec. 103B,<sup>1</sup> 103B-W, or 111A100-W-5 (§§ 79.200, 79.201 of this chapter). Tank cars, rubber-lined tanks. Authorized only for acid not over 40 percent strength.

(b) \* \* \*  
 (2) Spec. 105A300-W, 112A400-W or ARA-V<sup>1</sup> (§§ 79.100, 79.101 of this chapter). Tank cars equipped with special valves and appurtenances approved for this particular service. Filling density must not exceed 90 percent of the pounds water weight capacity of the tank.

(6) Spec. 106A500<sup>1</sup> or 106A500-X (§§ 79.300 and 79.301 of this chapter). Tank cars. Tanks shall not be equipped with safety devices of any type and be filled to a density not exceeding 85 percent of the water weight capacity of the tank.

NOTE 1: Tanks complying with ICC-106A (§§ 79.300 and 79.301 of this chapter) specification may be transported in or on motor vehicles and in the manner authorized in § 77.840(c) of this chapter, provided adequate facilities are present for handling tanks where transfer in transit is necessary. Tanks must be securely chocked or clamped thereon to prevent shifting.

In § 73.265 amend paragraph (b) (3) (23 F.R. 7648, Oct. 3, 1958) to read as follows:

<sup>1</sup> Use of existing tank cars authorized, but new construction not authorized.

## § 73.265 Hydrofluosilicic acid.

(b) \* \* \*

(3) Spec. 103B,<sup>1</sup> 103B-W, or 111A100-W-5 (§§ 79.200, 79.201 of this chapter). Tank cars, rubber-lined tanks.

In § 73.267 amend paragraph (a) (3) (23 F.R. 4790, July 9, 1957) to read as follows:

## § 73.267 Mixed acid (nitric and sulfuric acid) (nitrating acid).

(a) \* \* \*

(3) Spec. 103A,<sup>1</sup> 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars. (See paragraph (b) of this section.)

In § 73.271 amend paragraphs (a) (9) and (11) (25 F.R. 6626, July 14, 1960) (23 F.R. 7648, Oct. 3, 1958) to read as follows:

## § 73.271 Phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) \* \* \*

(9) Spec. 103A,<sup>1</sup> 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars. Spec. 103A,<sup>1</sup> tanks must be lead-lined steel or made of steel at least 10 percent nickel clad. Spec. 103A-W, 111A100-F-2, or 111A100-W-2 tanks must be lead-lined steel or made of steel with a minimum thickness of nickel cladding  $\frac{1}{16}$  inch. Nickel cladding in tanks must have a minimum nickel content of at least 99 percent pure nickel.

(11) Spec. 103A,<sup>1</sup> 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars. Authorized for phosphorus trichloride only.

In § 73.272 amend paragraphs (h) (3), (i) (4) (27 F.R. 11853, Dec. 1, 1962) (23 F.R. 7649, Oct. 3, 1958) to read as follows:

## § 73.272 Sulfuric acid.

(h) \* \* \*

(3) Spec. 103,<sup>1</sup> 103A-W, 111A1-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars. Tank cars used for sulfuric acid, mixed acid (nitric and sulfuric) (nitrating acid), and other fuming acids, may be equipped with safety vents incorporating lead discs having a  $\frac{1}{8}$  inch breather hole in the center thereof. The  $\frac{1}{8}$  inch breather hole in lead discs of safety vents on oleum tank cars is not permitted.

(i) \* \* \*

(4) Spec. 103B,<sup>1</sup> 103B-W, or 111A100-W-5 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.273 amend paragraph (a) (4) (24 F.R. 8058, Oct. 6, 1959) to read as follows:

<sup>1</sup> Use of existing tank cars authorized, but new construction not authorized.

## § 73.273 Sulfur trioxide, stabilized.

(a) \* \* \*

(4) Spec. 103A,<sup>1</sup> 103A-W, 105A300-W, 111A100-F-2, or 111A100-W-2 (§§ 79.100, 79.101, 79.200, 79.201 of this chapter). Tank cars. Authorized only for stabilized sulfur trioxide. Tank cars shall have safety valves of approved design and not subject to rapid deterioration by the lading. Cars equipped with interior heater coils not permitted.

In § 73.274 amend paragraph (a) (3) (22 F.R. 4791, July 9, 1957) to read as follows:

## § 73.274 Fluosulfonic acid.

(a) \* \* \*

(3) Spec. 103A,<sup>1</sup> 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.276 amend paragraph (a) (4) (27 F.R. 11853, Dec. 1, 1962) to read as follows:

## § 73.276 Anhydrous hydrazine and hydrazine solution.

(a) \* \* \*

(4) Spec. 103C-W or 111A100-W-6 (§§ 79.200, 79.201 of this chapter). Tank cars having tanks of type 304L or 347 stainless steel with molybdenum content not exceeding one-half of one percent. Spec. 111A100-W-6 tanks must not be equipped with bottom outlets. Vapor space in tanks must be filled with nitrogen gas at atmospheric pressure.

In § 73.280 amend paragraph (a) (7) (22 F.R. 4791, July 9, 1957) to read as follows:

## § 73.280 Allyl trichlorosilane, amyl trichlorosilane, butyl trichlorosilane, cyclohexenyl trichlorosilane, cyclohexyl trichlorosilane, diethyl dichlorosilane, diphenyldichlorosilane, dodecyl trichlorosilane, ethyl phenyl dichlorosilane, hexadecyl trichlorosilane, hexyl trichlorosilane, nonyl trichlorosilane, octadecyl trichlorosilane, octyl trichlorosilane, phenyl trichlorosilane, and propyl trichlorosilane.

(a) \* \* \*

(7) Spec. 103-W, 103A,<sup>1</sup> 103A-W, 105A100,<sup>1</sup> 105A100-W, 111A60-F-1, 111A60-W-1, 111A100-F-2, 111A100-W-2, or 111A100-W-4 (§§ 79.100, 79.101, 79.200, 79.201 of this chapter). Tank cars.

In § 73.285 amend paragraph (a) (3) (26 F.R. 9402, Oct. 6, 1961) to read as follows:

## § 73.285 Chlorine trifluoride.

(a) \* \* \*

(3) Spec. 106A500,<sup>1</sup> 106A500-X or 110A500-W (§§ 79.300, 79.301 of this chapter). Tank cars equipped with solid steel plugs in lieu of fusible plug safety devices and valve protection caps.

In § 73.291 amend paragraph (a) (8) (23 F.R. 7649, Oct. 3, 1958) to read as follows:

## § 73.291 Flame retardant compound liquid.

(a) \* \* \*

(8) Spec. 103B,<sup>1</sup> 103B-W, or 111A100-W-5 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.294 amend paragraphs (a) (2), (b) is added (25 F.R. 6626, July 14, 1960) to read as follows:

## § 73.294 Monochloroacetic acid, liquid.

(a) \* \* \*

(2) Spec. 103A-N-W, 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars. Spec. 103A-W, 111A100-F-2, or 111A100-W-2 tank cars must be nickel clad at least 20 percent.

(b) Monochloroacetic acid, anhydrous, when shipped as a liquid must be shipped in spec. 103A-W (§§ 79.200 and 79.201 of this chapter) tank cars with suitable corrosion resistant coatings or linings.

In § 73.295 amend paragraph (a) (11) (25 F.R. 6626, July 14, 1960) to read as follows:

## § 73.295 Benzyl chloride.

(a) \* \* \*

(11) Spec. 103A,<sup>1</sup> 103A-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars which may be 10 percent nickel clad. Authorized for stabilized benzyl chloride only.

In § 73.296 amend paragraph (a) (3) (24 F.R. 8058, Oct. 6, 1959) to read as follows:

## § 73.296 Di iso octyl acid phosphate.

(a) \* \* \*

(3) Spec. 103A-W, 103C-W, 103E-W, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.297 amend paragraph (a) (2) (25 F.R. 6627, July 14, 1960) to read as follows:

## § 73.297 Titanium sulfate solution containing not more than 45% sulfuric acid.

(a) \* \* \*

(2) Spec. 103B,<sup>1</sup> 103B-W, or 111A100-W-5 (§§ 79.200, 79.201 of this chapter). Tank cars.

## Subpart G—Poisonous Articles; Definition and Preparation

In § 73.333 amend paragraph (a) (2) (17 F.R. 9839, Nov. 1, 1952) to read as follows:

## § 73.333 Phosgene or diphosgene.

(a) \* \* \*

(2) Spec. 106A500,<sup>1</sup> or 106A500-X (§§ 79.300, 79.301 of this chapter). Tank cars. Each container must be equipped with valve protection caps, gastight, which must be approved by the Bureau of Explosives; containers must not be equipped with safety devices of any type; containers must be filled so that they will not be liquid full at 130° F. Authorized only for phosgene.

(No change in Note 1.)



In § 73.336 amend paragraphs (a) (3) and (4) (16 F.R. 9378, Sept. 15, 1951) (27 F.R. 6738, July 17, 1962) to read as follows:

**§ 73.336 Nitrogen dioxide, liquid, nitrogen peroxide, liquid, and nitrogen tetroxide, liquid.**

(a) \* \* \*  
(3) Spec. 106A500,<sup>1</sup> or 106A500-X (§§ 79.300, 79.301 of this chapter). Tank cars. Each container must be equipped with valve protection caps, gas-tight, which must be approved by the Bureau of Explosives; containers must not be equipped with safety devices of any type; containers must be filled so that they will not be liquid full at 130° F. (No change in Note 1.)

(4) Spec. 105A500-W (§§ 79.100, 79.101 of this chapter). Tank cars. Authorized for nitrogen tetroxide only. Tanks must be lagged with not less than a four-inch thickness of cork. All valves and fittings shall be protected by a securely attached cover made of metal not subject to deterioration by the lading, and all valve openings, except the safety valve, shall be fitted with screw plugs or caps to prevent leakage in the event of valve failure. Safety valve must be equipped with an approved stainless steel or platinum frangible disc. Tank must be stenciled on both sides in letters not less than 2 inches high "NITROGEN TETROXIDE ONLY." Written procedure covering details of tank car appurtenances, dome fittings and safety devices, and marking, loading, handling, inspection, and testing practices shall be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of nitrogen tetroxide.

In § 73.338 amend paragraphs (a) (3) and (4) (26 F.R. 9403, Oct. 6, 1961) (27 F.R. 6738, July 17, 1962) to read as follows:

**§ 73.338 Nitrogen tetroxide-nitric oxide mixtures containing up to 33.2 percent weight nitric oxide.**

(a) \* \* \*  
(3) Spec. 106A500,<sup>1</sup> or 106A500-X (§§ 79.300, 79.301 of this chapter). Tank cars. Each container must be equipped with valve protection caps, gas-tight, which must be approved by the Bureau of Explosives; containers must not be equipped with safety devices of any type; containers must be filled so that they will not be liquid full at 130° F. (No change in Note 1.)

(4) Spec. 105A500-W (§§ 79.100, 79.101 of this chapter). Tank cars. Tanks must be lagged with not less than a four-inch thickness of cork. All valves and fittings shall be protected by a securely attached cover made of metal not subject to deterioration by the lading and all valve openings, except the safety valve, shall be fitted with screw plugs or caps to prevent leakage in the event of valve failure. Safety valve must be equipped with an approved stainless steel or platinum frangible disc. Tank must be stenciled on both sides in letters not less than 2 inches high "NITROGEN TETROXIDE-NITRIC OXIDE MIXTURES

ONLY." Written procedures covering details of tank car appurtenances, dome fittings and safety devices, and marking, loading, handling, inspection, and testing practices shall be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of nitrogen tetroxide-nitric oxide mixtures.

In § 73.346 amend paragraph (a) (10) (24 F.R. 3598, May 5, 1959) to read as follows:

**§ 73.346 Poisonous liquids not specifically provided for.**

(a) \* \* \*  
(10) Spec. 103,<sup>1</sup> 103-W, 103A,<sup>1</sup> 103AL-W, 103A-W, 104,<sup>1</sup> 104-W, 105A100,<sup>1</sup> 105A100-W, 111A60AL-W, 111A60-F-1, 111A60-W-1, 111A100-F-2, 111A100-W-2, 111A100-W-3, 111A100-W-4, or ARA-IV-A<sup>1</sup> (§§ 79.100, 79.101, 79.200, 79.201 of this chapter). Tank cars.

In § 73.347 amend paragraph (a) (2) (22 F.R. 4792, July 9, 1957) to read as follows:

**§ 73.347 Aniline oil.**

(a) \* \* \*  
(2) Spec. 103,<sup>1</sup> 103-W, 103A,<sup>1</sup> 103A-W, 111A60-F-1, 111A60-W-1, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.352 amend paragraph (a) (4) (22 F.R. 4792, July 9, 1957) to read as follows:

**§ 73.352 Liquid sodium or potassium cyanide.**

(a) \* \* \*  
(4) Spec. 103,<sup>1</sup> 103-W, 103A,<sup>1</sup> 103A-W, 111A60-F-1, 111A60-W-1, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.353 amend paragraphs (a) (5), (b) (22 F.R. 4792, July 9, 1957) to read as follows:

**§ 73.353 Methyl bromide, liquid (bromomethane), mixtures of methyl bromide and ethylene dibromide, liquid, mixtures of methyl bromide and chlorpicrin, liquid, or methyl bromide and nonflammable, non-liquefied compressed gas mixtures, liquid.**

(a) \* \* \*  
(5) Spec. 105A100,<sup>1</sup> 105A100-W, 106A500,<sup>1</sup> 106A500-X or 111A100-W-4 (§§ 79.100, 79.101, 79.200, 79.201, 79.300, 79.301 of this chapter). Tank cars. (No change in Note 1.)

(b) Outage must be sufficient to prevent tank car from becoming entirely filled with liquid at the following temperature: Spec. 105A100,<sup>1</sup> 105A100-W, or 111A100-W-4 (§§ 79.100, 79.101, 79.200, 79.201 of this chapter) at 105 F; spec. 106A500,<sup>1</sup> or 106A500-X (§§ 79.300, 79.301 of this chapter) at 130 F.

In § 73.357 amend paragraph (b) (4) and Note 1 (16 F.R. 9379, Sept. 15, 1951) to read as follows:

**§ 73.357 Chlorpicrin and chlorpicrin mixtures containing no compressed gas or poisonous liquid, class A.**

(b) \* \* \*  
(4) Spec. 106A500<sup>1</sup> or 106A500-X (§§ 79.300, 79.301 of this chapter). Tank cars. Tanks shall not be equipped with safety devices of any type and valves shall be protected by metal caps. Outage shall be sufficient to prevent tanks from becoming liquid full at 130 F.

NOTE 1: Tanks complying with ICC-106A (§§ 79.300 and 79.301 of this chapter) specification may be transported in or on motor vehicles and in the manner authorized in § 77.840(c) of this chapter, provided adequate facilities are present for handling tanks where transfer in transit is necessary. Tanks must be securely chocked or clamped thereon to prevent shifting.

In § 73.359 amend paragraph (a) (13) (16 F.R. 11780, Nov. 21, 1951) to read as follows:

**§ 73.359 Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, organic phosphate compound mixtures, n.o.s., parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, liquid.**

(a) \* \* \*  
(13) Spec. 105A300-W (§§ 79.100 and 79.101 of this chapter). Tank cars. Authorized for organic phosphate compound mixtures, n.o.s., only.

In § 73.365 amend paragraph (a) (13) (22 F.R. 4792, July 9, 1957) to read as follows:

**§ 73.365 Poisonous solids not specifically provided for.**

(a) \* \* \*  
(13) Spec. 103,<sup>1</sup> 103-W, 103A,<sup>1</sup> 103A-W, 111A60-F-1, 111A60-W-1, 111A100-F-2, or 111A100-W-2 (§§ 79.200, 79.201 of this chapter). Tank cars.

In § 73.369 amend paragraph (a) (13) (24 F.R. 3598, May 5, 1959) to read as follows:

**§ 73.369 Carboic acid (phenol), not liquid.**

(a) \* \* \*  
(13) Spec. 103,<sup>1</sup> 103-W, 103AL-W, 103A,<sup>1</sup> 103A-W, 103A-AL-W, 111A60AL-W, 111A60-F-1, 111A60-W-1, 111A100-F-2, 111A100-W-2 or 111A100-W-3 (§§ 79.200, 79.201 of this chapter). Tank cars.

**PART 78—SHIPPING CONTAINER SPECIFICATIONS**

In Part 78, cancel Subpart I proper which includes the following sections in their entirety (15 F.R. 8373, Dec. 2, 1950) (21 F.R. 4566 thru 4610, 4613 thru 4628, June 26, 1956) (22 F.R. 2235, 2236, 2237, Apr. 4, 1957) (22 F.R. 4792 thru 4814, July 9, 1957) (22 F.R. 7843 thru 7847, Oct. 3, 1957) (22 F.R. 11033, Dec. 31, 1957) (23 F.R. 2326, 2333, 2334, 2335, Apr. 10, 1958) (23 F.R. 4032, 4033, June 10, 1958) (23 F.R. 7655 thru 7664, Oct. 3, 1958) (24 F.R. 3600 thru 3608, May 5,

<sup>1</sup> Use of existing tank cars authorized, but new construction not authorized.

1959) (24 F.R. 8061 thru 8064, Oct. 6, 1959) (25 F.R. 3106 thru 3110, 3113 thru 3116, Apr. 12, 1960) (25 F.R. 6628, July 14, 1960) (25 F.R. 10405 thru 10413, Oct. 29, 1960) (26 F.R. 4999 thru 5002, June 6, 1961) (26 F.R. 9405, 9406, Oct. 6, 1961) (27 F.R. 3432 thru 3436, Apr. 11, 1962) (27 F.R. 6742, July 17, 1962) (27 F.R. 11857 thru 11870, Dec. 1, 1962) (28 F.R. 14510, Dec. 31, 1963);

Add new Part 79 (15 F.R. 8373, 8557, Dec. 2, 1950) to read as follows:

## PART 79—SPECIFICATIONS FOR TANK CARS

### Subpart A—Introduction, Approvals and Reports

- Sec.  
79.1 General.  
79.2 Definitions and abbreviations.  
79.3 Procedure for securing approval.  
79.4 Changes in specifications for tank cars.  
79.5 Certificate of construction.  
79.6 Repairs and alterations.

### Subpart B—General Design Requirements

- 7910 Tank mounting.  
7911 Welding certification.  
7912 Interior heater systems.

### Subpart C—Specifications for Pressure Tank Car Tanks

- 79.100 General specifications applicable to pressure tank car tanks.  
79.101 Individual specification requirements applicable to pressure tank car tanks.  
79.102 Special commodity requirements for pressure tank car tanks.  
79.103 Special requirements for class 114A \*\*\* tanks.  
79.104 Special requirements for class 105-A200-F tanks.

### Subpart D—Specifications for Non-Pressure Tank Car Tanks

- 79.200 General specifications applicable to non-pressure tank car tanks.  
79.201 Individual specification requirements applicable to non-pressure tank car tanks.  
79.202 Special commodity requirements for non-pressure tank car tanks.

### Subpart E—Specifications for Multi-Unit Tank Car Tanks

- 79.300 General specifications applicable to multi-unit tank car tanks designed to be removed from car structure for filling and emptying.  
79.301 Individual specification requirements for multi-unit tank car tanks.  
79.302 Special commodity requirements for multi-unit tank car tanks.

### Subpart F—Specifications for Liquefied Hydrogen Tank Car Tanks and Seamless Steel Tanks

- 79.400 General specifications applicable to liquefied hydrogen tank car tanks.  
79.401 Individual specification requirements for liquefied hydrogen tank car tanks.  
79.500 Specification ICC-107A\*\*\*, seamless steel tanks to be mounted on or forming part of a car.

AUTHORITY: The provisions of this Part 79 issued under 62 Stat. 738, 74 Stat. 808; 18 U.S.C. 834.

### Subpart A—Introduction, Approvals and Reports

#### § 79.1 General.

(a) The specifications in this part apply to tanks which are to be mounted on

or form part of a tank car. Tanks when built shall comply with all applicable requirements of the specifications in effect at the time of construction. Tanks built to earlier specifications may continue in use as prescribed in § 73.31 of this chapter.

#### § 79.2 Definitions and abbreviations.

- (a) The following apply in Part 79:  
(1) "AAR" means Association of American Railroads.  
(2) "Approved" means approval by the AAR Committee on Tank Cars.  
(3) "ASTM" means American Society for Testing and Materials.  
(4) "Commission" means Interstate Commerce Commission.  
(5) Definitions in Part 73 of this chapter also apply.  
(6) "F" means degrees Fahrenheit.  
(7) "NGT" means National Gas Taper Threads.  
(8) "NPT" means American Standard Taper Pipe Thread.  
(9) "psi" means pounds per square inch gauge.  
(10) "Tanks" means tank car tanks.

#### § 79.3 Procedure for securing approval.

(a) Application for approval of designs, materials and construction, conversion or alteration of tank car tanks under these specifications, complete with detailed prints, shall be submitted in prescribed form to the Secretary, Mechanical Division, AAR, for consideration by its Committee on Tank Cars and other appropriate committees. Approvals or rejections of applications, based on appropriate committee action, shall be issued by said Secretary.

(b) When, in the opinion of the Committee, such tanks or equipment therefor are in compliance with effective regulations and specifications of the Commission, the application will be approved.

(c) When, in the opinion of the Committee, such tanks or equipment therefor are not in compliance with effective regulations and specifications of the Commission, the Committee may recommend service trials to determine the merits of a change in specifications. Such service trials may be authorized by the Commission under the terms of "ICC Special Permits."

#### § 79.4 Changes in specifications for tank cars.

(a) Proposed changes in or additions to specifications for tanks shall be submitted to the Secretary, Mechanical Division, AAR, for consideration by its Committee on Tank Cars. An application for construction of tanks to any new specification may be submitted with proposed specification. Construction should not be started until the specification has been approved or special permit has been issued. When proposing a new specification, the applicant shall furnish information to justify a new specification. This data should include the properties of the lading and the method of loading and unloading.

(b) The Subcommittee on Specifications of the Committee on Tank Cars shall review the proposed specification at its earliest convenience and report its recommendations to the Committee on

Tank Cars for prompt consideration. The Committee on Tank Cars shall report its recommendations through said Secretary to the Commission; such reports may be submitted to the Bureau of Explosives for its recommendation before action by the Commission. Expert opinion thus obtained will be given due consideration by the Commission in determining appropriate action.

#### § 79.5 Certificate of construction.

(a) Except as provided in paragraph (b) of this section, before a tank car is placed in service, the party assembling the completed car shall furnish to the Bureau of Explosives, to the Secretary, Mechanical Division, AAR, and to the car owner, a Certificate of Construction in prescribed form certifying that the tank, equipment and car complete, comply with all the requirements of the specifications.

(b) Before a tank of Class ICC-106A, 107A or 110A is placed in service, the builder shall furnish to the Bureau of Explosives, to the Secretary, Mechanical Division, AAR, and the owner, a Certificate of Construction in prescribed form certifying that the tank and appurtenances comply with all the requirements of the specifications.

(c) If the owner elects to furnish the appurtenances such as valves and safety devices, the owner shall furnish to the Bureau of Explosives, to the Secretary, Mechanical Division, AAR, a report in prescribed form, certifying that the appurtenances comply with all the requirements of the specifications.

(d) When cars or tanks which are identical in all details are built in groups, one certificate shall suffice for each group.

#### § 79.6 Repairs and alterations.

(a) For procedure to be followed in making repairs or alterations, see § 73.31 of this chapter.

### Subpart B—General Design Requirements

#### § 79.10 Tank mounting.

(a) The manner in which tanks are attached to the car structure shall be approved. The use of rivets to secure anchors to tanks prohibited.

#### § 79.11 Welding certification.

(a) Welding procedures, welders and fabricators shall be approved by the AAR Committee on Tank Cars.

#### § 79.12 Interior heater systems.

##### § 79.12-1 General.

(a) Interior heater systems shall be of approved design and materials. If a tank is divided into compartments, a separate system shall be provided for each compartment.

##### § 79.12-2 Materials and dimensions.

(a) Interior heater systems and plug flanges, if welded to tank or dome, shall be cast, forged or fabricated metal, and be of good weldable quality in conjunction with metal of tank or dome.

(b) Piping shall be not less than 2-inch size. Tubing shall be not less than 2 $\frac{3}{8}$  inch outside diameter. Material

specifications and minimum wall thickness are as follows:

Material	Minimum thickness	Specification
Carbon steel pipe.	Schedule 80.	ASTM A-53.
Carbon steel tube.	Do.	ASTM A-83, ASTM A-178, ASTM A-312.
Alloy steel pipe.	Schedule 40S.	ASTM A-269.
Alloy steel tube.	0.154 inch.	ASTM B-241.
Aluminum pipe.	Schedule 80.	ASTM B-210, ASTM B-235.
Aluminum tube.	0.218 inch.	ASTM B-161.
Nickel pipe.	Schedule 40.	ASTM B-161.
Nickel tube.	0.154 inch.	ASTM B-161.

(c) Systems may be fabricated of other materials and of other than circular cross section, if approved.

§ 79.12-3 Joints and fittings.

(a) Welded butt joints are preferable. Bolted joints with flange welded to piping may be used if welding is not feasible or to facilitate tank cleaning or application of linings. Return bends shall be forged or made by bending the pipe. Cast, forged or fabricated manifolds of approved design may be used.

(b) Inlets and outlets of heater systems shall be equipped with valve cock, cap or plug. Caps and plugs shall be secured by chain.

§ 79.12-4 Application to tank.

(a) Interior heater systems shall be so constructed that the breaking off of their external connections will not cause leakage of contents of tank.

(b) Inlets and outlets may be located in any portion of dome, shell, heads, or steam jacketed outlet provided proper drainage of heater system is accomplished.

(c) If ends of coils are not attached to a manifold or steam jacketed outlet, they shall be attached to pads or reinforcements. Such reinforcements must be attached to tank in compliance with the requirements of the tank specification.

(1) Outside pipe connections to steam coils shall not be an integral part of the interior coils and shall be screwed or welded, or both, into outside of pads or reinforcements.

(d) All piping shall be secured so as to permit necessary expansion and contraction.

§ 79.12-5 Tests.

(a) Each interior heater system shall be hydrostatically tested at not less than 200 psi and shall hold the pressure for 10 minutes without leakage or evidence of distress.

§ 79.12-6 Reports.

(a) The Certificate of Construction for the completed car shall indicate installation of interior heater system and date of initial hydrostatic test.

§ 79.12-7 Stenciling.

(a) To indicate that tank is equipped with interior heater system, the tank, or the jacket if tank is insulated, shall be stenciled in compliance with the applicable requirements of AAR Specifications for Tank Cars, Appendix C.

Subpart C—Specifications for Pressure Tank Car Tanks

§ 79.100 General specifications applicable to pressure tank car tanks.

§ 79.100-1 Tanks built under these specifications shall comply with the requirements of §§ 79.100, 79.101, and when applicable, §§ 79.102, 79.103, and 79.104.

§ 79.100-2 Approval.

(a) For procedure for securing approval see § 79.3.

§ 79.100-3 Type.

(a) Tanks built under this specification shall be fusion-welded with heads designed convex outward, except as provided in § 79.103 or 79.104. They shall be circular in cross section, shall be provided with a manway nozzle on top of the tank of sufficient size to permit access to the interior, a manway cover to provide for the mounting of all valves, measuring and sampling devices, and a protective housing. Other openings in the tank are prohibited, except as provided in Part 73 of this chapter, §§ 79.100-14, 79.101-1 Note 10, or § 79.103.

§ 79.100-4 Insulation.

(a) If insulation is applied, the tank shell and manway nozzle shall be insulated with an approved material. The entire insulation shall be covered with a metal jacket not less than 1/8 inch in thickness and flashed around all openings so as to be weather tight. Before insulation is applied, the tank surface and the inside of carbon steel jackets shall be given a protective coating. Protective coating is not required when foam-in-place insulation is applied that adheres to the tank or jacket.

(b) If insulation is a specification requirement, it shall be of sufficient thickness so that the thermal conductance at 60° F is not more than 0.075 Btu per hour, per square foot, per degree F temperature differential. If exterior heaters are attached to tank, the thickness of the insulation over each heater element may be reduced to one-half that required for the shell.

§ 70.100-5 Bursting pressure.

(a) The minimum required bursting pressure is listed in § 79.101.

§ 79.100-6 Thickness of plates.

(a) The wall thickness of the tank shell and heads shall not be less than that specified in § 79.101, nor that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

- d = inside diameter in inches;
- E = 0.9 welded joint efficiency; except E=1.0 for seamless aluminum alloy heads;
- P = minimum required bursting pressure in psi;
- S = minimum strength of plate material in psi, as prescribed in § 79.100-7;
- t = minimum thickness of plate in inches.

(b) If plates are clad with material having tensile strength properties at

least equal to the base plate, the cladding may be considered a part of the base plate when determining thickness. If cladding material does not have tensile strength at least equal to the base plate, the base plate alone shall meet the thickness requirement.

(c) When aluminum plate is used, the minimum width of bottom sheet of tank shall be 60 inches, measured on the arc, but in all cases the width shall be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the bolster.

§ 79.100-7 Material.

(a) Carbon steel plate material used to fabricate tank shell and manway nozzle shall be open hearth boiler plate of flange or firebox quality having a carbon content not exceeding 0.31 percent and complying with one of the following ASTM specifications for the material and with the indicated minimum tensile strength and elongation in the welded condition. Minimum tensile strength 81,000 psi. Elongation in 2 inch minimum percent 21.0:

Specifications	Minimum tensile strength (psi) welded condition	Minimum elongation in 2 inches (percent) welded condition
ASTM A 201 Gr. A.....	55,000	28
ASTM A 201 Gr. B.....	60,000	50
ASTM A 212 Gr. A.....	65,000	27
ASTM A 212 Gr. B.....	70,000	20
ASTM A 285 Gr. A.....	45,000	05
ASTM A 285 Gr. B.....	50,000	22
ASTM A 285 Gr. C.....	55,000	60

(1) These plates may be clad with other approved metals.

(b) Aluminum alloy plate material used to fabricate tank shell and manway nozzle shall be suitable for fusion welding and shall comply with one of the following ASTM specifications for the material and with the indicated minimum tensile strength and elongation in the welded condition:

Specifications	Minimum tensile strength 0 temper (psi) welded condition	Minimum elongation in 2 inches 0 temper (percent) welded condition
ASTM B 209 Alloy 1060...	9,500	25
ASTM B 209 Alloy 1100...	11,000	28
ASTM B 209 Alloy 3003...	14,000	23
ASTM B 209 Alloy 5052...	25,000	18
ASTM B 209 Alloy 5086...	35,000	14
ASTM B 209 Alloy 5154...	30,000	18
ASTM B 209 Alloy 5254...	30,000	18
ASTM B 209 Alloy 5454...	31,000	18
ASTM B 209 Alloy 6052...	25,000	18
ASTM B 209 Alloy 6061...	24,000	15

<sup>1</sup> Not 0 temper.

(c) All attachments welded to tank shell shall be of approved material which is suitable for welding to the tank.

§ 79.100-8 Tank heads.

(a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell adjacent to the head and the minor axis shall be one-half the major axis.

**§ 79.100-9 Welding.**

(a) All joints shall be fusion-welded in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W. Welding procedures, welders and fabricators shall be approved. Also see § 79.104.

**§ 79.100-10 Stress relieving.**

(a) After welding is complete, steel tanks and all attachments welded thereto, shall be stress relieved as a unit in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W.

(b) For aluminum tanks, stress relieving is prohibited.

**§ 79.100-11 Tank mounting.**

(a) See §§ 79.10 and 79.104-3.

**§ 79.100-12 Manway nozzle, cover and protective housing.**

(a) Manway nozzles shall be of approved design of forged or rolled steel for steel tanks or fabricated aluminum alloy for aluminum tanks, with access opening at least 18 inches inside diameter, or at least 14 inches by 18 inches obround or oval. Nozzle shall be welded to the tank and the opening reinforced in an approved manner in compliance with the requirements of AAR Specifications for Tank Cars, Appendix C, Figure 10.

(b) Manway cover shall be machined to approved dimensions and be of forged or rolled carbon or alloy steel, rolled aluminum alloy or nickel when required by the lading. Minimum thickness is listed in § 79.101. Manway cover shall be attached to manway nozzle by through or stud bolts not entering tank, except as provided in § 79.103-2 (a).

(c) Except as provided in § 79.103, protective housing of cast, forged or fabricated approved materials shall be bolted to manway cover. The shearing value of the bolts attaching protective housing to manway cover shall not exceed 70 percent of the shearing value of bolts attaching manway cover to manway nozzle. Housing shall be equipped with a suitable metal cover that can be securely closed. Housing cover shall have suitable stop to prevent cover striking loading or unloading connections and be hinged on one side only with approved riveted pin or rod with nuts and cotters. Openings in wall of housing shall be equipped with screw plugs or other closures.

**§ 79.100-13 Venting, loading and unloading valves, measuring and sampling devices.**

(a) Venting, loading and unloading valves shall be of approved design, made of metal not subject to rapid deterioration by the lading, and shall withstand the tank test pressure without leakage. The valves shall be directly bolted to seatings on manway cover, except as provided in § 79.103. Valve outlets shall be closed with approved screw plugs or other closures fastened to prevent misplacement.

(b) The interior pipes of the loading and unloading valves shall be anchored

and, except as prescribed in § 79.102, or 79.103, may be equipped with excess flow valves of approved design.

(c) Gaging device, sampling valve and thermometer well are not specification requirements. When used, they shall be of approved design, made of metal not subject to rapid deterioration by the lading, and shall withstand the tank test pressure without leakage. Interior pipes of the gaging device and sampling valve, except as prescribed in § 79.102, or 79.103, may be equipped with excess flow valves of approved design. Interior pipe of the thermometer well shall be anchored in an approved manner to prevent breakage due to vibration. The thermometer well shall be closed by an approved valve attached close to the manway cover, or other approved location, and closed by a screw plug. Other approved arrangements that permit testing thermometer well for leaks without complete removal of the closure may be used.

(d) An excess flow valve as referred to in this specification, is a device which closes automatically against the outward flow of the contents of the tank such as may be encountered in case the external closure valve is broken off or removed during transit. Excess flow valves may be designed with a by-pass to allow the equalization of pressures.

**§ 79.100-14 Bottom outlets.**

(a) Bottom outlets for discharge of lading is prohibited, except as provided in § 79.103. If indicated in § 79.101, tank may be equipped with a bottom washout of approved construction. If applied, bottom washout shall be in accordance with the following requirements:

(1) The extreme projection of the bottom washout shall be at least 12 inches above top of rail.

(2) Bottom washout shall be of cast, forged or fabricated metal and shall be fusion-welded to the tank. It shall be of good weldable quality in conjunction with metal of tank.

(3) If bottom washout nozzle extends 6 inches or more from shell of tank, a "V" groove shall be cut (not cast) in the upper part of the nozzle at a point immediately below the lowest part of inside closure seat or plug to a depth that will leave wall thickness of nozzle at the root of the "V" not over  $\frac{3}{8}$  inch. Where nozzle is not a single piece, provision shall be made for the equivalent of the breakage groove. The nozzle shall be of a thickness to insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(4) The closure plug and seat shall be readily accessible or removable for repairs.

(5) Joints between closures and their seats may be gasketed with suitable material.

**§ 79.100-15 Safety relief valves.**

(a) The tank shall be equipped with one or more safety relief valves of approved design, made of metal not subject to rapid deterioration by the lading, and mounted on manway cover. The safety

relief valve, or valves, shall be mounted on manway cover, except as provided in § 79.103. The total valve discharge capacity shall be sufficient to prevent building up pressure in tank in excess of 82½ percent of the tank test pressure. The start-to-discharge and vapor-tight pressures shall comply with § 79.101 and shall not be affected by any auxiliary closure or other combination. For certain commodities, alternate pressures are permitted. See § 79.102-11.

(b) When a safety relief valve is used in combination with a breaking pin device, the breaking pin device shall be designed to fail at a pressure of 75 percent of the tank test pressure and safety relief valve shall be set for a start-to-discharge pressure of 71 percent of the tank test pressure.

(c) When a safety relief valve is used in combination with a frangible disc, the frangible disc shall be designed to burst at a pressure of 75 percent of the tank test pressure and the safety relief valve shall be set for a start-to-discharge pressure of 71 percent of the tank test pressure. Provision shall be made to prevent any accumulation of pressure between the frangible disc and safety relief valve.

**§ 79.100-16 Attachments not otherwise specified.**

(a) Attachments not otherwise specified shall be applied by approved means.

**§ 79.100-17 Closures for openings.**

(a) Closures shall be of approved design and made of metal not subject to rapid deterioration by the lading. Plugs, if used, shall be solid, with NPT threads, and shall be of a length which will screw at least six threads inside the face of fitting or tank.

**§ 79.100-18 Tests of tanks.**

(a) Each tank shall be tested by completely filling tank and manway nozzle with water or other liquid having similar viscosity, at a temperature which shall not exceed 100 F during the test; and applying the pressure prescribed in § 79.101. The tank shall hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) Insulated tanks shall be tested before insulation is applied.

(c) Calking of welded joints to stop leaks developed during the foregoing test is prohibited. Repairs in welded joints shall be made as prescribed in AAR specifications for Tank Cars, Appendix W.

(d) Testing of exterior heaters is not a specification requirement.

**§ 79.100-19 Tests of safety relief valves.**

(a) Each valve shall be tested by air or gas for compliance with § 79.101 before being put into service.

**§ 79.100-20 Stamping.**

(a) To certify that the tank complies with all specification requirements, each tank shall be plainly and permanently stamped in letters and figures at least  $\frac{1}{8}$  inch high into the metal near the center of both outside heads as follows:

*Example of required stamping*  
 Specification----- ICC-105A100-W  
 Material----- ASTM A212 B  
 Cladding material (if any)--- ASTM A240-304  
 Clad  
 Tank builder's initials----- ABC  
 Date of original test----- 00-0000  
 Car assembler (if other than tank builder)--- DEF  
 Water capacity----- 00000 lbs.

§ 79.100-21 Stenciling.

(a) The tank or the jacket if tank is insulated, shall be stenciled in compliance with the requirements of AAR Specifications for Tank Cars, Appendix C.

§ 79.100-22 Certificate of construction.

(a) See § 79.5.

§ 79.101 Individual specification requirements applicable to pressure tank car tanks.

§ 79.101-1 Individual specification requirements.

(a) In addition to § 79.100 the individual specification requirements are as follows:

ICC specifications	105A100W	105A200F	105A200W	105A300W	105A400W	105A500W	105A600W	105A100ALW	105A200ALW	105A300ALW
Material (see 79.100-7)-----	Steel Required	Steel Required	Steel Required	Steel Required	Steel Required	Steel Required	Steel Required	Aluminum Required	Aluminum Required	Aluminum Required
Insulation (see 79.100-4)-----										
Bursting pressure, p.s.i. (see 79.100-5)-----	500		500	750	1000	1250	1500	500	500	750
Minimum plate thickness, inches, Shell, and Heads-----	<sup>1</sup> / <sub>16</sub>	<sup>2</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>5</sup> / <sub>16</sub>	<sup>5</sup> / <sub>16</sub>	<sup>5</sup> / <sub>16</sub>
Test pressure, p.s.i. (see 79.100-18)-----	100	See 79.104	200	300	400	500	600	100	200	300
Safety relief valves, p.s.i.: <sup>a</sup> Start-to-discharge pressure-----	75	150	150	225	300	375	450	75	150	225
Start-to-discharge tolerance-----	±3.0	±4.5	±4.5	±6.75	±9.0	±11.25	±13.5	±3.0	±4.5	±6.75
Vapor tight (minimum) pressure-----	60	120	120	180	240	300	360	60	120	180
Manway cover, thickness, inches (minimum)-----	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>
Special references-----	79.102-3 79.102-6	79.102-3 79.102-6 79.104	79.102-3 79.102-6	79.102-2 79.102-3 79.102-5 79.102-6 79.102-7 79.102-8 79.102-11	79.102-2	79.102-1 79.102-2 79.102-3 79.102-9 79.102-10	79.102-1 79.102-2 79.102-3 79.102-4 79.102-9 79.102-10	79.102-1 79.102-3	79.102-3	79.102-3
Bottom washout-----	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited

ICC specifications	109A300W	109A100ALW	109A200ALW	109A300ALW	112A200W	112A340W	112A400W	112A500W	114A340W	112A400F
Material (see 79.100-7)-----	Steel Optional	Aluminum Optional	Aluminum Optional	Aluminum Optional	Steel <sup>4</sup> None	Steel <sup>4</sup> None	Steel <sup>4</sup> None	Steel <sup>4</sup> None	Steel <sup>4</sup> None	Steel <sup>4</sup> None
Insulation (see 79.100-4)-----										
Bursting pressure, p.s.i. (see 79.100-5)-----	750	500	500	750	500	850	1000	1250	850	
Minimum plate thickness, inches, Shell, and Heads-----	<sup>1</sup> / <sub>16</sub>	<sup>5</sup> / <sub>16</sub>	<sup>5</sup> / <sub>16</sub>	<sup>5</sup> / <sub>16</sub>	<sup>2</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>	<sup>1</sup> / <sub>16</sub>
Test pressure, p.s.i. (see 79.100-18)-----	300	100	200	300	200	340	400	500	340	
Safety relief valves, p.s.i.: <sup>a</sup> Start-to-discharge pressure-----	225	75	150	225	150	255	300	375	255	
Start-to-discharge tolerance-----	±8.75	±3.0	±4.5	±6.75	±4.5	±7.65	±9.0	±11.25	±7.65	
Vapor tight (minimum) pressure-----	180	60	120	180	120	204	240	300	204	
Manway cover, thickness, inches (minimum)-----	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	<sup>2</sup> / <sub>4</sub>	(7)
Special references-----					<sup>10</sup> 79.102-3	79.102-3 <sup>10</sup> 79.102-11	79.102-3 79.102-6 <sup>10</sup> 79.102-11	<sup>10</sup> 79.102-3	79.102-11 79.103	
Bottom washout-----	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Prohibited	Prohibited	<sup>8</sup> Optional	

<sup>1</sup> When steel of 65,000 to 81,000 p.s.i. minimum tensile strength is used, the thickness of plates shall not be less than <sup>3</sup>/<sub>16</sub> inch, and when steel of 81,000 p.s.i. minimum tensile strength is used, the minimum thickness of plate shall be not less than <sup>3</sup>/<sub>16</sub> inch.  
<sup>2</sup> When approved material other than aluminum alloys are used, the thickness p.s.i. shall not be less than 2<sup>1</sup>/<sub>4</sub> inches.  
<sup>3</sup> When steel of 65,000 p.s.i. minimum tensile strength is used, minimum thickness of plates shall not be less than <sup>1</sup>/<sub>2</sub> inch.  
<sup>4</sup> At least the upper two-thirds of the exterior of the tank, manway nozzle and all appurtenances in contact with this area of the tank shall have a finish coat of light-reflective paint.  
<sup>5</sup> For inside diameter of 87 inches or less, the thickness of plates shall not be less than one-half inch.

<sup>6</sup> See 79.102 for optional setting for certain commodities.  
<sup>7</sup> See 79.103-1(c).  
<sup>8</sup> See 79.103-1 for optional bottom loading and unloading.  
<sup>9</sup> When the use of nickel is required by the lading, the thickness shall not be less than 2 inches.  
<sup>10</sup> Each tank head of class 112A tank car tanks may be equipped with not more than one opening for use in purging tank interior.  
<sup>11</sup> Tanks converted from existing forge-welded specification 105A600 tanks by modification using conversion details complying with ICC-112A specification requirements, shall be stenciled by substituting the letter "F" for the letter "W" in the specification designation.

§ 79.102 Special commodity requirements for pressure tank car tanks.

(a) In addition to §§ 79.100 and 79.101 the following requirements are applicable:

§ 79.102-1 Liquefied carbon dioxide.

(a) Spec. 105A500-W or 105A600-W tank cars used to transport Liquefied carbon dioxide shall comply with the following special requirements:

- (1) All plates for tank, manway nozzle and anchorage, shall be made of steel complying with a specification approved for service at low temperatures.
- (2) Tank shall be insulated with an approved material of sufficient thickness

so that the thermal conductance at 60 F is not more than 0.03 Btu per hour per square foot per degree F temperature differential; except that in order to permit an anchorage which shall not exceed seven inches from top of center sills to bottom of tank, the insulation thickness directly over the sills may be reduced to give thermal conductance not exceeding 0.04 Btu per hour per square foot per degree F temperature differential.

(3) Tank shall be equipped with one safety relief valve set for the start-to-discharge pressure listed in § 79.101, and one frangible disc device of approved design, set to function at a pressure less

than the tank test pressure, and not less than 75 percent of tank test pressure. The discharge capacity of each of these safety relief devices shall be sufficient to prevent building up pressure in tank in excess of 82½ percent of the tank test pressure.

(4) Tank shall be equipped with two pressure-regulating valves of approved design, set to open at a pressure not exceeding 350 psi on spec. 105A500-W tanks or 400 psi on spec. 105A600-W tanks.

(5) Each regulating valve and safety relief device shall have its final discharge piped to the outside of the protective housing.

### § 79.102-2 Chlorine.

(a) Spec. 105A300-W or 105A500-W tank cars used to transport chlorine shall comply with the following special requirements:

(1) The quantity of chlorine loaded into a single-unit tank car shall not exceed 60,000 pounds, except that not more than 110,000 pounds nor less than 107,800 pounds of chlorine may be loaded in such cars if insulated with 4 inches of corkboard and constructed, maintained, and retested in compliance with spec. 105A500-W. Cars may be registered and jackets stenciled either 105A300-W or 105A500-W and equipped with the safety relief valve required by the specification to which registered.

(2) The interior pipes of liquid discharge valves shall be equipped with excess flow valves of approved design.

### § 79.102-3 Liquefied flammable gases.

(a) Spec. 105A100-W, 105A200-F, 105A200-W, 105A300-W, 105A400-W, 105A500-W, 105A600-W, 105A100-ALW, 105A200-ALW, 105A300-ALW, 112A200-W, 112A340-W, 112A400-W or 112A500-W tank cars used to transport liquefied flammable gases shall comply with the following special requirements:

(1) The interior pipes of the loading and unloading valves, gaging device and sampling valve shall be equipped with excess flow valves of an approved design.

(2) The protective housing cover shall be equipped with an approved weather-proof cover over an opening having an unrestricted area at least equal to the total safety relief valve discharge area.

### § 79.102-4 Vinyl fluoride, inhibited.

(a) Spec. 105A600-W tank cars used to transport vinyl fluoride, inhibited, shall comply with the following special requirements:

(1) Tank shall be insulated with an approved material of sufficient thickness so that the thermal conductance at 60 F is not more than 0.03 Btu per hour per square foot per degree F temperature differential; except that in order to permit an anchorage which shall not exceed seven inches from top to center sill to bottom of tank, the insulation thickness directly over the sills may be reduced to give thermal conductance not exceeding 0.04 Btu per hour per square foot per degree F temperature differential.

(2) Tank shall be equipped with one safety relief valve, set for the start-to-discharge pressure listed in § 79.101, and one frangible disc device of approved design, set to function at a pressure less than the tank test pressure, and not less than 75 percent of the tank test pressure. The discharge capacity of each of these safety relief devices shall be sufficient to prevent building up pressure in tank in excess of 82½ percent of the tank test pressure.

(3) Each regulating valve and safety relief device shall have its final discharge piped to the outside of the protective housing.

### § 79.102-5 Nitrosyl chloride.

(a) Spec. 105A300-W tank cars used to transport Nitrosyl chloride shall com-

ply with the following special requirements:

(1) Tanks shall be made of or clad with a metal not subject to rapid deterioration by the lading; all appurtenances such as manway covers, venting, loading and unloading valves, safety relief valves, excess flow valves, and education pipes, shall be made of metal not subject to rapid deterioration by the lading; cork shall be used as an insulating material.

### § 79.102-6 Vinyl chloride or Vinyl methyl ether, inhibited.

(a) Spec. 105A200-W 112A400-W tank cars, used to transport Vinyl chloride, and spec. 105A100-W or 105A300-W tank cars used to transport Vinyl methyl ether, inhibited, shall comply with the following special requirements:

(1) All parts of valves and safety relief devices in contact with the lading shall be of a metal or other material suitably treated, if necessary, which will not cause formation of any acetylides.

(2) The interior pipes of the loading and unloading valves, gaging device and sampling valve shall be equipped with excess flow valves of an approved design.

(3) For Vinyl chloride in spec. 105A-200-W tank cars, openings in tank heads to facilitate nickel lining are authorized if closed in an approved manner.

### § 79.102-7 Bromine.

(a) Spec. 105A300-W tank cars used to transport Bromine shall comply with the following special requirements:

(1) The tank shall be nickel clad at least 20 percent or shall be lined with lead at least 3/16 inch thick; openings in tank heads to facilitate application of lead lining are authorized if closed in an approved manner; all closures and appurtenances in contact with the lading shall be lead lined or shall be made of metal not subject to rapid deterioration by the lading; all interior welds in nickel clad tanks shall be protected by pure nickel butt straps to eliminate iron contamination. Except as otherwise provided herein, the water weight capacity of the tank shall not exceed 20,400 pounds. When tanks are equipped with manway cover plates, safety relief valves, venting, loading and unloading valves in accordance with spec. 105A300-W, and tank jackets are stenciled spec. 105A300-W, but in all other respects are constructed and maintained in full compliance with spec. 105A500-W, the water weight capacity of the tank shall not exceed 37,400 pounds.

### § 79.102-8 Motor fuel anti-knock compound.

(a) Spec. 105A300-W tank cars used to transport Motor fuel anti-knock compounds shall comply with the following special requirements:

(1) Jacket shall be stenciled on both sides "MOTOR FUEL ANTI-KNOCK COMPOUND ONLY." Openings in tank heads to facilitate application of nickel lining are authorized if closed in an approved manner.

### § 79.102-9 Nitrogen tetroxide or Nitrogen tetroxide-nitric oxide mixtures.

(a) Specs. 105A500-W and 105A600-W tank cars used to transport Nitrogen te-

troxide or Nitrogen tetroxide-nitric oxide mixtures shall comply with the following special requirements:

(1) Tanks shall be insulated with not less than four inches of corkboard. All valves and fittings shall be protected by the securely attached cover made of metal not subject to rapid deterioration by the lading, and all valve openings, except the safety relief valves, shall be fitted with screw plugs or caps to prevent leakage in the event of valve failure. Safety relief valve shall be equipped with an approved stainless steel or platinum frangible disc. Jacket shall be stenciled on both sides in letters not less than 2 inches high "NITROGEN TETROXIDE ONLY" or "NITROGEN TETROXIDE-NITRIC OXIDE MIXTURES ONLY," as applicable. Written procedure covering details of tank car appurtenances, manway fittings and safety relief devices, and marking, loading, handling, inspection and testing practices, shall be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of these commodities.

### § 79.102-10 Hydrocyanic acid.

(a) Spec. 105A500-W or 105A600-W tank cars used to transport Hydrocyanic acid shall comply with the following special requirements:

(1) Cars shall be registered and the jacket stenciled spec. 105A300-W and be equipped with the safety relief valves required by that specification. Tanks shall be insulated with not less than 4 inches of corkboard. Jacket shall be stenciled on both sides in letters not less than 2 inches high "HYDROCYANIC ACID ONLY." Written procedure covering details of tank car appurtenances, manway fittings and safety relief devices, and marking, loading, handling, inspection and testing practices, shall be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of hydrocyanic acid.

### § 79.102-11 Liquefied petroleum gas or Anhydrous ammonia.

(a) Spec. 105A300-W, 112A340-W, 112A400-W or 114A340-W tank cars used to transport Liquefied petroleum gas or Anhydrous ammonia, may as an alternate comply with the following special requirements:

(1) Safety relief valves may be set to the following pressures, provided the total valve discharge capacity is sufficient to prevent building up pressure in the tank in excess of 90 percent of the tank test pressure.

ICC specifications	105A300-W	112A340-W	112A400-W	114A340-W
Safety release valves, psi:				
Start-to-discharge pressure	247.5	280.5	330	280.5
Start-to-discharge tolerance	±7.4	±8.4	±10	±8.4
Vapor tight pressure (minimum)	196	224	264	224

**§ 79.103 Special requirements for class 114A \* \* \* W tanks.**

(a) In addition to the applicable requirements of §§ 79.100 and 79.101 the following requirements shall be complied with:

**§ 79.103-1 Type.**

(a) Tanks built under this section may be of any approved cross section.

(b) Any portion of the tank shell not circular in cross section shall have walls of such thickness and be so reinforced that the stresses in the walls caused by a given internal pressure are no greater than the circumferential stresses which would exist under the same internal pressure in the wall of a tank of circular cross section designed in accordance with paragraphs § 79.100-6 (a) and (b), but in no case shall the wall thickness be less than that specified in § 79.101.

(c) Manway and cover may be located other than at the top of the tank.

(d) Valves and fittings need not be mounted on the manway cover.

(e) Not more than two openings may be provided for use in purging the tank interior.

**§ 79.103-2 Manway cover.**

(a) Manway cover may be of the internal self-energizing type and shall be of approved design.

(b) If no valves or measuring and sampling devices are mounted on manway cover, no protective housing is required.

**§ 79.103-3 Venting, loading and unloading valves, measuring and sampling devices.**

(a) Venting, loading and unloading valves, measuring and sampling devices, when used, shall be attached to a nozzle or nozzles on the tank shell or heads.

(b) These valves and appurtenances shall be grouped in one location, shall be provided with a protective cover or housing with cover or may be recessed into the tank shell. A duplicate set grouped in another location may be provided.

(c) The interior pipes of the loading, unloading, and sampling valves shall be equipped with excess flow valves of approved design, except when quick closing internal valves of approved design are used. When the interior pipe of the gaging device provides a means for the passage of lading from the interior to the exterior of the tank, it shall be equipped with an excess flow valve of approved design or with an orifice not exceeding a No. 54 drill size.

**§ 79.103-4 Safety relief valves.**

(a) Safety relief valve or valves shall be located on top of tank near the center of the car on a nozzle, mounting plate or recess in the shell. Through or stud bolts, if used, shall not enter the tank.

(b) Metal guard of approved design shall be provided to protect safety relief valve or valves from damage.

**§ 79.104 Special requirements for spec. 105A200-F tanks.**

**§ 79.104-1 Tanks built under these specifications shall meet the requirements of §§ 79.100, 79.101, 79.102 and 79.104.**

**§ 79.104-2 Type.**

(a) Tanks built under this specification shall be fabricated by conversion from existing forge-welded steel tanks complying with specs. 105A300, 105A400, 105A500 or 105A600.

**§ 79.104-3 Tank mounting.**

(a) The use of rivets as a means of attaching anchor to tank is permitted.

**§ 79.104-4 Welding.**

(a) All joints must be lap welded by the water gas process, hammered or rolled or other lap welded, hammered or rolled process which investigation and laboratory tests by the Mechanical Division of the AAR have proved will produce satisfactory results.

**Subpart D—Specifications for Non-Pressure Tank Car Tanks**

**§ 79.200 General specifications applicable to non-pressure tank car tanks.**

**§ 79.200-1 Tank built under these specifications shall meet the requirements of §§ 79.200, 79.201 and 79.202.**

**§ 79.200-2 Approval.**

(a) For procedure for securing approval, see § 79.3.

**§ 79.200-3 Type.**

(a) Tanks built under this specification shall be cylindrical, with heads designed convex outward. When specified in § 79.201-1 tank shall have at least one manway or one expansion dome with manway, and such other external projections as are prescribed herein. When the tank is divided into compartments, each compartment shall be treated as a separate tank.

**§ 79.200-4 Insulation.**

(a) If insulation is applied, the tank shell and expansion dome when used shall be insulated with an approved material. The entire insulation shall be covered with a metal jacket not less than 1/8 inch in thickness and flashed around all openings so as to be weather tight. Before insulation is applied, the exterior surface of the carbon steel tanks and the inside of the carbon steel jacket shall be given a protective coating, except that protective coating is not required when foam-in-place insulation is applied that adheres to the tank or jacket.

(b) If insulation is a specification requirement, it shall be of sufficient thickness so that the thermal conductance at 60 F is not more than 0.225 Btu per hour, per square foot, per degree F temperature differential, unless otherwise provided in § 79.201-1. If exterior heaters are attached to tank, the thickness of the insulation over each heater element

may be reduced to one-half that required for the shell.

**§ 79.200-5 Bursting pressure.**

(a) The minimum required bursting pressure is listed in § 79.201-1.

**§ 79.200-6 Thickness of plates.**

(a) The wall thickness of the tank shell, dome shell, and of 2:1 ellipsoidal heads shall not be less than specified in § 79.201-1, nor that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

$d$  = inside diameter in inches;

$E$  = 0.9 welded joint efficiency; except

$E$  = 1.0 for seamless aluminum alloy

heads and seamless heads of Class

ICC-111A tanks;

$P$  = minimum required bursting pressure in

psi;

$S$  = minimum tensile strength of plate

material in psi as prescribed in

§ 79.200-7;

$t$  = minimum thickness of plate in inches.

(b) The thickness of a dished or 3:1 ellipsoidal head shall not be less than specified in § 79.201-1, nor that calculated by the following formula:

$$t = \frac{5PL}{6SE}$$

where:

$E$  = 0.9 welded joint efficiency; except

$E$  = 1.0 when head is formed from one

piece;

$L$  = main inside radius to which head is

dished, measured on concave side in

inches;

$P$  = minimum required bursting pressure

in psi;

$S$  = minimum tensile strength of plate

material in psi as prescribed in

§ 79.200-7;

$t$  = minimum thickness of plate in inches.

(c) If plates are clad with material having tensile strength properties at least equal to the base plate, the cladding may be considered a part of the base plate when determining thickness. If cladding material does not have tensile strength at least equal to the base plate, the base plate alone shall meet the thickness requirements.

(d) For tanks constructed of longitudinal sections, the minimum width of bottom sheet of tank shall be 60 inches, measured on the arc, but in all cases the width shall be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the bolster.

(e) For tanks built of one piece cylindrical sections, the thickness specified for bottom sheet shall apply to the entire cylindrical section.

(f) See § 79.200-9 for thickness requirements for compartment tanks.

**§ 79.200-7 Material.**

(a) Carbon steel plate material used to fabricate tank and expansion dome, when used, shall be open hearth boiler plate of flange or firebox quality having a carbon content not exceeding 0.31 percent and complying with one of the following ASTM specifications for the material and with the indicated mini-

imum tensile strength and elongation in the welded condition:

Specifications	Minimum tensile strength (psi) welded condition	Minimum elongation in 2 inches (percent) welded condition
ASTM A201 Gr. A	55,000	28
ASTM A201 Gr. B	60,000	25
ASTM A212 Gr. A	65,000	20
ASTM A212 Gr. B	70,000	20
ASTM A285 Gr. A	45,000	29
ASTM A285 Gr. B	50,000	20
ASTM A285 Gr. C	55,000	20

(1) These plates may be clad with other approved metals.

(b) Aluminum alloy plate material used to fabricate tank and expansion dome, when used, shall be suitable for fusion welding, and shall comply with one of the following ASTM specifications for the material and with the indicated minimum tensile strength and elongation for the welded condition:

Specifications	Minimum tensile strength 0 temper (psi) welded condition	Minimum elongation in 2 inches 0 temper (percent) welded condition
ASTM B209 Alloy 1060	9,500	28
ASTM B209 Alloy 1100	11,000	28
ASTM B209 Alloy 3003	14,000	23
ASTM B209 Alloy 5052	25,000	18
ASTM B209 Alloy 5086	35,000	14
ASTM B209 Alloy 5154	30,000	18
ASTM B209 Alloy 5254	30,000	18
ASTM B209 Alloy 5454	31,000	18
ASTM B209 Alloy 5652	25,000	18
ASTM B209 Alloy 5083	40,000	16
ASTM B209 Alloy 6061	24,000	25

<sup>1</sup> Only 0 temper or H-113 permitted.

<sup>2</sup> Not 0 temper.

(c) Alloy steel plate material used to fabricate tank and expansion dome, when used, shall be capable of resisting the action of nitric acid so that the maximum corrosion rate in inches penetration per month shall be 0.006 for the straight chromium-bearing stainless steel and 0.0015 for any of the chromium-nickel alloys when tested by the procedure in ASTM Specification A-262 titled Recommended Practice Boiling Nitric Acid Test for Corrosion-Resisting Steels.

(1) Alloy steel plate material used to fabricate tank and expansion dome, when used, shall comply with one of the following ASTM specifications for the material and with the indicated minimum tensile strength and elongation for the welded condition:

Specifications	Type	Minimum tensile strength (psi) welded condition	Minimum elongation in 2 inches (percent) welded condition
ASTM A-240	304	75,000	30
ASTM A-240	304L	70,000	30
ASTM A-240	316	75,000	30
ASTM A-240	316L	70,000	30
ASTM A-240	321	75,000	30
ASTM A-240	347	75,000	30
ASTM A-240	405	60,000	20
ASTM A-240	410	65,000	20
ASTM A-240	430A	65,000	22

(d) Nickel plate material used to fabricate tank and expansion dome shall comply with the following ASTM Spec-

ification for the material and with the indicated minimum tensile strength and elongation for the welded condition:

Specifications	Minimum tensile strength (psi) welded condition	Minimum elongation in 2 inches (percent) welded condition
ASTM B-162	40,000	20

(e) All parts and items of construction in contact with the lading shall be made of material compatible with plate material and not subject to rapid deterioration by the lading, or be coated or lined with suitable corrosion resistant material.

(f) All external projections which may be in contact with the lading and all castings, forgings or fabrications used for fittings or attachments to tank and expansion dome, when used, in contact with lading shall be made of material to an approved specification. Use of cast iron is prohibited for Class ICC-111A cars.

#### § 79.200-3 Tank heads.

(a) Tank heads shall be of approved contour, and may be dished or ellipsoidal for pressure on concave side.

(b) Dished heads shall have main inside radius not exceeding 10 feet and inside knuckle radius shall not be less than 3¼ inches for steel, alloy steel, or nickel tanks nor less than 5 inches for aluminum alloy tanks except the knuckle radius for interior heads of compartment tanks of steel, alloy steel, or nickel shall not be less than 1½ inches.

(c) Ellipsoidal tank heads for aluminum alloy tanks and for Class ICC-111A tanks shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be one-half the major axis.

#### § 79.200-9 Compartment tanks.

(a) When tank is divided into compartments, by inserting interior heads, interior heads shall comply with the requirements specified in § 79.201-1. When capacity is reduced by the insertion of interior heads, these heads shall comply with the requirements for interior compartment heads and exterior head reapplied. Voids, created by the addition of heads for division into compartments or reduction in capacity, shall be provided with at least one tapped drain hole at their lowest point, and a tapped hole at the top of the tank. Top hole shall be closed, and the bottom hole may be closed, with not less than ¾ inch nor more than 1½ inch solid pipe plugs having NPT threads.

(b) When the tank is divided into compartments by constructing each compartment as a separate tank, these tanks shall be joined together by a cylinder made of plate, having a thickness not less than that required for the tank shell and applied to the outside surface of tank head flanges. The cylinder shall fit the straight flange portion of the compartment tank head tightly. The cylinder shall contact the head flange for a distance of at least two times the plate thickness, or a minimum of 1 inch,

whichever is greater. The cylinder shall be joined to the head flange by a full fillet weld. Distance from head seam to cylinder shall not be less than 1½ inches or three times the plate thickness, whichever is greater. Voids created by the space between heads of tanks joined together to form a compartment tank shall be provided with a tapped drain hole at their lowest point and a tapped hole at top of tank. The top hole shall be closed and the bottom hole may be closed with solid pipe plugs not less than ¾ inch nor more than 1½ inches having NPT threads.

#### § 79.200-10 Welding.

(a) All joints shall be fusion-welded in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W. Welding procedures, welders and fabricators shall be approved.

#### § 79.200-11 Stress relieving and heat treatment.

(a) After welding is complete stress relieving or heat treatment shall be in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W, when specified in § 79.201-1.

#### § 79.200-12 Tank mounting. See § 79.10.

#### § 79.200-13 Manway ring or flange, safety relief device flange, bottom outlet nozzle flange, bottom washout nozzle flange and other attachments and openings.

(a) For steel and aluminum tanks, these attachments shall be riveted or fusion-welded.

(b) For alloy steel and nickel tanks these attachments shall be fusion-welded.

(c) Fusion-welding for securing these attachments in place shall be of the double-welded butt joint type or double full-fillet lap joint type.

(d) Rivets, if used, shall be to approved specifications compatible with plate material and shall meet the following requirements:

(1) Riveted joints shall be made metal to metal without interposition of other material.

(2) Rivets shall be driven hot and calked inside. All joints formed by all riveted attachments shall be calked inside. Split calking is prohibited.

(3) Use of rivets less than ¾ inch nominal diameter prohibited.

(4) For computing rivet areas the effective diameter of a driven rivet is the diameter of its reamed hole, which hole shall in no case exceed nominal diameter of rivet by more than 1/16 inch.

(5) When attachments are applied by means of riveting, the edges of plates shall be beveled so that the angle of the calking edge will be between 60 and 70 degrees with the flat surface of the attachment. The extreme calking edge distance, measured from center line of rivet hole, shall be at least one and one-half times the diameter of the hole and not more than that distance plus ¼ inch.

(6) Rivets shall be handled and driven in a manner that will insure requisite strength.

(e) The opening in the manway ring shall be at least 16 inches in diameter



except that acid resistant lined manways shall be at least 18 inches in diameter before lining.

(f) Manway ring or flange, if riveted to dome or tank, shall be of cast, forged or fabricated steel, malleable iron or other malleable metals.

(g) Manway ring or flange, if welded to dome, tank or nozzle, shall be made of cast, forged or fabricated metal and be of good weldable quality in conjunction with metal of dome, tank, or nozzle.

(h) Openings for manway or other fittings shall be reinforced in an approved manner.

#### § 79.200-14 Expansion capacity.

(a) Tanks shall have expansion capacity as prescribed in § 79.201-1. This capacity shall be provided in the tank for Class ICC-111A cars, or in a dome for Class ICC-103 and 104 type cars.

(b) The capacity of the expansion dome, when used, shall be at least the percentage specified in § 79.201-1 of the total capacity of the tank and dome combined. The capacity of the dome shall be measured from the inside top of shell of tank to the inside top of dome or bottom of any vent pipe projecting inside of dome, except that when safety relief device is applied to side of dome, the effective capacity of the dome shall be measured from top of safety relief device opening inside of dome to inside top of shell of tank.

(c) The opening in the tank shell within the dome shall be at least 29 inches in diameter. When the opening in the tank shell exceeds 30 inches in diameter, the opening shall be reinforced in an approved manner. When the opening in the tank shell is less than the inside diameter of the dome, and the dome pocket is not closed off in an approved manner, dome pocket drain holes shall be provided in the tank shell with nipples projecting inside the tank at least 1 inch.

(d) The dome head shall be of approved contour and shall be designed for pressure on concave side.

(e) Aluminum alloy domes:

(1) The dome shell thickness shall be calculated by the formula in § 79.200-6(a).

(2) The dome head may be an ellipsoid of revolution in which the major axis shall be equal to the diameter of the dome shell and the minor axis shall be one-half the major axis. The thickness in this case shall be determined by using formula in § 79.200-6(a).

(3) The dome head, if dished, shall be dished to a radius not exceeding 96 inches. Thickness of dished dome head shall be calculated by the formula in § 79.200-6(b).

(4) Tank shell shall be reinforced by the addition of a plate equal to or greater than shell in thickness and the cross sectional area shall exceed metal removed for dome opening, or tank shell shall be reinforced by a seamless saddle plate equal to or greater than shell in thickness and butt welded to tank shell. The reinforcing saddle plate shall be provided with a fluid opening having a vertical flange of the diameter of the dome for butt welding shell of dome to the flange.

The reinforcing saddle plate shall extend about the dome a distance measured along shell of tank at least equal to the extension at top of tank. Other approved designs may be used.

(f) For thickness of carbon or alloy steel domes, see § 79.201-2.

#### § 79.200-15 Closures for manways.

(a) Manway covers shall be of approved type. See § 79.202-1 for special requirements for flammable liquids.

(b) Manway covers shall be designed to provide a secure closure of the manway.

(c) Manway covers shall be cast, forged or fabricated metal and be of the same metal as the metal of the tank except for aluminum tanks where manway covers of other approved materials may be used, or except for steel tanks where malleable iron manway covers may be used. Malleable iron, when used, shall comply with AAR Specification M-402 Grade 35018—Malleable Iron Castings or ASTM A-47 Grade 35018—Malleable Iron Castings.

(d) All joints between manway covers and their seats shall be made tight against leakage of vapor and liquid by use of gaskets of suitable material.

(e) For other manway cover requirements see § 79.201-1.

#### § 79.200-16 Gaging devices, top loading and unloading devices, venting and air inlet devices.

(a) When installed, these devices shall be of an approved design which will prevent interchange with any other fixture, and be tightly closed. Unloading pipes shall be securely anchored within the tank. Each tank or compartment may be equipped with one separate air connection.

(b) When the characteristics of the commodity for which the car is authorized are such that these devices must be equipped with valves or fittings to permit the loading and unloading of the contents, these devices, including valves, shall be of an approved design, and be provided with a protective housing except when plug or ball type valves with operating handles removed are used. Provision shall be made for closing pipe connections of valves.

(c) Tanks may be equipped with a vacuum relief valve of an approved design.

(d) When gaging device is required in § 79.201-1, an outage scale visible through manway opening shall be provided. If loading devices are applied to permit tank loading with cover closed, a telltale pipe shall be provided. Telltale pipe shall be capable of determining that required outage is provided. Pipe shall be equipped with 1/4 inch minimum NPT control valve mounted outside tank and enclosed within a housing. Other approved devices may be used in lieu of outage scale or telltale pipe.

(e) Bottom sump if applied may be of cast, fabricated, or forged metal.

#### § 79.200-17 Bottom outlets.

(a) If indicated in § 79.201-1, tank may be equipped with bottom outlet. If applied, bottom outlet shall comply with the following requirements:

(1) The extreme projection of bottom outlet equipment shall be at least 12 inches above top of rail. All bottom outlet reducers and closures and their attachments shall be secured to car by at least 3/8 inch chain or its equivalent, except that outlet closure plugs may be attached by 1/4 inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection to the valve shall be closed by a plug or cap.

(2) Bottom outlet shall be of approved construction, and be provided with a liquid tight closure at its lower end.

(3) The valve and its opening mechanism may be applied to the outside bottom of the tank. When applied in this manner, the valve operating mechanism shall be provided with a suitable locking arrangement to insure positive closure during transit.

(4) The valve operating mechanism for valves applied to the interior of the tank, and outlet nozzle construction shall insure against the unseating of the valve due to stresses or shocks incident to transportation.

(5) Bottom outlet nozzle of interior valves and the valve body of exterior valves, shall be of cast, fabricated or forged metal. If welded to tank, they shall be of good weldable quality in conjunction with metal of tank.

(6) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle or valve body of exterior valves, or some fixed attachment thereto, shall be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug.

(7) If outlet nozzle extends 6 inches or more from shell of tank a "V" groove shall be cut (not cast) in the upper part of outlet nozzle at a point immediately below lowest part of valve to a depth that will leave thickness of nozzle wall at the root of the "V" not over 3/8 inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent shall be below the steam chamber but above the bottom of center sill construction. If outlet nozzle is not a single piece, or if exterior valves are applied, provision shall be made for the equivalent of the breakage groove.

(8) The flange on the outlet nozzle or the valve body of exterior valves shall be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of lading, or other causes, and which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove, or its equivalent.

(9) The valve shall have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat shall be readily accessible or removable for repairs, including grinding.

(10) The valve operating mechanism on interior valves shall have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of the liquid contents, or other causes, and may operate from the interior of the tank, but in the event

the rod is carried through the dome, or tank shell, leakage shall be prevented by packing in stuffing box or other suitable seals and a cap.

(b) If indicated in § 79.201-1, tank may be equipped with bottom washout of approved construction. If applied, bottom washout shall be in accordance with the following requirements:

(1) The extreme projection of the bottom washout shall be at least 12 inches above top of rail.

(2) Bottom washout shall be of cast, forged or fabricated metal. If welded to tank, they shall be of good weldable quality in conjunction with metal of tank.

(3) If washout nozzle extends 6 inches or more from shell of tank, a "V" groove shall be cut (not cast) in the upper part of the nozzle at a point immediately below the lowest part of inside closure seat or plug to a depth that will leave wall thickness of nozzle at the root of the "V" not over  $\frac{3}{8}$  inch. Where nozzle is not a single piece, provision shall be made for the equivalent of the breakage groove. The nozzle shall be of a thickness to insure that accidental breakage will occur at or below the "V" groove or its equivalent.

(4) The closure plug and seat shall be readily accessible or removable for repairs.

(5) Joints between closures and their seats may be gasketed with suitable material.

#### § 79.200-18 Safety relief devices.

(a) Safety relief valves.

(1) When permitted in § 79.201-1, each tank or compartment shall be equipped with one or more safety relief valves of approved design, made of metal not subject to rapid deterioration by the lading, and mounted on expansion dome of Class ICC-103 or 104 cars or top of tank shell of Class ICC-111A cars. Total valve discharge capacity shall be sufficient to prevent building up of pressure in the tank to more than 10 psi above start-to-discharge pressure.

(2) The start-to-discharge pressures and vapor tight pressures shall comply with § 79.201-1.

(b) Safety vents:

(1) When permitted in § 79.201-1, each tank or compartment used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety relief valves, but if not so equipped, shall have one safety vent at least  $1\frac{1}{4}$  inches inside diameter, of an approved design which will prevent interchange with fixtures prescribed in § 79.200-16(a), and closed with a frangible disc of lead or other approved material of a thickness that will rupture at not more than 75 percent of tank test pressure. Means for holding disc in place shall be such as to prevent distortion or damage to disc when applied. Safety vent closure shall be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents shall be stenciled "NOT FOR FLAMMABLE LIQUIDS."

#### § 79.200-19 Reinforcements, when used, and appurtenances not otherwise specified.

(a) All attachments to tank and dome shall be applied by approved means. Rivets if used shall be calked inside and outside.

#### § 79.200-20 Interior heater systems.

(a) See § 79.12.

#### § 79.200-21 Closures for openings.

(a) All plugs shall be solid, with NPT threads, and shall be of a length which will screw at least 6 threads inside the face of fitting or tank. Plugs, when inserted from the outside of tank heads, shall have the letter "S" at least  $\frac{3}{8}$  inch in size stamped with steel stamp or cast on the outside surface to indicate the plug is solid.

#### § 79.200-22 Test of tanks.

(a) Each tank shall be tested by completely filling the tank and dome or nozzles with water, or other liquid having similar viscosity, of a temperature which shall not exceed 100° F during the test; and applying the pressure prescribed in § 79.201-1. Tank shall hold the prescribed pressure for at least 10 minutes

without leakage or evidence of distress. All rivets and closures, except safety relief valves or safety vents, shall be in place when test is made.

(b) Insulated tanks shall be tested before insulation is applied.

(c) Rubber-lined tanks shall be tested before rubber lining is applied.

(d) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints shall be made as prescribed in AAR Specifications for Tank Cars, Appendix W.

#### § 79.200-23 Tests of safety relief valves.

(a) Each valve shall be tested by air or gas for compliance with § 79.201-1 before being put into service.

#### § 79.200-24 Stamping.

(a) To certify that the tank complies with all specification requirements, each tank shall be plainly and permanently stamped in letters and figures at least  $\frac{3}{8}$  inch high into the metal near the center of both outside heads as follows:

	<i>Example of required stamping</i>
Specification.....	ICC-103-W
Material.....	ASTM A285 C
Cladding material (if any) -	ASTM A240-304
	Clad
Tank builder's initials.....	ABC
Date of original test.....	00-0000
Car assembler (if other than tank builder).....	DEF

#### § 79.200-25 Stenciling.

(a) The tank, or the jacket if tank is insulated, shall be stenciled in compliance with the requirements of AAR Specifications for Tank Cars, Appendix C.

#### § 79.200-26 Certificate of construction.

(a) See § 79.5.

#### § 79.201 Individual specification requirements applicable to non-pressure tank car tanks.

##### § 79.201-1 Individual specification requirements.

(a) In addition to § 79.200 the individual specification requirements are as follows:

ICC specifications	103W	103A-W	103A-N-W	103A-L-W	103A-AL-W	103B-W	103C-W	103D-W	103E-W	104W
Material (see 79.200-7)	Steel	Steel	Nickel	Aluminum alloy	Aluminum alloy	Steel	Alloy, steel	Alloy, steel	Alloy, steel	Steel
Insulation (see 79.200-4)	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Required
Bursting pressure, p.s.i. (see 79.200-5)	240	240	240	240	240	240	240	240	240	240
Minimum plate thickness, inches:										
Shell (see 79.200-6)	79.201-2	79.201-2	79.201-2	1/2	1/2	79.201-2	79.201-2	79.201-2	79.201-2	79.201-2
Heads (see 79.200-6 and 79.200-8)	79.201-2	79.201-2	79.201-2	1/2	1/2	79.201-2	79.201-2	79.201-2	79.201-2	79.201-2
Dome	Required	Required	Required	Required	Required	Required	Required	Required	Required	Required
Minimum expansion capacity (see 79.200-14)	2 percent in dome.	1 percent in dome.	1 percent in dome.	2 percent in dome.	1 percent in dome.	1 percent in dome.	1 percent in dome.	2 percent in dome.	1 percent in dome.	2 percent in dome.
Test pressure, p.s.i. (see 79.200-22)	60	60	60	60	60	60	60	60	60	60
Safety relief devices (see 79.200-18)	Valve or vent.	79.201-7	79.201-7	Valve or vent.	Valve or vent.	Valve or vent.	Valve or vent.	Valve or vent.	Valve or vent.	Valve or vent.
Valve start-to-discharge pressure, p.s.i. ( $\pm 3$ p.s.i.)	35	35	35	35	35		35	35	35	35
Valve vapor tight pressure (minimum p.s.i.)	28	28	28	28	28		28	28	28	28
Valve flow rating pressure (maximum p.s.i.)	45	45	45	45	45		45	45	45	45
Vent rupture pressure (maximum p.s.i.)	45	45	45	45	45	45		45	45	45
Gaging devices (see 79.200-16)	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional
Top loading and unloading devices (see 79.200-16)	Optional	Required (valves optional). Prohibited	Required (valves optional). Prohibited	Optional	Required (valves optional). Prohibited	Required (valves optional). Prohibited	Required (valves optional). Prohibited	Optional	Required (valves optional). Prohibited	Optional
Bottom outlet (see 79.200-17(a))	Optional	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Optional	Optional	Optional
Bottom washout (see 79.200-17(b))	Optional	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Optional	Optional	Optional
Closure for manway (see 79.200-15)	79.201-6(a)		79.201-6(d)	79.201-6(a)		79.201-6(b)	79.201-6(c)	79.201-6(a), (c)	79.201-6(c)	79.201-6(a)
Stress relief (SR) or heat treatment (HT) (see 79.200-11)	SR	SR	Not required	Prohibited	Prohibited	SR	HT	HT (79.201-5)	HT (79.201-5)	SR
Other requirements						79.201-3	79.201-4			

ICC specifications	111A60-W-1	111A60-AL-W	111A100-W-1	111A100-W-2	111A100-W-3	111A100-W-4	111A100-W-5	111A100-W-6	111A60-F-1 111A100-F-1 111A100-F-2
Material (see 79.200-7)	Steel	Aluminum alloy	Steel	Steel	Steel	Steel	Steel	Alloy steel	
Insulation (see 79.200-4)	Optional	Optional	Optional	Optional	Required	Required (79.201-11)	Optional	Optional	
Bursting pressure, p.s.i. (see 79.200-5)	240	240	500	500	500	500	500	500	
Minimum plate thickness, inches:									
Shell (see 79.200-6)	3/16	1/8	1/4	1/4	1/4	1/4	1/4	1/4	
Heads (see 79.200-6 and 79.200-8)	3/16	1/8	1/4	1/4	1/4	1/4	1/4	1/4	
Dome	None	None	None	None	None	None	None	None	
Minimum expansion capacity (see 79.200-14)	2 percent in tank.	2 percent in tank.	2 percent in tank.	1 percent in tank.	2 percent in tank.	73.314(a)	1 percent in tank.	2 percent in tank.	
Test pressure, p.s.i. (see 79.200-22)	60	60	100	100	100	100	100	100	
Safety relief devices (see 79.200-18)	Valve or vent.	Valve or vent.	Valve or vent.	79.201-7	Valve or vent.	Valve	Vent	Valve or vent.	
Valve start-to-discharge pressure, p.s.i. ( $\pm 3$ p.s.i.)	35	35	75	75	75	75	75	75	
Valve vapor tight pressure (minimum p.s.i.)	28	28	60	60	60	60	60	60	
Valve flow rating pressure (maximum p.s.i.)	45	45	85	85	85	85	85	85	
Vent rupture pressure (maximum p.s.i.)	45	45	75	75	75	75	75	75	
Gaging devices (see 79.200-16)	Required	Required	Required	Required	Required	Required	Required	Required	
Top loading and unloading devices (see 79.200-16)	Optional	Optional	Optional	Required (valves optional).	Optional (if used, valves required).	Optional (if used, valves required).	Required (valves optional).	Optional (if used, valves required).	
Bottom outlet (see 79.200-17(a))	Optional	Optional	Optional	Prohibited	Optional	Prohibited	Prohibited	Optional	
Bottom washout (see 79.200-17(b))	Optional	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Optional	
Closure for manway (see 79.200-15)	79.201-6(a)	79.201-6(a)	79.201-6(a)		79.201-6(a)	79.201-6(a)	79.201-6(b)	79.201-6(a) and (c)	
Stress relief (SR) or heat treatment (HT) (see 79.200-11)	SR	Prohibited	SR	SR	SR	SR	SR	HT (79.201-5)	
Other requirements						79.201-8 & 79.201-10.	79.201-3		

<sup>1</sup> Tanks converted to ICC-111A series from existing forge-welded specification ICC-105A300, 400, or 500 tanks, by modification using conversion details complying with ICC-111A specification requirements, shall be denoted by substituting the letter "F" for the letter "W" in the specification designation.

## § 79.201-2 Minimum plate thickness.

(a) The minimum thickness of plates shall be to the following design dimensions:

Inside diameter of tanks	Bottom sheets	Shell sheets	Expansion dome sheets	2:1 ellipsoidal heads	3:1 ellipsoidal and dished tank heads	Expansion dome heads	Interior compartment heads
	(inch)	(inch)	(inch)	(inch)	(inch)	(inch)	(inch)
60 inches or under	$\frac{3}{16}$	$\frac{1}{4}$	$\frac{5}{16}$	$\frac{3}{16}$	$\frac{1}{2}$	$\frac{5}{16}$	$\frac{5}{16}$
Over 60 to 78 inches	$\frac{3}{16}$	$\frac{5}{16}$	$\frac{5}{16}$	$\frac{3}{16}$	$\frac{1}{2}$	$\frac{5}{16}$	$\frac{5}{16}$
Over 78 to 96 inches	$\frac{1}{4}$	$\frac{3}{8}$	$\frac{5}{16}$	$\frac{3}{16}$	$\frac{1}{2}$	$\frac{5}{16}$	$\frac{3}{8}$
Over 96 to 112 inches	$\frac{1}{4}$	$\frac{3}{8}$	$\frac{5}{16}$	$\frac{3}{16}$	$\frac{1}{2}$	$\frac{5}{16}$	$\frac{3}{8}$
Over 112 to 122 inches	$\frac{1}{4}$	$\frac{3}{8}$	$\frac{5}{16}$	$\frac{3}{16}$	$\frac{1}{2}$	$\frac{5}{16}$	$\frac{3}{8}$

<sup>1</sup> May be reduced to  $\frac{3}{16}$  inch when approved steels of 65,000 psi or higher are used.

## § 79.201-3 Lined tanks.

(a) Each tank or each compartment thereof shall be lined with acid resisting rubber or other approved material vulcanized or bonded directly or otherwise attached to the metal tank, to provide a non-porous laminated lining. The lining shall be at least  $\frac{5}{32}$  inch thick, except over all rivets and seams formed by riveted attachments where the lining shall be double thickness. The lining shall overlap at least  $1\frac{1}{2}$  inches at all edges, which shall be straight and be beveled to an angle of approximately 45 degrees, or butted edges of lining shall be sealed with a 3-inch minimum strip of lining having 45 degree beveled edges. As an alternate method, the lining may be joined with a skived butt seam then capped with a separate strip of lining 3 inches wide and beveled to an angle of 45 degrees. An additional reinforcing pad at least  $4\frac{1}{2}$  feet square and at least  $\frac{1}{2}$  inch thick shall be applied by vulcanizing to the lining on bottom of tank directly under the manway opening. The edges of pad shall be beveled to an angle of approximately 45 degrees. An opening in this pad for sump is permitted. No lining shall be under tension when applied except due to conformation over rivet heads. Interior of tank shall be free from scale, oxidation, moisture and all foreign matter during the lining operations.

(b) All rivet heads on inside of tank shall be button-head or similar shape, of uniform size and the under surface of heads shall be driven tight against plate. All plates, castings and rivet heads on inside of tank shall be calked. All projecting edges of plates, castings and rivet heads on inside of tank shall be rounded and free from fins and other irregular projections. Castings shall be free from porosity.

(c) All surfaces of attachments or fittings and their closures, exposed to the lading shall be covered with at least  $\frac{1}{8}$  inch acid resistant material. Attachments made of metal not affected by the lading need not be acid resistant material covered.

## § 79.201-4 Material.

(a) Except for protective housing, all fittings, tubes and castings and all projections and their closures shall also meet the requirements of § 79.200-7(c) (1).

## § 79.201-5 Heat treatment.

(a) All welding of the tank shell and of attachments welded directly thereto shall be heat treated as a unit to remove stresses at the proper temperature to obtain corrosion resistance specified in § 79.200-7(c) (1), except for commodities not classed as Corrosive Liquids in Part 73 of this chapter, tanks made of ASTM A240 Type 304L and 316L are not required to be heat treated as a unit to remove stresses, nor to obtain the corrosion resistance specified in § 79.200-7(c) (1).

## § 79.201-6 Closures for manways.

(a) The manway cover shall be designed to make it impossible to remove the cover while the interior of the tank is subjected to pressure.

(b) Manway cover shall be made of a suitable metal. The top, bottom and edge of manway cover shall be acid resistant material covered as prescribed in § 79.201-3. Through bolt holes shall be lined with acid resistant material at least  $\frac{1}{8}$  inch in thickness. Cover made of metal not affected by the lading need not be acid resistant material covered.

(c) Manway ring and cover shall be made of the metal prescribed in § 79.200-7(c).

(d) Manway rings shall be made of cast, forged or fabricated nickel and be a good weldable quality in conjunction with the metal of the dome.

## § 79.201-7 Safety relief devices.

(a) Each tank or compartment shall be equipped with a safety vent unless characteristics of the lading require a safety relief valve. Design of safety relief devices shall be such as to prevent interchange with fixtures prescribed in § 79.200-16(a).

(b) Safety vents, if used, shall be of approved design, at least  $1\frac{3}{4}$  inches inside diameter, made of material not subject to rapid deterioration by the lading, and closed with a frangible disc of lead or other approved material of a thickness that will burst at not more than 75 percent of tank test pressure. Means for holding the disc in place shall be such as to prevent distortion or damage to disc when applied. Safety vent closure shall be chained or otherwise fastened to prevent misplacement.

(c) Safety relief valves, if used, shall be of approved design, made of metal not

subject to rapid deterioration by the lading, and mounted on expansion dome of Class ICC-103 and 104 type tanks, or top of tank shell for Class ICC-111A type tanks.

## § 79.201-8 Sampling device and thermometer well.

(a) Sampling valve and thermometer well are not specification requirements. When used, they must be of approved design, made of metal not subject to rapid deterioration by lading, and must withstand a pressure of 100 pounds per square inch without leakage. Interior pipes of the sampling valve must be equipped with excess flow valves of an approved design. Interior pipe of thermometer well must be closed by an approved valve attached close to fitting where it passes through the tank and closed by a screw plug. Other approved arrangements that permit testing thermometer well for leaks without complete removal of the closure may be used.

## § 79.201-9 Gaging device.

(a) A gaging device of an approved design shall be applied to permit determining the liquid level of the lading. The interior pipe of the gaging device shall be equipped with an excess flow valve of an approved design. This device shall be provided with a protective housing.

(b) An excess flow valve, as referred to in this specification, is a device which closes automatically against the outward flow of the contents of the tank such as may be encountered in case the external closure valve is broken off or removed during transit. Excess flow valves may be designed with a by-pass to allow equalization of pressures.

## § 79.201-10 Water capacity marking.

(a) Water capacity of the tank in pounds stamped plainly and permanently in letters and figures at least  $\frac{3}{8}$  inch high into the metal of the tank immediately below the stamped marks specified in § 79.200-24(a). This mark shall also be stenciled on the jacket immediately below the dome platform and directly behind or within 3 feet of the right or left side of the ladder, or ladders, if there is a ladder on each side of the tank, in letters and figures at least  $1\frac{1}{2}$  inches high as follows:

WATER CAPACITY  
000000 Pounds

## § 79.201-11 Insulation.

(a) Insulation shall be of sufficient thickness so that the thermal conductance at 60 F is not more than 0.075 Btu per hour, per square foot, per degree F temperature differential.

## § 79.202 Special commodity requirements for non-pressure tank car tanks.

(a) In addition to §§ 79.200 and 79.201 the following requirements are applicable:

## § 79.202-1 Flammable liquids not specifically provided for.

(a) Specs. ICC-103, 103-W, 103AL-W, 103D-W, 104, 104-W, 111A60AL-W, 111A100-F-1, 111A100-W-1, 111A100-W-

3, 111A100-W-4, and 111A100-W-6, tank cars used to transport flammable liquids not specifically provided for shall have manway closures so designed that pressure will be released automatically by starting the operation of removing the manway cover. Openings in tank heads to facilitate application of lining are authorized and shall be closed in an approved manner. Spec. 103, 103-W, 103AL-W, 104, 104-W, 111A60AL-W or 111A100-W-3, used to transport flammable liquids not specifically provided for, having a vapor pressure exceeding 27 pounds per square inch absolute at 100° F but not exceeding 40 pounds per square inch absolute at 100° F, shall have their manway closures equipped with approved safeguards making removal of closures from the manway opening practically impossible while car interior is subjected to vapor pressure of lading. These cars shall be stenciled on each side of domes in line with the ladders, and in a color contrasting to the color of the dome with the identification mark as prescribed in § 73.119(g) of this chapter.

§ 79.202-2 Dimethyl dichlorosilane, Ethyl dichlorosilane, Ethyl trichlorosilane, Methyl trichlorosilane, Trimethyl chlorosilane, Vinyl trichlorosilane, Methyl dichlorosilane and Trichlorosilane.

(a) Specs. 103, 103-W, 111A60-F-1, 111A60-W-1 and 111A100-W-1 tank cars used to transport Dimethyl dichlorosilane, Ethyl dichlorosilane, Ethyl trichlorosilane, Methyl trichlorosilane, Trimethyl chlorosilane, Vinyl trichlorosilane, Methyl dichlorosilane, and Trichlorosilane, shall not be equipped with bottom discharge outlet.

§ 79.202-3 Amyl mercaptan, Butyl mercaptan, Ethyl mercaptan, Isopropyl mercaptan, Propyl mercaptan, and Aliphatic mercaptan mixtures.

(a) Specs. 103-W, 111A60-F-1 and 111A60-W-1 tank cars used to transport Amyl mercaptan, Butyl mercaptan, Ethyl mercaptan, Isopropyl mercaptan, Propyl mercaptan, an Aliphatic mercaptan mixtures shall have bottom outlets effectively sealed. Bottom washout permitted.

§ 79.202-4 Potassium nitrate mixed (fused) with Sodium nitrite.

(a) Spec. 103-W tank cars used to transport Potassium nitrate mixed (fused) with Sodium nitrite shall be specially designed, equipped and approved for this service, without bottom discharge outlet and with heavier plate thicknesses than the minimum prescribed for cars built under this specification. For spec. 103-W tank cars made of plates having the minimum prescribed thicknesses, internal reinforcement of the upper sheets of tank in the region of the dome and reinforcing plates attached to the bottom sheet of the tank which rests on bolsters is required, and these tanks shall be equipped with baffle plates. Heater pipes shall be of welded construction designed for a test pressure of 500 pounds per square inch. A one inch woven asbestos lining shall be placed between bolster slabbing and bottom of tank to prevent heat transmis-

sion. Safety vents of the frangible disc type may be used and if used the frangible discs shall be perforated with 1/8 inch hole. If safety relief valves are used, a vacuum relief valve shall be installed on the dome. Tanks shall be stenciled on both sides "FUSED POTASSIUM NITRATE AND SODIUM NITRITE ONLY."

§ 79.202-5 Phosphorus, white or yellow.

(a) Specs. ICC-103, 103-W, 111A60-F-1, 111A60-W-1 and 111A100-W-1 tank cars used to transport Phosphorus, white or yellow, shall be equipped with approved dome fittings, external heater systems and with insulation at least 4 inches in thickness, except that thickness of insulation may be reduced to 2 inches over external heater coils. Bottom washout nozzle of approved design may be applied. Bottom outlet for discharge of lading prohibited.

§ 79.202-6 Cumene hydroperoxide, Diisopropylbenzene hydroperoxide and Paramenthane hydroperoxide.

(a) Specs. ICC-103, 103-W, 111A60-F-1 and 111A60-W-1 tank cars used to transport Cumene hydroperoxide of strength not exceeding 90 percent in a nonvolatile solvent, Paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent and Diisopropylbenzene hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent, shall have bottom outlets effectively sealed from the inside.

§ 79.202-7 Titanium tetrachloride, anhydrous.

(a) Specs. ICC-103A, 103A-W, 111A100-F-2 and 111A100-W-2 tank cars used to transport Titanium tetrachloride, anhydrous, shall have safety relief valves of approved design and not subject to rapid deterioration by the lading.

§ 79.202-8 Chloroacetyl chloride.

(a) Specs. ICC-103A-W, 111A100-F-2 and 111A100-W-2 tank cars used to transport Chloroacetyl chloride shall have a nickel cladding of 1/16 inch minimum thickness. Nickel cladding in tanks shall have a minimum nickel content of at least 99 percent pure nickel. Spec. ICC-103A-N-W tank cars used to transport Chloroacetyl chloride shall be of solid nickel at least 99 percent pure and all cast metal parts of the tank in contact with the lading shall have a minimum nickel content of approximately 96.7 percent.

§ 79.202-9 Hydrochloric (muriatic) acid not over 38 percent strength by weight except acid of 22° Baume strength or other fuming acids.

(a) Spec. ICC-103B, 103B-W, or 111A100-W-5 tank cars used to transport Hydrochloric (muriatic) acid not over 38 percent except acid of 22° Baume strength and other fuming acids, may be equipped with safety vent of approved design having a frangible disc with 1/8 inch breather hole in the center, or a safety vent of approved design using carbon discs permitting continuous venting.

§ 79.202-10 Hydrogen peroxide solution in water exceeding 52 percent by weight.

(a) Spec. ICC-103A-AL-W tank cars used to transport Hydrogen peroxide solution in water exceeding 52 percent by weight, shall be equipped with a venting arrangement approved by the Bureau of Explosives.

§ 79.202-11 Phosphorus oxychloride, Phosphorus trichloride, and Thiophosphoryl chloride.

(a) Spec. ICC-103A-N-W tank cars used to transport Phosphorus oxychloride, Phosphorus trichloride, and Thiophosphoryl chloride, shall be solid nickel at least 99 percent pure and all cast metal parts of the tank in contact with the lading have a minimum nickel content of approximately 96.7 percent. Spec. ICC-103A tank cars used to transport phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride shall be lead-lined steel, or made of steel at least 10 percent nickel clad. Spec. ICC-103A-W, 111A100-F-2 or 111A100-W-2 tank cars used to transport phosphorus oxychloride, Phosphorus trichloride and Thiophosphoryl chloride shall be lead-lined steel or made of steel with a minimum thickness of nickel cladding of 1/16 inch. Nickel cladding in tanks shall have a minimum nickel content of at least 99 percent pure nickel. Spec. ICC-103E-W tank cars used to transport Phosphorus trichloride and Thiophosphoryl chloride shall have tanks fabricated from Type 316 stainless steel.

§ 79.202-12 Sulfuric acid of concentrations 65.25 percent (approximately 1.559 specific gravity) (52° Baume) or greater.

(a) Spec. ICC-103A, 103A-W, 111A100-F-2 or 111A100-W-2 tank cars used to transport Sulfuric acid of concentration 65.25 percent (approximately 1.559 specific gravity) (52° Baume) except oleum, mixed acid (nitric and sulfuric) (nitrating acid) and other fuming acids, may have safety vents equipped with lead discs having a 1/8 inch breather hole in the center thereof.

§ 79.20213 Sulfur trioxide, stabilized.

(a) Specs. ICC-103A, 103A-W, 111A100-F-2, 111A100-W2 and 105A300-W tank cars, used to transport Sulfur trioxide, stabilized, shall be equipped with safety relief valves of approved design and not subject to rapid deterioration by the lading. Tanks equipped with interior heating coils not permitted.

§ 79.202-14 Anhydrous hydrazine and Hydrazine solutions containing 50 percent or less of water.

(a) Specs. ICC-103C-W and 111A100-W-6 tank cars used to transport Anhydrous hydrazine or Hydrazine solutions containing 50 percent or less water, shall have tanks fabricated of Type 304L or 347 stainless steel with molybdenum content not exceeding one-half of one percent.

§ 79.202-15 Formic acid and Formic acid solutions.

(a) Spec. ICC-103E-W tank cars used to transport Formic acid or Formic acid

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solutions, shall have tanks fabricated from Type 316 stainless steel and be stenciled "FOR FORMIC ACID ONLY."

§ 79.202-16 Monochloroacetic acid, liquid.

(a) Specs. ICC-103A-W, 111A100-F-2 and 111A100-W-2 tank cars used to transport Monochloroacetic acid, liquid, shall have tanks nickel clad at least 20 percent.

§ 79.202-17 Benzyl chloride.

(a) Spec. ICC-103A, 103A-W, 111A100-F-2 or 111A100-W-2 tank cars used to transport Benzyl chloride, stabilized, may be 10 percent nickel clad. Spec. 103A-N-W tank cars used to transport Benzyl chloride shall have all cast metal parts in contact with the lading made from metal having a minimum nickel content of approximately 96.7 percent.

§ 79.202-18 Ethylene oxide.

(a) Spec. ICC-111A100-W-4 tank cars used to transport Ethylene oxide, may have opening in the tank heads to facilitate application of nickel lining. Such openings in tank heads shall be closed in an approved manner.

§ 79.202-19 Dimethylhydrazine, unsymmetrical.

(a) Specs. ICC-103-W and 103C-W tank cars used to transport Dimethylhydrazine, unsymmetrical, shall be equipped with steel safety valves of approved design. Spec. 103-W tank cars shall not be equipped with bottom outlets.

Subpart E—Specifications for Multi-Unit Tank Car Tanks

§ 79.300 General specifications applicable to multi-unit tank car tanks designed to be removed from car structure for filling and emptying.

§ 79.300-1 Tanks built under these specifications shall meet the requirements of § 79.300, § 79.301 and when applicable, § 79.302.

§ 79.300-2 Approval.

(a) For procedure for securing approval, see § 79.3.

§ 79.300-3 Type and general requirements.

(a) Tanks built under this specification shall be cylindrical, circular in cross section, and shall have heads of approved design. All openings shall be located in the heads.

(b) Each tank shall have a water capacity of at least 1500 pounds and not more than 2600 pounds.

(c) For tanks made in foreign countries, a chemical analysis of materials and all tests as specified shall be carried out within the limits of the United States under the supervision of a competent and impartial inspector.

§ 79.300-4 Insulation.

(a) Tanks shall not be insulated.

§ 79.300-5 Bursting pressure.

(a) The minimum required bursting pressure is listed in § 79.301.

§ 79.300-6 Thickness of plates.

(a) For Class ICC-110A tanks, the wall thickness of the cylindrical portion

of the tank shall not be less than that specified in § 79.301 nor that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

$d$  = inside diameter in inches;  
 $E$  = 0.9 welded joint efficiency;  
 $P$  = minimum required bursting pressure in psi;  
 $S$  = minimum tensile strength of plate material in psi as prescribed in § 79.300-7;  
 $t$  = minimum thickness of plate in inches.

(b) For Class ICC-106A tanks, the wall thickness of the cylindrical portion of the tank shall not be less than that specified in § 79.301 and shall be such that at the tank test pressure the maximum fiber stress in the wall of the tank will not exceed 15,750 psi as calculated by the following formula:

$$s = \frac{p(1.3D^2 + 0.4d^2)}{D^2 - d^2}$$

where:

$d$  = inside diameter in inches;  
 $D$  = outside diameter in inches;  
 $p$  = tank test pressure in psi;  
 $s$  = wall stress in psi.

(c) If plates are clad with material having tensile strength at least equal to the base plate, the cladding may be considered a part of the base plate when determining the thickness. If cladding material does not have tensile strength at least equal to the base plate, the base plate alone shall meet the thickness requirements.

§ 79.300-7 Material.

(a) Carbon steel plate material used to fabricate tanks with fusion-welded heads shall be open hearth boiler plate of flange or firebox quality having a carbon content not exceeding 0.31 percent and complying with one of the following ASTM specifications for the material and with the indicated tensile strength and elongation in the welded condition:

Specification	Minimum tensile strength (psi) welded condition	Minimum elongation in 2 inches (percent) welded condition
ASTM A-212 Gr A.....	65,000	20
ASTM A-212 Gr B.....	70,000	20
ASTM A-285 Gr A.....	45,000	29
ASTM A-285 Gr B.....	50,000	20
ASTM A-285 Gr C.....	55,000	20

(1) These plates may be clad with other approved metals.

(b) Carbon steel plate material used to fabricate tanks with forge-welded heads shall be open hearth boiler plate of firebox quality complying with specification ASTM A-285 Grade A.

(c) All plates shall have their heat number and the name or brand of the manufacturer legibly stamped on them at the rolling mill.

§ 79.300-8 Tank heads.

(a) Class ICC-110A tanks shall have fusion-welded heads formed concave to pressure. Heads for fusion welding shall be an ellipsoid of revolution 2:1 ratio of major to minor axis. They shall be one

piece, hot formed in one heat so as to provide a straight flange at least 1½ inches long. The thickness shall not be less than that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where symbols are as defined in § 79.300-6 (a).

(b) Class ICC-106A tanks shall have forged-welded heads formed convex to pressure. Heads for forge welding shall be torispherical with an inside radius not greater than the inside diameter of the shell. They shall be one piece, hot formed in one heat so as to provide a straight flange at least 4 inches long. They shall have snug drive fit into the shell for forge welding. The thickness shall be sufficient to meet the test requirements of § 79.300-16 and to provide for adequate threading of openings.

§ 79.300-9 Welding.

(a) Longitudinal joints shall be fusion welded. Head-to-shell joints shall be forge welded on Class ICC-106A tanks and fusion welded on Class ICC-110A tanks. Welding procedures, welders and fabricators shall be approved.

(b) Fusion-welded joints shall be in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W, except that circumferential welds in tanks less than 36 inches inside diameter need not be radiographed.

(c) Forge-welded joints shall be thoroughly hammered or rolled to insure sound welds. The flanges of the heads shall be forge lapwelded to the shell and then crimped inwardly toward the center line at least one inch on the radius. Welding and crimping must be accomplished in one heat.

§ 79.300-10 Stress relieving.

(a) After welding is complete, steel tanks and all attachments welded thereto, shall be stress relieved as a unit in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W.

§ 79.300-11 Tank mounting.

(a) For tank mounting, see § 79.10.

§ 79.300-12 Protection of fittings.

(a) Tanks shall be of such design as will afford maximum protection to any fittings or attachment to the head including the housing referred to in § 79.300-12(b). Tank ends shall slope or curve inward toward the axis so that the diameter at each end is at least 2 inches less than the maximum diameter.

(b) Loading and unloading valves shall be protected by a detachable protective housing of approved design which shall not project beyond the end of the tank and shall be securely fastened to the tank head. Safety relief devices shall not be covered by the housing.

§ 79.300-13 Venting, loading and unloading valves.

(a) Valves shall be of approved type, made of metal not subject to rapid deterioration by lading, and shall withstand tank test pressure without leakage. The valves shall be screwed directly into

or attached by other approved methods to one tank head. Provision shall be made for closing outlet connections of the valves.

(b) Threads for openings shall be National Gas Taper Threads (NGT) tapped to gage, clean cut, even and without checks.

§ 79.300-14 Attachments not otherwise specified.

(a) Siphon pipes and their couplings on the inside of the tank head and lugs on the outside of the tank head for attaching the valve protective housing shall be fusion-welded in place prior to stress relieving. All other fixtures and appurtenances, except as specifically provided for, are prohibited.

§ 79.300-15 Safety relief devices.

(a) Unless prohibited in § 79.302, or in Part 73 of this chapter, tanks shall be equipped with one or more safety relief devices of approved type, made of metal not subject to rapid deterioration by the lading and screwed directly into tank heads or attached to tank heads by other approved methods. The total discharge capacity shall be sufficient to prevent building up pressure in tank in excess of 75 percent of the tank test pressure. When safety relief devices of the fusible plug type are used, the required discharge capacity shall be available in each head.

(b) Threads for openings shall be National Gas Taper Threads (NGT) tapped to gage, clean cut, even and without checks.

(c) Safety relief valves shall be set for start-to-discharge and frangible discs shall burst at a pressure not exceeding that specified in § 79.301.

(d) Fusible plugs shall function at a temperature not exceeding 175 F and shall be vapor-tight at a temperature of not less than 130 F.

§ 79.300-16 Tests of tanks.

(a) After stress relieving, tanks shall be subjected to hydrostatic expansion test in a water jacket, or by other approved methods. No tank shall have been subjected previously to internal pressure within 100 pounds of the test pressure. Each tank must be tested to the pressure prescribed in § 79.301. Pressure shall be maintained for 30 seconds and sufficiently longer to insure complete expansion of tank. Pressure gage shall permit reading to accuracy of one percent. Expansion gage shall permit reading of total expansion to accuracy of one percent. Expansion shall be recorded in cubic centimeters.

(1) No leaks shall appear and permanent volumetric expansion shall not exceed 10 percent of total volumetric expansion at test pressure.

(b) After all fittings have been installed, each tank shall be subjected to interior air pressure test of at least 100 psi under conditions favorable to detection of any leakage. No leaks shall appear.

(c) Repairs of leaks detected in manufacture or in foregoing tests shall be made by the same process as employed in manufacture of tank. Calking, soldering, or similar repairing is prohibited.

§ 79.300-17 Tests of safety relief devices.

(a) Each valve shall be tested by air or gas before being put into service. The valve shall open and be vapor-tight at the pressures prescribed in § 79.301.

(b) For safety relief devices of the frangible disc type, a sample of the disc used shall be burst and be vapor-tight at the pressures prescribed in § 79.301.

(c) For safety relief devices of the fusible plug type, a sample of the plug used shall function at the temperatures prescribed in § 79.300-15.

(d) The start-to-discharge and vapor-tight pressures shall not be affected by any auxiliary closure or other combination.

§ 79.300-18 Stamping.

(a) To certify that the tank complies with all specification requirements, each tank shall be plainly and permanently stamped in letters and figures 3/8 inch high into the metal of valve end chime as follows:

- (1) ICC Specification number.
- (2) Material and cladding material if any (immediately below the specification number).
- (3) Owner's or builder's identifying symbol and serial number (immediately below the material identification). The symbol shall be registered with the Bureau of Explosives, duplications are not authorized.
- (4) Inspector's official mark (immediately below the owner's or builder's symbol).

(5) Date of original tank test (month and year, such as 1-64 for January 1964). This should be so placed that dates of subsequent tests may easily be added thereto.

(6) Water capacity — 0000 pounds.  
(b) A copy of the above stamping in letters and figures of the prescribed size stamped on a brass plate secured to one of the tank heads is authorized.

§ 79.300-19 Inspection.

(a) Tank shall be inspected within the United States and Canada by a competent and impartial inspector acceptable to the Bureau of Explosives. For tanks made outside the United States and Canada, the specified inspection shall be made within the United States.

(b) The inspector shall carefully inspect all plates from which tanks are to be made and secure records certifying that plates comply with the specification. Plates which do not comply with § 79.300-7 shall be rejected.

(c) The inspector shall make such inspection as may be necessary to see that all the requirements of this specification, including markings, are fully complied with; shall see that the finished tanks are properly stress relieved and tested.

(d) The inspector shall stamp his official mark on each accepted tank as required in § 79.300-18, and render the report required in § 79.300-20.

§ 79.300-20 Reports.

(a) Before a tank is placed in service, the inspector shall furnish to the builder, tank owner, Bureau of Explosives and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification.

(b) For builder's Certificate of Construction, see § 79.5(b).

§ 79.301 Individual specification requirements for multi-unit tank car tanks.

(a) In addition to § 79.300 the individual specification requirements are as follows:

ICC specifications	106A500-X	106A800-X	110A500-W	110A800-W	110A1000-W
Bursting pressure, psi (see § 79.300-5)	None specified	None specified	1250	2000	2500
Minimum thickness shell, inches	1 3/32	1 3/32	1 1/32	1 3/32	1 3/32
Test pressure, psi (see § 79.300-16)	500	800	500	800	1000
Safety relief devices psi (see § 79.300-15)					
Start-to-discharge, or burst maximum	375	600	375	600	700
Vapor-tight, minimum	300	480	300	480	650

### § 79.302 Special commodity requirements for multi-unit tank car tanks.

(a) In addition to §§ 79.300 and 79.301 the following requirements are applicable:

Commodity	Safety relief device	Valve protective housing	Miscellaneous
Aluminum triethyl	Valve required		
Aluminum trimethyl	do		
Pyroforic fuel	do		
Triisobutyl aluminum	do		
Ethyl aluminum sesquichloride	do		
Diethyl aluminum chloride	do		
Ethyl aluminum dichloride	do		
Methyl aluminum sesquichloride	do		
Methyl aluminum sesquibromide	do		
Chlorine trifluoride	Prohibited. <sup>1</sup>		
Hydrogen sulfide	do. <sup>1</sup>	Gas tight. <sup>2</sup>	
Methyl mercaptan	do. <sup>1</sup>		
Nitrogen dioxide liquid	do. <sup>1</sup>	Gas tight. <sup>2</sup>	
Nitrogen peroxide liquid	do. <sup>1</sup>	do. <sup>2</sup>	
Nitrogen tetroxide liquid	do. <sup>1</sup>	do. <sup>2</sup>	
Nitrogen tetroxide-nitric oxide mixtures	do. <sup>1</sup>	do. <sup>2</sup>	
Phosgene	do. <sup>1</sup>	do. <sup>2</sup>	
Vinyl chloride			(9).
Vinyl methyl ether			(9).
Titanium tetrachloride (anhydrous)	Prohibited. <sup>1</sup>		

<sup>1</sup> When safety relief devices are prohibited, containers may be equipped with solid steel plugs in the safety device openings.

<sup>2</sup> The detachable protective housing for the loading and unloading valves must withstand tank test pressure without leakage and must be approved by the Bureau of Explosives.

<sup>3</sup> All parts of valves and safety relief devices in contact with the lading must be of a metal or other material, suitably treated if necessary, which will not cause formation of any acetylides.

### Subpart F—Specifications for Liquefied Hydrogen Tank Car Tanks and Seamless Steel Tanks

#### § 79.400 General specifications applicable to liquefied hydrogen tank car tanks.

##### § 79.400-1 General.

(a) Tanks built under these specifications must meet the requirements of §§ 79.400 and 79.401.

##### § 79.400-2 Approval.

(a) For procedure in securing approval, see § 79.3.

##### § 79.400-3 Type.

(a) A tank built in accordance with this specification shall consist of an inner (pressure) container suitably supported within an outer shell, and forming a part of a railway car. The car shall be equipped with piping systems for vapor venting, transfer of the lading and with safety relief devices, controls, gages and valves prescribed herein for safe operation of the unit in storage, transport and transfer of the lading.

(b) The inner (pressure) container shall be a fusion-welded cylindrical shell closed at each end with formed heads convex outward and suitable for operation at temperatures as low as -423 F.

(c) The outershell shall be a fusion-welded cylindrical shell with formed heads.

(d) *Compartments.* When the interior of the tank is divided into compartments, each compartment must have two heads designed convex outward and comply with all other requirements described in this specification.

##### § 79.400-4 Bursting pressure.

(a) The minimum required bursting pressure of the inner container is listed in § 79.401.

##### § 79.400-5 Thickness of plates.

(a) The wall thickness of the inner container shell and heads shall not be

less than that specified in § 79.401, nor that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

$d$  = inside diameter in inches;

$E$  = efficiency of longitudinal welded joint—90 per cent;

$P$  = minimum required bursting pressure in psi;

$S$  = minimum ultimate tensile strength of plate material in psi as prescribed in § 79.400-6;

$t$  = minimum thickness of plate in inches.

##### § 79.400-6 Materials.

(a) The material used in the shell, heads and appurtenances shall be suitable for use at minus 423 degrees F and compatible with the lading and the usual cleaning compounds recommended for this service. Chromium-nickel steel plate made to ASTM specification A-240-61T, Type 304, is an approved material and, when used, it shall be in the annealed condition prior to fabricating, forming or fusion-welding. Other approved materials may be used. The minimum ultimate tensile strength shall be as given in ASTM specification A-240, Type 304.

##### § 79.400-7 Heads.

(a) The formed heads on the inner container shall preferably be ellipsoids of revolution in which the major axis shall equal the inside diameter of the shell and the minor axis shall be one-half of the major axis. The minimum thickness after forming shall be determined by the provisions of § 79.400-5(a) except that an efficiency of 100 percent may be used for a seamless head. Formed heads of other approved contours and thicknesses may be used but in no case shall the plate thickness be less than  $\frac{3}{16}$  inch.

##### § 79.400-8 Welding—inner container.

(a) All joints must be fusion-welded in compliance with the requirements of the AAR Specifications for Tank Cars,

Appendix W, except that the following requirements supersede requirements listed under "Test Plates," "Bend Test," and "Impact Test" of Appendix W.

(b) *Test plates.* A welded test plate of the dimensions shown in Figure W-2 shall be made for each container using the same weld procedure as used in welding the longitudinal seams of the container. Test plates shall be prepared from material having the same material specification and mill heat numbers as used in the shell or main heads of the inner container. After welding is completed, the test plate shall be radiographed, and the standards of judgment of weld acceptability as set forth in Par. 10.74-1 of AAR Specifications for Tank Cars, Appendix W, shall be followed.

(c) *Test specimens.* The following test specimens shall be removed from the welded test plate and subjected to tests prescribed below:

(1) *Bend test.* Four transverse bend test specimens shall be removed from the welded test plate transverse to the welded joint of the test plate. The specimens shall be of rectangular cross section  $1\frac{1}{2}$  inches wide and the full thickness of the test plate. Weld reinforcements on each side of each test specimen shall be removed flush with the plane of the plate surface. Specimens shall be saw-cut from the test plate. Removal of test specimens from the test plate by means of flame cutting is prohibited. The specimens shall be subjected to a guided bend test, and two transverse face bend tests and two transverse root bend tests shall be performed. A bend test specimen that reveals no cracks or other open defects exceeding  $\frac{1}{8}$  inch measured in any direction on the convex surface of the specimen shall be considered to have passed the bend test. Cracks occurring on the corners of the specimen during the test shall not be considered as cause for rejection, unless there is definite evidence that they are the result of slag inclusions in the weld or other internal defects.

(2) *Impact tests.* Three sets of three impact test specimens shall be saw-cut from the welded test plate. These specimens shall be used for determining the impact properties of the plate material, weld zone and heat-affected zone. Impact test specimens shall be of the Charpy type, keyhole or milled U-notch, with the base of the notch normal to the plate surface, and shall conform in all respects to Figure 3 of ASTM Specification E-23-60-T. Impact test specimens shall be cooled in liquid nitrogen (-320 F). The apparatus for testing the specimens shall be in accordance with the requirements of ASTM Specification E-23-60-T. The test piece and handling tongs shall be cooled for a length of time sufficient to reach the temperature of liquid nitrogen. The specimen shall be quickly transferred from the cooling device to the anvil of the testing machine and broken within a time lapse of not more than six seconds.

(3) *Impact properties.* The impact properties of each set of impact speci-



mens shall be not less than the values listed below:

Size of specimen	Minimum impact value required for average of each set of 3 specimens	Minimum impact value permitted on 1 specimen only of each set of 3 specimens
	Feet-Pound	Feet-Pound
55 mm x 10 mm x 10 mm...	15	10
55 mm x 10 mm x 7.5 mm...	12.5	8.5
55 mm x 10 mm x 5 mm...	10	7
55 mm x 10 mm x 2.5 mm...	5	3.5

When the average value of the three specimens equals or exceeds the minimum value permitted for a single specimen, and the value for more than one specimen is less than the minimum value required for the average of the three specimens, or when the impact value of one specimen is below the minimum value permitted for a single specimen, a retest of three additional specimens shall be made. The value from each retest specimen shall equal or exceed the minimum value required for the average of three specimens given above. When an erratic result is caused by a defective specimen or there is uncertainty in the test procedure, a retest is authorized.

#### § 79.400-9 Stress relieving.

(a) Stress relieving of the inner container is not a requirement of this specification.

#### § 79.400-10 Cleaning interior container.

(a) The interior of the tank and all lines connecting to it shall be thoroughly cleaned. Proper precautions shall be taken to avoid subsequent recontamination of the system after cleaning.

#### § 79.400-11 Test of inner container.

(a) After all items to be welded to the inner container have been welded in place, the inner container shall be pressurized hydrostatically or pneumatically to the test pressure prescribed in § 79.401. The temperature of the pressurizing medium shall not exceed 100 F during the test. The container shall hold the prescribed pressure for a period of not less than ten minutes without leakage or evidence of distress. Due regard should be taken of the potential hazard involved in a pneumatic test. After the container has passed the pressure test, the container and piping shall be emptied of all water and purged of all water vapor if water is used for testing.

(b) Calking of welded joints to stop leaks developed during the foregoing test is prohibited. Repairs to welded joints shall be made as prescribed in § 79.400-8.

#### § 79.400-12 Radiography.

(a) All longitudinal and circumferential double-butt, fusion-welded joints of the inner container and outer shell shall be examined throughout their entire length by the X-ray or gamma-ray method of radiography. The standards of judgment for acceptability of welds examined by radiography shall be in accordance with Par. 10.74-1 of AAR Specifications for Tank Cars, Appendix W.

#### § 79.400-13 Support system for inner container.

(a) The inner container shall be supported within the outer shell by a support system of adequate strength and ductility at its operating temperature to support the inner container when filled with liquid lading to any level incidental to operation of the complete unit as a railway tank car. The support system shall be designed to be capable of supporting, without yielding, impact loads producing accelerations of the following magnitudes and directions when the inner container is fully loaded, and the car is equipped with a conventional AAR Specification M-901 draft gear:

Longitudinal.....	7G
Transverse.....	3G
Vertical.....	3G

The longitudinal acceleration may be reduced to 3G where a cushioning device of approved design, which has been tested to demonstrate its ability to limit body forces to 400,000 pounds maximum at 10 miles per hour, is used between the coupler and the tank structure. The support system shall be of an approved design and such that the inner container shall be thermally isolated from the outer shell to the best practical extent.

#### § 79.400-14 Access to inner container.

(a) The inner container shall be provided with a means of access having a minimum inside diameter of 16 inches and having a welded closure so designed as to allow it to be reopened by grinding or chipping and to be closed again by rewelding without a need for new parts. A cutting torch shall not be used. The closure and the reinforcement of the opening in the container shall be of approved design and made of the same material as is used in the container. Consideration must be given in the design to minimizing contamination of the container and the vacuum space when the closure is opened and closed. The outer shell shall be provided with an access opening of sufficient size (and aligned with the container access opening) to permit removal of the container closure and access into the container. The closure and the reinforcement of the opening in the outer shell shall be of approved design and made of the same material as is used in the outer shell. The closure shall preferably be so designed as to allow it to be reopened by grinding or chipping and to be closed again by rewelding without a need for new parts. A passageway connecting the inner container with the outer shell is not a specification requirement.

#### § 79.400-15 Outer shell.

(a) *Design.* The outer shell shall be designed to withstand an external pressure of one atmosphere.

(b) *Thickness of plates.* The wall thickness of steel plates in the cylindrical portion of the outer shell shall be not less than  $\frac{7}{16}$  inch.

(c) *Material.* All plate material in the outer shell shall be flange quality or firebox quality steel, made to an approved specification, the carbon content of which shall not exceed 0.31 percent.

Steel plate materials in accordance with material specifications listed in Group 1, Table A of AAR Specifications for Tank Cars, Appendix W, are approved for use in the outer shell of tanks built to this specification.

(1) All steel castings, steel forgings and steel structural shapes shall be of material to an approved specification.

(2) Rivets, when used, shall be of steel to an approved specification.

(d) *Heads.* The formed heads at each end of the outer shell shall preferably be an ellipsoid of revolution in which the major axis shall equal the inside diameter of the shell and the minor axis shall be one-half of the major axis. Formed heads of other approved contours may be used, but in no case shall the wall thickness be less than  $\frac{7}{16}$  inch.

(e) *Stiffening rings.* If stiffening rings are used in designing the cylindrical portion of the outer shell for external pressure, they shall be attached to the shell by means of fillet welds on each side of the ring. Outside stiffening ring attachment welds shall be continuous. Inside ring attachment welds may be intermittent. When intermittent welds are used, the total length of welds on each side of the ring shall not be less than one-third of the circumference of the outer shell. Where a closed section is used, it shall be continuously welded on the outside of each leg. A portion of the outer shell may be included when calculating the moment of inertia of the ring. The effective width of shell plate, W, on each side of the attachment of the stiffening ring is given by:

$$W = 0.78\sqrt{RE}$$

where:

W = width of shell effective on each side of the stiffener—*inches*;

R = outside radius of the outer shell—*inches*;

t = plate thickness of the outer shell—*inches*.

Where a stiffener is used which consists of a closed section having two webs attached to the outer shell, the shell plate between the webs shall be included up to the limit of twice the value of W defined above. The outer "flange" of the section shall be subject to the same limitation with W based on the R & T of the flange. Where two separate members, such as two angles, are located less than 2W apart they may be treated as a single stiffener member. (The maximum length of shell plate which may be considered effective is 4W.)

(3) The permissible out-of-roundness of the cylindrical portion of the outer shell shall be no greater than that permitted in Section VIII for out-of-roundness for external pressure of the ASME Boiler and Pressure Vessel Code.

(4) Where loads are applied to the outer shell or to the stiffening rings from the support system used to support the inner container within the outer shell, additional stiffener rings or an increased moment of inertia of stiffening rings designed for the external pressure will have to be provided to carry the support loads.

(1) The stiffener rings shall have a moment of inertia large enough to support an external pressure of 37.5 psig as

determined by either of the following formulae:

$$I = \frac{0.035D^3LPC}{E}$$

$$I = \frac{0.046D^3LPC}{E}$$

where:

$I$  = required moment of inertia of stiffener about centroidal axis parallel to vessel axis—*inches<sup>4</sup>*;

$I$  = required moment of inertia of combined section of stiffener and effective width of shell plate, about centroidal axis parallel to vessel axis—*inches<sup>4</sup>*;

$D$  = outside diameter of outer shell—*inches*;

$L$  = one-half of the distance from the centerline of the stiffening ring to the next line of support on one side, plus one-half of the centerline distance to the next line of support, if any, on the other side of the stiffening ring, both measured parallel to the axis of the vessel—*inches*. (A line of support is: (1) a stiffening ring which meets the requirements of this paragraph, or (2) a circumferential line on a head at one-third the depth of the head from the head tangent line.);

$P_c$  = critical collapsing pressure (37.5 psig minimum);

$E$  = modulus of elasticity of stiffener material—*psi*.

(2) The cylindrical portion of the outer shell between stiffening rings shall be stiff enough to withstand an external pressure of 37.5 psig (critical collapsing pressure) as determined by the following formula:

$$P_c = \frac{2.6E(t/D)^{2.5}}{L/D - 0.45(t/D)^{0.6}}$$

where:

$P_c$  = critical collapsing pressure (37.5 psig minimum);

$E$  = modulus of elasticity of shell material—*lb/sq. inch*;

$t$  = minimum thickness of shell material—*inches*;

$D$  = outside diameter of shell—*inches*;

$L$  = distance between stiffening ring centers—*inches*. (The heads may be considered as stiffening rings located one-third of the head depth from the head tangent line.)

(f) *Welding*. Longitudinal and circumferential seams in the cylindrical portion of the outer shell shall be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion welding is to be performed by fabricators certified by the Association of American Railroads as qualified to meet the requirements of this specification. All double-butt joints in the cylindrical portion of the outer shell shall be fusion-welded in accordance with the requirements of the AAR Specifications for Tank Cars, Appendix W. No more than two circumferential closing joints in the cylindrical portion of the outer shell, including head to shell joints, shall be single-welded butt joints using a backing strip on the inside of the joint. If the interior of the vacuum casing is divided into compartments, the compartment heads shall be attached inside the shell by fillet welding.

(g) *Stress relieving*. The cylindrical portion of the outer shell with the exception of the circumferential closing seams shall be stress relieved in accordance with the requirements of Par. W-15.01 of the AAR Specifications for Tank Cars, Appendix W. All items welded to the shell shall be attached before stress relieving. Welds securing the inner container support system to the outer shell which cannot feasibly be made before final assembly and the tank heads at each end of the shell need not be stress relieved.

(h) *Tests of outer shell*. Pressure testing of outer shell is not a specification requirement.

#### § 79.400-16 Insulation.

(a) The annular space between the two shells shall contain an approved insulating system so installed as to insure against excessive settling and the creation of voids in the insulation when the car is in service. The material shall not burn or spark when touched with a glowing platinum wire in an atmosphere of air or lading. The insulation shall be such that the total heat transfer from the atmosphere at ambient temperature to the hydrogen at atmospheric pressure will not vaporize more than 5.2 pounds of liquefied hydrogen per hour (1000 scfh at 60 F) when the car is stationary.

(b) *Annular space*. The distance between the outside wall of the inner container and the inside wall of the outside shell shall be not less than two inches.

#### § 79.400-17 Piping, vacuum line, vapor phase line, loading and unloading lines.

(a) *Vacuum lines*. The outer shell shall be provided with fittings to permit effective evacuation of the annular space between the outer shell and inner container.

(b) *Product lines*. The piping systems for vapor and liquid phase transfer and venting shall be made from materials compatible with the product and having satisfactory properties at minus 423° F. All valves, gages, and closures shall be mounted within suitable protective housings. The outlets of all vapor phase and liquid phase lines shall be so located that accidental discharge from these lines will not impinge on any metal of the outer shell, car structure, trucks or safety appliances.

(c) *Vapor phase line*. Vapor phase line of sufficient size to permit safety devices covered in § 79.400-18(c) (1) and (2) connected to this line to operate at their designed capacity without excessive pressure buildup in the tank shall connect to the inner container. The vapor phase line shall have a manually operated shut-off valve located as close as possible to the outer shell and shall have a closure that is liquid and gas tight.

(d) *Vapor phase blow-down line*. A blow-down line shall be provided and it may be attached to the vapor phase line specified in § 79.400-17(c) and ahead of the shut-off valve in that line. It shall have a manually operated shut-off valve located as close as possible to the outer shell. The outlet from this line shall be

outside its housing and positioned so that the discharge will be directed upward and away from operating personnel.

(e) *Pressure building system*. Not a specification requirement. If a pressure building system is provided for the purpose of pressurizing the vapor space of the inner container to facilitate unloading the liquid lading, the system shall be of approved design.

(f) *Loading and unloading line*. A liquid phase transfer line shall be provided and shall have a manually operated, vacuum jacketed, shut-off valve located as close as possible to the outer shell. The section of line between the trap shall be incorporated in the line and shall be located as close as possible to the inner shell.

#### § 79.400-18 Safety relief devices.

(a) The tank shall be provided with safety relief devices for the protection of the tank assembly and piping systems. The discharge from these devices shall be directed away from operating personnel, principal load bearing members of the outer shell, car structure, trucks and safety appliances. Vent or weep holes in safety devices are prohibited. All main safety relief devices shall discharge to the outside of protective housings in which they are mounted. This provision does not apply to small pop safety valves installed to protect isolated short sections of lines between the final valve and end closure.

(b) *Materials*. Materials used in safety devices shall be suitable for use at minus 423 F and otherwise compatible with hydrogen in the liquid or vapor phase.

(c) *Inner container*. Safety devices for the inner container shall be attached to piping connected to the vapor phase of the inner container and mounted such as to remain in ambient temperature prior to operation. Additional requirements are as follows:

(1) *Frangible disc*. The inner container shall be equipped with a frangible disc without an intervening shut-off valve and designed to function at a pressure less than the test pressure of the inner container. The frangible disc capacity shall be sufficient to limit the pressure within the inner container to not over 45 psig during all conditions of operation, both normal and abnormal, including fire with loss of vacuum, when the insulation space is filled with gaseous hydrogen at atmospheric pressure. The discharge shall be directed upward.

(2) *Safety relief valve*. The inner container shall be equipped with a safety relief valve without an intervening shut-off valve and set to start-to-discharge at a pressure not greater than 75 percent of the test pressure prescribed in § 79.401, less 15 psi. Safety relief valve capacity shall be sufficient to limit the pressure within the inner container to 85 percent of the test pressure, less 15 psi, even when the insulation space is filled with gaseous hydrogen at atmospheric pressure (no vacuum) and the outer shell is at 130 F. The minimum size relief valve body shall be 3/4 inch IPS. The discharge shall be directed upward.

(3) *Pressure control device.* The inner container shall be equipped with an approved device to prevent the discharge of a mixture exceeding 50 percent of the lower flammable limit to the atmosphere under normal conditions of storage and transport of lading. This device shall be set to start-to-discharge at a pressure not greater than 17 psig and shall have sufficient capacity to limit the pressure within the inner container to 17 psig when the discharge is equal to twice the normal venting rate during transportation with normal vacuum and the outer shell at 130 F.

(4) *Safety interlock.* Not a specification requirement. If a safety interlock is provided for the purpose of allowing transfer of the lading at a pressure higher than the pressure control device setting but less than the safety relief valve setting, the design shall be as follows:

(i) The safety interlock shall not affect the discharge path of the safety relief valve or frangible disc at any time. The safety interlock shall automatically provide an unrestricted discharge path for the pressure control device at all times except when the inner container is being pressurized through the vapor vent line shut-off valve for the transfer of lading. The safety interlock shall automatically prevent operation of the pressure control device only when the inner container is being pressurized through the vapor vent line shut-off valve for transfer of lading. Automatic operation shall be assured by a mechanical interlock of approved design between the vapor vent line shut-off valve and a pressure control device shut-off valve.

(d) *Outer shell.* The outer shell shall be provided with a suitable relief device to prevent build up of internal pressure in excess of 16 psig. The discharge capacity of the relieving device shall be sufficient to vent pressure accumulating within the annular space. Frangible discs, if used, shall be designed to prevent distortion of the frangible disc when the annular space is evacuated.

(e) *Piping system.* Additional pressure relief valves shall be installed in each piping circuit where the system can be isolated by closing the shut-off valves so that a dangerous pressure can be built up. These relief valves shall be designed to open at a pressure sufficiently low to prevent damage to the component or system affected.

#### § 79.400-19 Tests of safety relief valves.

(a) Each valve shall be tested by air or gas for compliance with § 79.401 before being put into service.

#### § 79.400-20 Control valves and gages.

(a) *Control valves.* (1) Manually-operated shut-off valves and control valves shall be provided wherever needed for control of the vapor phase pressure, vapor phase venting, liquid transfer and liquid flow rates.

(2) Control valves and shut-off valves shall be designed and constructed to provide positive shut-off, and to provide minimum resistance to flow when open. These valves shall be so constructed that the packing glands and control handles are separated from the valve bodies by a

sufficient length of low conductivity material to reduce to minimum the collection of frost on the control handles when low temperature gas or liquid is passing through or in contact with the valve parts.

(3) Control valve and shut-off valves shall be of approved design and fabricated from materials not adversely affected by extended periods of contact with the lading in the liquid or vapor phase, or moist air and water.

(4) Packing, if used in these valves, shall be satisfactory for use in contact with the lading in the liquid or vapor phase and shall be of approved materials which will effectively seal the valve stem without causing difficulty of operation.

(5) Control valves and shut-off valves shall be so mounted and installed that they can be readily operated and their control handles will be readily accessible to the operator. These valves shall be so mounted that operation of the valves will not transmit excessive forces to the piping system.

(b) Instruments necessary to the effective and safe operation of the tank when transporting, transferring or storing the liquid commodities for which the car is designed shall be provided. Instruments, except portable instruments, shall be securely mounted on panels within suitable protective housings and shall include the following:

(1) *Liquid level gage.* Connections shall be provided for a liquid level gage of approved design to indicate the quantity of liquefied hydrogen within the inner container. The gage, if not portable, shall be mounted in a position where it will be readily visible to an operator during transfer operations or storage. The connection for a portable gage must be readily accessible.

(2) *Fixed dip tube.* A fixed length dip tube shall be provided with a manually operated shut-off valve located as close as possible to the outer shell and within a suitable housing. It shall be so installed as to indicate the maximum liquid level for the allowable filling density at 1 psig.

(3) *Vapor phase pressure gage.* A vapor phase pressure gage of approved design shall be provided to indicate the vapor pressure within the inner container. The gages shall be mounted so as to be readily visible to an operator.

(4) *Vacuum gage.* Connections shall be provided for a vacuum gage of approved design to indicate the absolute pressure in the annular space between the outer shell and the inner container. The gage, if not portable, must be mounted in a position where it will be readily visible to an operator. The connection for a portable gage must be readily accessible.

#### § 79.400-21 Protective housings.

(a) The protective housings specified for all valves, gages, and closures shall be designed to protect the enclosed components from direct solar radiation, mud, sand, adverse environmental exposure, and mechanical damage. The housings shall be so designed as to provide reasonable access to the enclosed components for operation, inspection,

and maintenance, and so that vapor concentration cannot build up to a dangerous level inside the housings in the event of valve leakage or pop safety valve operation. The closure shall be operable by personnel wearing heavy gloves and shall incorporate provisions for locks or seals.

#### § 79.400-22 Operating instructions.

(a) *Identification.* All valves and gages shall be clearly identified with corrosion-resistant name plates. A plate of corrosion-resistant material bearing directions and precautionary instructions for the safe operation of this equipment during storage and transfer operations shall be securely mounted so as to be readily visible to an operator. This instruction plate should be mounted in each housing containing operating equipment and controls for product handling. The instructions shall be clear, concise and adequate in the description of the operations to be performed by the operator during storage or transfer operations. These instructions shall include a diagram of the tank and its piping system, with the various gages, control valves, and safety devices clearly identified and located. The operating instructions for the vacuum system may be on a separate plate which is installed only in the housing containing vacuum controls and gages.

#### § 79.400-23 Stamping.

(a) Each tank shall be marked certifying that the tank complies with all requirements of this specification. These marks shall be as follows:

(1) ICC----- (insert applicable number per § 79.401) in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal near the center of the main head of the outer shell at the "B" end of the car by the tank builder or the party assembling the complete tank unit. This mark must also be stenciled on the outer shell in letters and figures at least 2 inches high by the party assembling the complete car.

(2) Initials of the builder of the inner container, together with information as to the material used for the shell and heads of the inner container, shell thickness, head thickness and inside diameter of the inner container, shall be stamped in letters and figures at least  $\frac{3}{8}$  inch high into the metal immediately below the marks specified in § 79.400-23(a)(1).

(3) Initials of builder of the outer shell in letters and figures at least  $\frac{3}{8}$  inch high stamped plainly and permanently into the metal immediately below the marks specified in subparagraph (2) of this paragraph.

(4) Date of original test of inner container and initials of party conducting the test in letters and figures at least  $\frac{3}{8}$  inch high plainly and permanently stamped immediately below the marks specified in subparagraph (3) of this paragraph. Any marking, stenciling or stamping on the shell or heads of the inner container is prohibited. These markings must also be stenciled on the outer shell in letters and figures at least 2 inches high.

(5) Initials of company assembling the complete car in letters and figures at least  $\frac{3}{8}$  inch high plainly and permanently stamped immediately below the marks specified in subparagraph (4) of this paragraph. These marks shall also be stenciled on the outer shell in letters and figures at least 2 inches high.

(6) In lieu of stamping required in subparagraphs (1), (2), (3), (4), and (5) of this paragraph, the markings specified by these paragraphs may be incorporated on a data plate of corrosion-resistant metal fillet welded in place on the main head of the outer shell of the "B" end of the car.

#### § 79.400-24 Stenciling.

(a) The outer shell of the tank shall be stenciled in compliance with the requirements of AAR Specifications for Tank Cars, Appendix C.

(1) Date on which the principal safety relief valves were tested, pressure at which tested, place where tested and initials of party making test shall be stenciled on the outer shell in letters and figures at least 1 inch high.

(2) The date on which the frangible disc was replaced and the initials of the party making the replacement shall be stenciled on the outer shell in letters and figures 1 inch high. The identification of the manufacturer, the type of frangible disc installed, and the rated rupture pressure is normally shown on the tab of the disc. If it is not given thereon, this information shall also be stenciled on the outer shell in letters and figures 1 inch high.

(3) Tank cars of approved design built to this specification are authorized for the transportation of "LIQUEFIED HYDROGEN ONLY" and shall be stenciled in letters at least 2 inches high on the outer shell immediately above the marks specified in paragraph 79.400-23(a) (1).

#### § 79.400-25 Reports.

(a) Certificate of Construction, see § 79.5.

#### § 79.401 Individual specification requirements for liquefied hydrogen tank car tanks.

(a) In addition to § 79.400 the individual specification requirements are as follows:

ICC specification	113A60-W	113A175-W
Material (see § 79.400-6).....	Stainless steel.	Stainless steel.
Bursting pressure, psi (see § 79.400-4).....	240	440
Minimum thickness, inches, shell, and head.....	$\frac{3}{16}$	$\frac{3}{8}$
Test pressure, psi (see § 79.400-11).....	60	175
Safety relief devices:		
Frangible disc, maximum bursting pressure, psi.....	60	175
Tolerance, psi.....	+0, -10	+0, -22
Safety relief valve:		
Start-to-discharge.....	30	115
Start-to-discharge tolerance.....	$\pm 2.0$	$\pm 4.0$
Vapor-tight, minimum.....	24	95
Pressure control device:		
Start-to-vent, psi maximum.....	17	17
Casing frangible disc, psi maximum.....	16	16

§ 79.500 Specification ICC-107A \* \* \*, seamless steel tanks to be mounted on or forming part of a car.

§ 79.500-1 Tanks built under these specifications must meet the requirements of § 79.500.

#### § 79.500-2 Approval.

(a) For procedure for securing approval, see § 79.3.

#### § 79.500-3 Type and general requirements.

(a) Tanks built under this specification must be hollow forged or drawn in one piece. Forged tanks must be machined inside and outside before ends are necked-down and, after necking-down, the ends must be machined to size on the ends and outside diameter. Machining not necessary on inside or outside of seamless steel tubing, but required on ends after necking-down.

(b) Tanks must be fabricated by approved methods.

(c) For tanks made in foreign countries, chemical analysis of material and all tests as specified must be carried out within the limits of the United States under supervision of a competent and disinterested inspector; in addition to which, provisions in § 79.500-18 (b) and (c) must be carried out at the point of manufacture by a recognized inspection bureau with principal office in the United States.

(d) The terms "marked end" and "marked test pressure" used throughout this specification are defined as follows:

(1) "Marked end" is that end of the tank on which marks prescribed in § 79.500-17 are stamped.

(2) "Marked test pressure" is that pressure in pounds per square inch which is indicated by the figures substituted for the \* \* \* in the marking ICC-107A \* \* \* stamped on the marked end of tank.

(e) The gas pressure at 130 F in the tank must not exceed  $\frac{7}{10}$  of the marked test pressure of the tank.

#### § 79.500-4 Thickness of wall.

(a) Minimum thickness of wall of each finished tank must be such that at a pressure equal to  $\frac{7}{10}$  of the marked test pressure of the tank, the calculated fiber stress in pounds per square inch at inner wall of tank multiplied by 3.0 will not exceed the tensile strength of any specimen taken from the tank and tested as prescribed in § 79.500-7(b). Minimum wall thickness shall be  $\frac{1}{4}$  inch.

(b) Calculations to determine the maximum marked test pressure permitted to be marked on the tank must be made by the formula:

$$P = \frac{10S(D^2 - d^2)}{7(D^2 + d^2)}$$

where:

P = Maximum marked test pressure permitted;

$$S = \frac{U}{3.0}$$

where:

U = Tensile strength of that specimen which shows the lower tensile strength of the two specimens taken from the tank and tested as prescribed in § 79.500-7(b).

3 = Factor of safety.

$\frac{D^2 - d^2}{D^2 + d^2}$  = The smaller value obtained for this factor by the operations specified in § 79.500-4(c).

(c) Measure at one end, in a plane perpendicular to the longitudinal axis of the tank and at least 18 inches from that end before necking-down:

d = Maximum inside diameter (inches) for the location under consideration; to be determined by direct measurement to an accuracy of 0.05 inch.

t = Minimum thickness of wall for the location under consideration; to be determined by direct measurement to an accuracy of 0.001 inch.

Take  $D = d + 2t$ .

Calculate the value of  $\frac{D^2 - d^2}{D^2 + d^2}$

(1) Make similar measurements and calculation for a corresponding location at the other end of the tank.

(2) Use the smaller result obtained, from the foregoing, in making calculations prescribed in paragraph (b) of this section.

#### § 79.500-5 Material.

(a) Tanks must be made from open-hearth or electric steel of uniform quality. Material must be free from seams, cracks, laminations, or other defects injurious to finished tank. If not free from such defects, the surface may be machined or ground to eliminate these defects. Forgings and seamless tubing for bodies of tanks must be stamped with heat numbers.

(b) Steel (see Note 1) must conform to the following requirements as to chemical composition:

Designation	Class I (percent)	Class II (percent)	Class III (percent)
Carbon, maximum.....	0.50	0.50	0.33
Manganese, maximum.....	1.65	1.65	1.85
Phosphorus, maximum.....	.05	.05	.05
Sulphur, maximum.....	.06	.05	.05
Silicon, maximum.....	.35	.30	.37
Molybdenum, maximum.....	.....	.25	.30
Chromium, maximum.....	.....	.30	.30
Sum of manganese and carbon not over.....	2.10	2.10	.....

NOTE 1: Alternate steel containing other alloying elements may be used if approved.

(1) For instructions as to the obtaining and checking of chemical analysis, see § 79.500-18(b) (3).

#### § 79.500-6 Heat treatment.

(a) Each necked-down tank must be uniformly heat treated. Heat treatment must consist of annealing or normalizing and tempering for Class I and Class II steel and oil quenching and tempering for Class III steel. Tempering temperatures shall not be less than 1000° F. Heat treatment of alternate steels must be approved. All scale must be removed from outside of tank to an extent sufficient to allow proper inspection.

(b) To check uniformity of heat treatment, Brinell hardness tests must be made at 18 inch intervals on the entire longitudinal axis. The hardness must not vary more than 35 points in the length of the tank. No hardness tests

need be taken within 12 inches from point of head to shell tangency.

(c) A magnetic particle inspection shall be performed after heat treatment on all tanks subjected to a quench and temper treatment to detect the presence of quenching cracks. Cracks shall be removed to sound metal by grinding and the surface exposed shall be blended smoothly into the surrounding area. A wall thickness check shall then be made of the affected area by ultrasonic equipment or other suitable means acceptable to the inspector and if the remaining wall thickness is less than the minimum recorded thickness as determined by § 79.500-4(b) it shall be used for making the calculation prescribed in (b) of this section.

#### § 79.500-7 Physical tests.

(a) Physical tests must be made on 2 test specimens 0.505 inch in diameter within 2-inch gage length, taken 180 degrees apart, 1 from each ring section cut from each end of each forged or drawn tube before necking-down, or 1 from each prolongation at each end of each necked-down tank. These test specimen ring sections or prolongations must be heat

$$\frac{\text{Stress (pounds per square inch)}}{30,000,000 \text{ (pounds per square inch)}} \text{ plus } 0.005 \text{ (inches per inch)}$$

shall be recorded as the elastic limit.

(1) Elongation must be at least 18 percent and reduction of area at least 35 percent.

NOTE 1: Upon approval, the ratio of elastic limit to ultimate strength may be raised to permit use of special alloy steels of definite composition that will give equal or better physical properties than steels herein specified.

#### § 79.500-8 Openings in tanks.

(a) Each end must be closed by a cover made of forged steel. Covers must be secured to ends of tank by through bolts or studs not entering interior of tank. Covers must be of a thickness sufficient to meet test requirements of § 79.500-12 and to compensate for the openings closed by attachments prescribed herein.

(1) It is also provided that each end may be closed by internal threading to accommodate an approved fitting. The internal threads as well as the threads on fittings for these openings shall be clean cut, even, without checks, and tapped to gage. Taper threads are required and must be of a length not less than as specified for American Standard taper pipe threads. External threading of an approved type shall be permissible on the internal threaded ends.

(b) Joints between covers and ends and between cover and attachments must be of approved form and made tight against vapor or liquid leakage by means of a confined gasket of suitable material.

#### § 79.500-9 Tank mounting.

(a) For tank mounting, see § 79.10.

#### § 79.500-10 Protective housing.

(a) Safety devices, and loading and unloading valves on tanks must be protected from accidental injury by approved metal housing, arranged so it may

be readily opened to permit inspection and adjustment of safety devices and valves, and securely locked in closed position. Housing must be provided with opening having an opening equal to twice the total discharge area of safety device enclosed.

(b) Elastic limit as determined by extensometer, must not exceed 70 percent of tensile strength for Class I steel or 85 percent of tensile strength for Class II and Class III steel. Determination shall be made at cross head speed of not more than 0.125 inch per minute with an extensometer reading to 0.0002 inch. The extensometer shall be read at increments of stress not exceeding 5,000 pounds per square inch. The stress at which the strain first exceeds.

be readily opened to permit inspection and adjustment of safety devices and valves, and securely locked in closed position. Housing must be provided with opening having an opening equal to twice the total discharge area of safety device enclosed.

#### § 79.500-11 Loading and unloading valves.

(a) Loading and unloading valve or valves must be mounted on the cover or threaded into the marked end of tank. These valves must be of approved type, made of metal not subject to rapid deterioration by lading or in service, and must withstand without leakage a pressure equal to the marked test pressure of tank. Provision must be made for closing service outlet of valves.

#### § 79.500-12 Safety devices.

(a) Tank must be equipped with one or more safety devices of approved type and discharge area mounted on the cover or threaded into the non-marked end of the tank. If fittings are mounted on a cover, they must be of the flanged type, made of metal not subject to rapid deterioration by lading or in service. Total discharge capacity must be such that, with tank filled with air at pressure equal to 70 percent of the marked test pressure of tank, discharge capacity will be sufficient to reduce air pressure to 30 percent of the marked test pressure within 3 minutes after safety device opens.

(b) Safety devices must open at pressure not exceeding the marked test pressure of tank and not less than  $\frac{7}{10}$  of marked test pressure. (For tolerance for safety relief valves, see § 79.500-16(a).)

(c) Cars used for the transportation of flammable gases must have the safety devices equipped with an approved ignition device.

#### § 79.500-13 Fixtures.

(a) Attachments, other than those mounted on tank covers or serving as threaded closures for the ends of the tank, are prohibited.

#### § 79.500-14 Test of tanks.

(a) After heat-treatment, tanks must be subjected to hydrostatic tests in a water jacket, or by other accurate method, operated so as to obtain reliable data. No tank shall have been subjected previously to internal pressure greater than 90 percent of the marked test pressure. Each tank must be tested to a pressure at least equal to the marked test pressure of the tank. Pressure must be maintained for 30 seconds, and sufficiently longer to insure complete expansion of tank. Pressure gage must permit reading to accuracy of one percent. Expansion gage must permit reading of total expansion to accuracy of one percent. Expansion must be recorded in cubic centimeters.

(b) Permanent volumetric expansion must not exceed 10 percent of the total volumetric expansion at test pressure.

#### § 79.500-15 Handling of tanks failing in tests.

(a) Tanks rejected for failure in any of the tests prescribed may be reheat-treated, and will be acceptable if subsequent to reheat-treatment they are subjected to and pass all of the tests.

#### § 79.500-16 Tests of safety devices.

(a) Safety relief valves must be tested by air or gas before being put into service. Valve must open at pressure not exceeding the marked test pressure of tank and must be vapor-tight at 80 percent of the marked test pressure. These limiting pressures must not be affected by any auxiliary closure or other combination.

(b) For safety devices of frangible disc type, samples of discs used must burst at a pressure not exceeding the marked test pressure of tank and not less than  $\frac{7}{10}$  of marked test pressure.

#### § 79.500-17 Marking.

(a) Each tank must be plainly and permanently marked, thus certifying that tank complies with all requirements of this specification. These marks must be stamped into the metal of necked-down section of tank at marked end, in letters and figures at least  $\frac{1}{4}$  inch high, as follows:

(1) Spec. ICC-107A\*\*\*\*, the \*\*\*\* to be replaced by figures indicating marked test pressure of the tank. This pressure must not exceed the calculated maximum marked test pressure permitted, as determined by the formula in § 79.500-4(b).

(2) Serial number immediately below the stamped mark specified in paragraph (a) (1) of this section.

(3) Inspector's official mark immediately below the stamped mark specified in paragraph (a) (1) of this section.

(4) Name, mark (other than trademark), or initials of company or person for whose use tank is being made, which must be recorded with the Bureau of Explosives.

## PROPOSED RULE MAKING

(5) Date (such as 1-62, for January 1962) of tank test, so placed that dates of subsequent tests may easily be added thereto.

(6) Date (such as 1-62, for January 1962) of latest test of safety relief valve or of frangible disc, required only when tank is used for transportation of flammable gases.

(7) Name of gas for which tank car is being used, stenciled in letters at least 2 inches high on each side of car where they are clearly visible.

#### § 79.500-18 Inspection and reports.

(a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in proper form certifying that tanks and their equipment comply with all the requirements of this specification and including information as to serial numbers, dates of tests, and ownership marks on tanks mounted on car structure. In case of alterations or additions to tanks or equipment from original design and construction, there must be furnished to the same parties a report in detail of the alterations or additions made to each tank covered by a particular application showing the serial number of each tank involved.

(b) Purchaser of tanks must provide for inspection by a competent inspector as follows:

(1) Inspector must carefully inspect all material and reject that not complying with § 79.500-5.

(2) Inspector must stamp his official mark on each forging or seamless tube accepted by him for use in making tanks, and must verify proper application of heat number to such material by occasional inspections at steel manufacturer's plant.

(3) Inspector must obtain certified chemical analysis of each heat of material.

(4) Inspector must make inspection of inside surface of tanks before necking-down, to insure that no seams, cracks, laminations, or other defects exist.

(5) Inspector must fully verify compliance with specification, verify heat treatment of tank as proper; obtain samples for all tests and check chemical analyses; witness all tests; and report minimum thickness of tank wall, maximum inside diameter, and calculated value of D, for each end of each tank as prescribed in § 79.500-4(c).

(6) Inspector must stamp his official mark on each accepted tank immediately below serial number, and make certified report (see paragraph (c) of this section) to builder, to company or person for whose use tanks are being made, to builder of car structure on which tanks are to be mounted, to the Bureau of Explosives, and to the Secretary, Mechanical Division, Association of American Railroads.

(c) Inspector's report required herein must be in the following form:

(Place) \_\_\_\_\_  
(Date) \_\_\_\_\_

#### STEEL TANKS

It is hereby certified that drawings were submitted for these tanks under AAR Application for Approval \_\_\_\_\_ and approved by the AAR Committee on Tank Cars under date of \_\_\_\_\_

Built for \_\_\_\_\_ Company  
Location at \_\_\_\_\_  
Built by \_\_\_\_\_ Company  
Location at \_\_\_\_\_  
Consigned to \_\_\_\_\_ Company  
Location at \_\_\_\_\_

Quantity \_\_\_\_\_  
Length (inches) \_\_\_\_\_  
Outside diameter (inches) \_\_\_\_\_  
Marks stamped into tank as required in § 79.500-17 are:

ICC-107A\*\*\*\*

NOTE 1: The marked test pressure substituted for the \*\*\*\* on each tank is shown on Record of General Data on Tanks attached hereto.

Serial numbers \_\_\_\_\_ to \_\_\_\_\_ inclusive  
Inspector's mark \_\_\_\_\_  
Owner's mark \_\_\_\_\_  
Test date \_\_\_\_\_

Water capacity (see Record of Hydrostatic Tests).

Tare weights (yes or no) (see Record of Hydrostatic Tests).

These tanks were made by process of \_\_\_\_\_

Steel used was identified as indicated by the attached list showing the serial number of each tank, followed by the heat number.

Steel used was verified as to chemical analysis and record thereof is attached hereto. Heat numbers were stamped into metal.

All material was inspected and each tank was inspected both before and after closing in ends; all material accepted was found free from seams, cracks, laminations, and other defects which might prove injurious to strength of tank. Processes of manufacture and heat-treatment of tanks were witnessed and found to be efficient and satisfactory.

Before necking-down ends, each tank was measured at each location prescribed in § 79.500-4(c) and minimum wall thickness in inches at each location was recorded; maximum inside diameter in inches at each location was recorded; value of D in inches at each location was calculated and recorded; maximum fiber stress in wall at location showing larger value for

$$\frac{D^2 + d^2}{D^2 - d^2}$$

was calculated for 7/10 the marked test pressure and recorded. Calculations were made by the formula:

$$S = 0.7P \frac{(D^2 + d^2)}{(D^2 - d^2)}$$

Hydrostatic tests, tensile tests of material, and other tests as prescribed in this specification, were made in the presence of the inspector, and all material and tanks accepted were found to be in compliance with the requirements of this specification. Records thereof are attached hereto.

I hereby certify that all of these tanks proved satisfactory in every way and comply with the requirements of Interstate Com-

merce Commission Specification No. 107A\*\*\*\*.

(Signed) \_\_\_\_\_  
(Inspector)

(Place) \_\_\_\_\_

(Date) \_\_\_\_\_

#### RECORD OF CHEMICAL ANALYSIS OF STEEL FOR TANKS

Numbered \_\_\_\_\_ to \_\_\_\_\_ inclusive  
Size \_\_\_\_\_ inches outside diameter by \_\_\_\_\_ inches long  
Built by \_\_\_\_\_ Company  
For \_\_\_\_\_ Company

Heat No.	Tanks represented (Serial Nos.)	Chemical analysis							
		C	Mn	P	S	Si	Ni	Cr	Mo

These analyses were made by

(Signed) \_\_\_\_\_

(Place) \_\_\_\_\_

(Date) \_\_\_\_\_

#### RECORD OF TENSILE TESTS OF MATERIAL IN TANKS

Numbered \_\_\_\_\_ to \_\_\_\_\_ inclusive  
Size \_\_\_\_\_ inches outside by \_\_\_\_\_ inches long  
Built by \_\_\_\_\_ Company  
For \_\_\_\_\_ Company

Heat No.	Tanks represented by test (Serial Nos.)	Elastic limit (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (percent in 2 inches)	Reduction of area (percent)

(Signed) \_\_\_\_\_

(Place) \_\_\_\_\_

(Date) \_\_\_\_\_

#### RECORD OF HYDROSTATIC TESTS ON TANKS

Numbered \_\_\_\_\_ to \_\_\_\_\_ inclusive  
Size \_\_\_\_\_ inches outside by \_\_\_\_\_ inches long  
Built by \_\_\_\_\_ Company  
For \_\_\_\_\_ Company

Serial Nos. of tanks	Actual test pressure (pounds per square inch)	Total expansion (cubic centimeters) <sup>1</sup>	Permanent expansion (cubic centimeters) <sup>1</sup>	Percent ratio of permanent expansion to total expansion <sup>1</sup>	Tare weight (pounds) <sup>2</sup>	Capacity in pounds of water at 60° F

<sup>1</sup> If tests are made by method involving measurement of amount of liquid forced into tank by test pressure, then the basic data on which calculations are made, such as pump factors, temperature of liquid, coefficient of compressibility of liquid, etc., must also be given.

<sup>2</sup> Do not include protective housing, but state whether with or without valves.

(Signed) \_\_\_\_\_

(Place) \_\_\_\_\_

(Date) \_\_\_\_\_

RECORD OF GENERAL DATA ON TANKS

Numbered \_\_\_\_\_ to \_\_\_\_\_ inclusive  
 Built by \_\_\_\_\_ Company  
 For \_\_\_\_\_ Company

Data obtained as prescribed in §79.500-4(c)					
Marked end of tank			Other end of tank		
(c) Minimum thickness of wall in inches	(d) Maximum inside diameter in inches	(D) Calculated value of $D \times L - d^2$ in inches = $d + 2t$	(e) Minimum thickness of wall in inches	(f) Maximum inside diameter in inches	(F) Calculated value of $D \times L - d^2$ in inches = $d + 2t$
Larger value of the factor $\frac{D \times L - d^2}{D \times L - d^2}$					
(S) Calculated fiber stress in pounds per square inch at 7/10 marked test pressure					
Marked test pressure in pounds per square inch, stamped in tank					
Minimum tensile strength of material in pounds per square inch recorded					

(Signed) \_\_\_\_\_

APPENDIX B-I

Section	Paragraph	Reason for amendment
73.119	(a)(12), (e)(2), (f)(3), (f)(4)	(1) To authorize use of specs. 111A60-F-1, 111A60-W-1, 112A200-W and 114A340-W tank cars for flammable liquids, n.o.s.; (2) to discontinue naming tank cars of a higher test pressure where the same class tank car of a lower test pressure is prescribed; (3) to prohibit construction of new tank cars to obsolete specifications.
73.119	(h)	To require special dome placards for specs. 111A60-A1-W, 111A60-F-1 and 111A60-W-1 tank cars transporting flammable liquids; same as 73.119 reason (3).
73.123	(a)(5)	To authorize use of spec. 112A200-W and 112A400-F tank cars for ethyl chloride; same as 73.119 reason (2).
73.124	(a)(5)	Same as 73.119 reason (3).
73.125	(a)(4)	Do.
73.134	(a)(2)	Same as 73.119 reasons (2) and (3).
73.135	(a)(7), (8)	To authorize use of specs. 111A60-F-1 and 111A60-W-1 tank cars for certain silane compounds; same as 73.119 reasons (2) and (3).
73.136	(a)(6), (7)	To authorize use of specs. 111A60-F-1 and 111A60-W-1 tank cars for Methyl dichlorosilane and Trichlorosilane; same as 73.119 reasons (2) and (3).
73.141	(a)(7)	To authorize use of specs. 111A60-F-1 and 111A60-W-1 tank cars for certain mercaptans; same as 73.119 reasons (2) and (3).
73.145	(a)(6)	Section 73.119 reason (2) applies also to tank cars for Dimethylhydrazine, unsymmetrical.
73.148	(a)(4)	Section 73.119 reason (3) applies also to tank cars for Monoethylamine.
73.163	(a)(6)	To authorize use of specs. 111A60-F-1 and 111A60-W-1 tank cars for certain chlorates same as 73.119 reason (3).
73.190	(b)(3)	To authorize use of specs. 111A60-F-1 and 111A60-W-1 tank cars for white or yellow Phosphorus; same as 73.119 reason (3).

Section	Paragraph	Reason for amendment
73.224	(a)(3)	To authorize use of specs. 111A60-F-1, 111A60-W-1 and 111A100-F-2 tank cars for certain peroxides; same as 73.119 reason (3).
73.247	(a)(13), (14), (16)	Section 73.119 reasons (2) and (3) apply also to tank cars for certain chlorides.
73.248	(a)(4), (5)	To authorize use of specs. 111A100-F-2, 111A60-F-1 and 111A60-W-1 tank cars for acid sludge, etc.; same as 73.119 reason (3).
73.249	(a)(5)	To authorize use of specs. 111A60-F-1, 111A60-W-1 and 111A100-F-2 tank cars for Alkaline corrosive liquids, n.o.s.; same as 73.119 reason (3).
73.251	(a)(2)	Section 73.119 reason (3) applies also to tank cars for Boron trichloride.
73.253	(a)(7)	To authorize use of specs. 111A100-F-2 and 111A100-W-2 tank cars for Chloroacetyl chloride.
73.254	(a)(4)	To authorize use of spec. 111A100-F-2 tank cars for Chlorosulfonic acid and mixtures; same as 73.119 reason (3).
73.255	(a)(4)	To authorize use of spec. 111A100-F-2 tank cars for Dimethyl sulfate; same as 73.119 reason (3).
73.262	(a)(6)	Section 73.119 reason (3) applies also to tank cars for Hydrobromic acid.
73.263	(a)(9)	Section 73.119 reason (3) applies also to tank cars for Hydrochloric acid.
73.264	(a)(8), (11)	To authorize use of spec. 111A100-F-2 tank cars for Hydrofluoric acid; same as 73.119 reasons (2) and (3).
73.264	(b)(2), (6) and Note 1	Section 73.119 reason (2) applies also to tank cars for Hydrofluoric acid, anhydrous.
73.265	(b)(3)	Section 73.119 reason (3) applies also to tank cars for Hydrofluosilicic acid.
73.267	(a)(3)	To authorize use of spec. 111A100-F-2 tank cars for mixed acids; same as 73.119 reason (3).
73.271	(a)(9), (11)	To authorize spec. 111A100-F-2 and 111A100-W-2 tank cars for certain phosphorus chlorides; same as 73.119 reason (3).
3.272	(h)(3), (l)(4)	To authorize use of spec. 111A100-F-2 tank cars for Sulfuric acid; same as 73.119 reason (3).
73.273	(a)(4)	To authorize use of specs. 111A100-F-2 and 105A300-W tank cars for Sulfur trioxide, stabilized; same as 73.119 reason (3).
73.274	(a)(3)	To authorize use of spec. 111A100-F-2 tank cars for Fluosulfonic acid; same as 73.119 reason (3).
73.276	(a)(4)	To cite new Part 79 section numbers applicable to specs. 103C-W and 111A100-W-6 tank cars.
73.280	(a)(7)	To authorize use of specs. 111A60-F-1, 111A60-W-1 and 111A100-F-2 tank cars for certain trichlorosilanes; same as 73.119 reason (3).
73.285	(a)(3)	Section 73.119 reason (3) applies also to tank cars for Chlorine trifluoride.
73.291	(a)(8)	Section 73.119 reason (3) applies also to tank cars for Flame retardant compound liquid.
73.294	(a)(2)	To authorize use of specs. 111A100-F-2 and 111A100-W-2 tank cars for Monochloroacetic acid, liquid.
73.294	(b)	To cite new Part 79 section numbers applicable to spec. 103A-W tank cars.

Section	Paragraph	Reason for amendment
73.295	(a)(1)	To authorize use of specs. 111A100-F-2 and 111A100-W-2 tank cars for Benzyl chloride; same as 73.119 reason (3).
73.296	(a)(3)	To authorize use of spec. 111A100-F-2 and 111A100-W-2 tank cars for Diisooctyl acid phosphate.
73.297	(a)(2)	Section 73.119 reason (3) applies also to tank cars for Titanium sulfate solution.
73.333	(a)(2)	Section 73.119 reason (3) applies also to tank cars for Phosgene or Diphosgene.
73.336	(a)(3), (4)	Section 73.119 reasons (2) and (3) apply also to tank cars for Nitrogen dioxide, liquid, etc.
73.338	(a)(3)	Section 73.119 reasons (2) and (3) apply also to tank cars for Nitrogen tetroxide-nitric oxide mixtures.
73.346	(a)(10)	To authorize use of specs. 111A60-F-1, 111A60-W-1 and 111A100-F-2 tank cars for class B poisonous liquids, n.o.s.; same as 73.119 reasons (2) and (3).
73.347	(a)(2)	To authorize use of specs. 111A60-F-1, 111A60-W-1 and 111A100-F-2 tank cars for Aniline oil; same as 73.119 reason (3).
73.352	(a)(4)	To authorize use of specs. 111A60-F-1, 111A60-W-1 and 111A100-F-2 tank cars for Liquid sodium or Potassium cyanide; same as 73.119 reason (3).
73.353	(a)(5), (b)	Section 73.119 reasons (2) and (3) apply also to tank cars for Methyl bromide, liquid, etc.
73.357	(b)(4) and Note 1	Section 73.119 reason (3) applies also to tank cars for Chlorpicrin and mixtures thereof.
73.359	(a)(13)	To cite new Part 79 section numbers applicable to spec. 105A300-W tank cars.
73.365	(a)(13)	To authorize specs. 111A60-F-1, 111A60-W-1 and 111A100-F-2 tank cars for class B poisonous solids; same as 73.119 reason (3).
73.369	(a)(13)	To authorize specs. 111A60-F-1, 111A60-W-1 and 111A100-F-2 tank cars for Carbolic acid; same as 73.119 reason (3).

PART 79

Revision of the specifications for tank cars is to achieve greater uniformity by consolidating requirements where practicable, and to facilitate examination of specification details.

The specifications have been removed from Part 78 Subpart I and consolidated in new Part 79 as several master specifications, each respective to a certain type of tank car i.e., 79.100 for pressure cars, 79.200 for nonpressure cars, and 79.300 for multi-unit tank cars. Tank cars for which special requirements are necessary are treated separately—79.400 for liquefied hydrogen tank cars, 79.500 for seamless steel tanks. Requirements in sections 79.1 thru 79.12 are general requirements that must be adhered to where applicable.

The following cross-reference shows tank car specifications as they are presently identified in Part 78 and their corresponding new Part 79 section numbers:

## PROPOSED RULE MAKING

## APPENDIX B-V

Present Part 78	Specification	Proposed Part 79	General arrangement of Part 79	
78.265	103 (deleted)	79.1 thru 79.12, 79.200, 79.201, 79.202.	79.1 Introduction, approvals, reports.	
78.280	103-W		79.6	
78.291	103-A-L-W		79.10 General design requirements.	
78.266	103A (deleted)		79.12	
78.281	103A-W		79.100	Pressure tank car specifications.
78.292	103A-A-L-W		79.101	Individual specification requirements.
78.299	103A-N-W		79.102	Special commodity requirements.
78.267	103B (deleted)		79.103	Special requirements for class 114A***W tanks.
78.282	103B-W		79.104	Special requirements for spec. 105A800-F tanks.
78.296	103B100-W (deleted)		79.200	Non-pressure tank car specifications.
78.283	103C-W		79.201	Individual specification requirements.
78.297	103D-W		79.202	Special commodity requirements.
78.298	103E-W		79.300	Multi-unit tank car specifications.
78.269	104 (deleted)		79.301	Individual specification requirements.
78.284	104-W		79.302	Special commodity requirements.
78.270	105A100 (deleted)		79.400	Liquefied hydrogen tank car specifications.
79.285	105A100-W		79.401	Individual specification requirements.
78.294	105A100-A-L-W		79.500	Spec. 107A*** seamless steel tanks.
78.307	105A200-W			
78.308	105A200-A-L-W			
	105A200-F (new)		79.1 thru 79.12, 79.100, 79.101, 79.102, 79.104.	
78.286	105A300-W			
78.300	105A300-A-L-W			
78.287	105A400-W			
78.288	105A500-W			
78.289	105A600-W			
78.275	106A500 (deleted)			
78.275	106A500X			
78.276	106A800 (deleted)		79.1 thru 79.12, 79.300, 79.301, 79.302	
78.276	106A800X			
78.276	106A800X-NC			
78.295	106A800-NCI (deleted)			
78.277	107A***		79.1 thru 79.12, 79.500.	
78.302	109A100-A-L-W	79.1 thru 79.12, 79.100, 79.101, 79.102.		
78.313	109A200-A-L-W			
78.301	109A300-W			
78.314	109A300-A-L-W			
78.293	110A500-W	79.1 thru 79.12, 79.300, 79.301, 79.302.		
78.278	110A800-W			
	110A1000-W (new)			

## APPENDIX B-VI

Present Part 78	Specification	Proposed Part 79	GRADES
78.268	111A60-W-1	79.1 thru 79.12, 79.200, 79.201, 79.202.	Sec. 51.2795 U.S. No. 1.
78.268	111A60-F-1		51.2796 U.S. Export No. 1.
78.310	111A60-A-L-W		51.2797 U.S. Combination.
78.303	111A100-F-1		51.2798 U.S. No. 2.
78.303	111A100-W-1		UNCLASSIFIED
78.304	111A100-F-2		51.2799 Unclassified.
78.304	111A100-W-2		TOLERANCES
78.305	111A100-W-3		51.2800 Tolerances.
78.306	111A100-W-4		JUICE CONTENT
78.309	111A100-W-5		51.2801 Juice content.
78.311	111A100-W-6		APPLICATION OF TOLERANCES
78.271	112A200-W		51.2802 Application of tolerances.
78.272	112A340-W	STANDARD PACK	
78.312	112A400-W	51.2803 Standard pack.	
78.312	112A400-F	STANDARD SIZING AND FILL	
78.290	112A500-W	51.2804 Standard sizing and fill.	
78.279	113A60-W-2	CONDITION STANDARDS FOR EXPORT	
	113A175-W (new)	51.2805 Condition standards for export.	
	114A240-W (new)	DEFINITIONS	

[F.R. Doc. 64-6069; Filed, June 24, 1964; 8:45 a.m.]

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

[7 CFR Part 51]

## LEMONS

Proposed U.S. Standards for Grades<sup>1</sup>

Notice is hereby given that the U.S. Department of Agriculture is considering the revision of U.S. Standards for Lemons (§§ 51.2795-51.2819) pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

<sup>1</sup>Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate, not later than July 20, 1964, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, where they will be available for public inspection during official hours of business (paragraph (b) of § 1.27, as amended at 29 F.R. 7311).

*Statement of considerations leading to the proposed revision of the grade standards.* The proposed revised standards incorporate a new U.S. Export No. 1 grade which was developed at the request of representatives of the lemon industry.

Suggestions by industry representatives formed the basis of a preliminary draft of a proposed U.S. Export No. 1 grade which was distributed to industry members for comment in November 1963.

Since that time there have been informal discussions with individuals and groups, and meetings with industry members to review the proposal to incorporate the export grade in the standards.

Comments received from industry members and additional information obtained during the course of the investigations have been considered in developing the proposed revised standards.

The U.S. Export No. 1 grade is intended to designate a quality level that could be acceptable as equivalent to category I of the Common Market (EEC) Quality Standards for Citrus.

A new definition, "moderately well colored," would be provided, requiring that the area of greenish-yellow color exceed the area of green color on the individual fruit.

The definition relating to shape in the U.S. No. 1 grade would be reworded to make its meaning clearer and conform more closely to shapes of lemons currently being marketed. The minimum shape for U.S. No. 1 would be designated "fairly well formed." The designation of minimum shape for U.S. No. 2 would be changed to "reasonably well formed" with no change in the requirement. Present day handling methods have made the requirement for loose or missing buttons in the Condition Standards for Export unduly restrictive. This requirement would be eliminated.

The proposed standards, as revised, are as follows:

Sec.	GRADES
51.2795	U.S. No. 1.
51.2796	U.S. Export No. 1.
51.2797	U.S. Combination.
51.2798	U.S. No. 2.
	UNCLASSIFIED
51.2799	Unclassified.
	TOLERANCES
51.2800	Tolerances.
	JUICE CONTENT
51.2801	Juice content.
	APPLICATION OF TOLERANCES
51.2802	Application of tolerances.
	STANDARD PACK
51.2803	Standard pack.
	STANDARD SIZING AND FILL
51.2804	Standard sizing and fill.
	CONDITION STANDARDS FOR EXPORT
51.2805	Condition standards for export.
	DEFINITIONS
51.2806	Firm.
51.2807	Fairly well formed.
51.2808	Well formed.
51.2809	Reasonably smooth.
51.2810	Smooth.
51.2811	Contact spot.
51.2812	Internal evidence of <i>Alternaria</i> development.
51.2813	Membranous stain.
51.2814	Damage.
51.2815	Fairly well colored.
51.2816	Well colored.
51.2817	Fairly firm.
51.2818	Reasonably well formed.
51.2819	Fairly smooth.
51.2820	Serious damage.
51.2821	Moderately well colored.

AUTHORITY: The provision of this subpart issued under secs. 203, 205, 60 Stat. 1087, as



amended, 1090 as amended; 7 U.S.C. 1622, 1624.

#### GRADES

##### § 51.2795 U.S. No. 1.

"U.S. No. 1" consists of lemons which are firm, fairly well formed (unless specified as well formed), reasonably smooth (unless specified as smooth), which have stems which are properly clipped, and which are free from decay, contact spot, internal evidence of Alternaria development, unhealed broken skins, hard or dry skins, exanthema, growth cracks, internal decline (endoxerosis), red blotch, membranous stain or other internal discoloration, and free from damage caused by bruises, dryness or mushy condition, scars, oil spots, scale, sunburn, hollow core, peteca, scab, melanose, dirt or other foreign material, other disease, insects or other means.

(a) *Color.* The lemons are fairly well colored (unless specified as well colored): *Provided*, That any lot of lemons which meets all the requirements of this grade except those relating to color may be designated as "U.S. No. 1 Green" if the lemons are of a full green color, or as "U.S. No. 1 Mixed Color" if the lemons fail to meet the color requirements of either "U.S. No. 1" or "U.S. No. 1 Green". (See § 51.2800.)

(b) Lemons have the juice content specified in § 51.2801.

##### § 51.2796 U.S. Export No. 1.

"U.S. Export No. 1" consists of lemons which are firm, fairly well formed, reasonably smooth and which are free from decay, contact spot, internal evidence of Alternaria development, unhealed broken skins, exanthema, growth cracks, internal discoloration and free from damage caused by bruises and dryness or mushy condition.

(a) At least 50 percent of the lemons are free from damage caused by scars, oil spots, scale, sunburn, peteca, scab, melanose, dirt or other foreign material, other disease, insects or other means, and the remainder of the lemons are free from serious damage by any cause.

(b) *Color:* Lemons are moderately well colored. (See § 51.2800.)

(c) Lemons have a juice content of not less than 28 percent by volume.

##### § 51.2797 U.S. Combination.

"U.S. Combination" consists of a combination of U.S. No. 1 and U.S. No. 2 lemons: *Provided*, That at least 40 percent, by count, of the lemons meet the requirements of U.S. No. 1 grade.

(a) *Color:* The lemons are fairly well colored (unless specified as well colored): *Provided*, That any lot of lemons which meets all the requirements of this grade except those relating to color may be designated as "U.S. Combination Green" if the lemons are of a full green color, or as "U.S. Combination Mixed Color" if the lemons fail to meet the color requirements of either "U.S. Combination" or "U.S. Combination Green". (See § 51.2800.)

(b) Lemons have the juice content specified in § 51.2801.

##### § 51.2798 U.S. No. 2.

"U.S. No. 2" consists of lemons which are fairly firm, which are reasonably well formed and fairly smooth, which have stems which are properly clipped, and which are free from decay, contact spot, internal evidence of Alternaria development, unhealed broken skins, hard or dry skins, exanthema, internal decline (endoxerosis), and red blotch, and free from serious damage caused by bruises, membranous stain or other internal discoloration, dryness or mushy condition, scars, oil spots, scale, sunburn, hollow core, peteca, growth cracks, scab, melanose, dirt or other foreign material, other disease, insects or other means.

(a) *Color:* The lemons are fairly well colored (unless specified as well colored): *Provided*, That any lot of lemons which meets all of the above requirements of this grade except those relating to color may be designated as "U.S. No. 2 Green" if the lemons are of a full green color, or as "U.S. No. 2 Mixed Color" if the lemons fail to meet the color requirements of either "U.S. No. 2" or "U.S. No. 2 Green". (See § 51.2800.)

(b) Lemons have the juice content specified in § 51.2801.

#### UNCLASSIFIED

##### § 51.2799 Unclassified.

"Unclassified" consists of lemons which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

#### TOLERANCES

##### § 51.2800 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *U.S. No. 1 grade*—(1) For defects: Not more than 10 percent of the lemons in any lot may fail to meet the requirements of this grade, but not more than one-half of this tolerance, or 5 percent, shall be allowed for decay, contact spot, internal evidence of Alternaria development, internal decline (endoxerosis), unhealed broken skins, growth cracks, and other defects causing serious damage, including not more than one-tenth of this latter amount, or one-half of 1 percent, for lemons affected by decay at shipping point: *Provided*, That an additional tolerance of 2½ percent, or a total of not more than 3 percent, shall be allowed for lemons affected by decay en route or at destination.

(2) *For color.* Not more than 10 percent of the lemons in any lot may fail to meet the requirements relating to color.

(b) *U.S. No. 2 and U.S. Combination grades.* (1) For defects: Not more than 10 percent of the lemons in any lot may fail to meet the requirements of the U.S. No. 2 grade, but not more than one-half of this tolerance, or 5 percent, shall be allowed for decay, contact spot, internal

evidence of Alternaria development, and internal decline (endoxerosis), including not more than one-fifth of this latter amount, or 1 percent, for lemons affected by decay at shipping point: *Provided*, That an additional tolerance of 2 percent, or a total of not more than 3 percent, shall be allowed for lemons affected by decay en route or at destination.

(2) *For color:* Not more than 10 percent of the lemons in any lot may fail to meet the requirements relating to color.

(3) When applying the tolerance for U.S. Combination grade individual packages may have not more than 10 percent less than the percentage of U.S. No. 1 required: *Provided*, That the entire lot averages within the required percentage.

(c) *U.S. Export No. 1.* (1) For defects: 100 percent for lemons which fail to meet the requirements of the grade: *Provided*, That not more than the following percentages of the defects enumerated shall be allowed:

- 1 percent for decay;
- 3 percent for contact spot;
- 3 percent for broken skins which are not healed;
- 3 percent for growth cracks;
- 3 percent for internal evidence of Alternaria development;
- 3 percent for internal discoloration;
- 5 percent for soft; and,
- 5 percent for damage by dryness or mushy condition.

(2) *For color:* 10 percent for lemons which fail to meet the requirements relating to color.

(3) The contents of individual containers may have not more than 10 percent points less than the percentage specified to meet the requirements in § 51.2796(a): *Provided*, That no container shall have more than double the percentage specified for any one of the defects enumerated in subparagraph (1) of this paragraph.

#### JUICE CONTENT

##### § 51.2801 Juice content.

Lemons in the U.S. No. 1, U.S. Combination and U.S. No. 2 grades shall have a juice content of not less than 30 percent, by volume, except when designated as "U.S. No. 1 Green for Export", "U.S. Combination Green for Export" or "U.S. No. 2 Green for Export". When so designated, the lemons shall have a juice content of not less than 28 percent, by volume.

#### APPLICATION OF TOLERANCES

##### § 51.2802 Application of tolerances.

(a) Except when applying the tolerances for "Condition Standards for Export", and the tolerances set forth in paragraph (c) (1) of § 51.2796, the contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more

## PROPOSED RULE MAKING

than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one decayed lemon may be permitted in any package.

(2) For packages which contain 10 pounds or less, individual packages in any lot are not restricted as to the percentage of defects: *Provided*, That not more than one lemon which is seriously damaged by dryness or mushy condition may be permitted in any package and, in addition, en route or at destination not more than 10 percent of the packages may have more than one decayed lemon.

## STANDARD PACK

## § 51.2803 Standard pack.

(a) Lemons shall be fairly uniform in size and shall be packed in boxes or cartons and arranged according to the approved and recognized methods. Each wrapped fruit shall be fairly well enclosed by its individual wrapper.

(b) All such containers shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising because of overfilled containers. When lemons are packed in standard nailed boxes, each box shall have a minimum bulge of 1¼ inches; when packed in cartons or in wirebound boxes, each container shall be at least level full at time of packing.

(c) "Fairly uniform in size" means that when lemons are packed for 165 carton count or smaller size, or equivalent sizes when packed in other containers, not less than 90 percent, by count, of the lemons in any container shall be within a diameter range of four-sixteenths inch; when packed for sizes larger than 165 carton count, or equivalent sizes packed in other containers, not less than 90 percent, by count, of the lemons in any container shall be within a diameter range of six-sixteenths inch.

(1) "Diameter" means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

(2) In order to allow for variations incident to proper packing the following tolerances are provided:

(1) 10 percent for wrapped fruit in any container which fails to meet the requirement pertaining to wrapping; and,

(2) 5 percent for containers in any lot which fail to meet the requirements for standard pack.

## STANDARD SIZING AND FILL

## § 51.2804 Standard sizing and fill.

(a) Boxes or cartons in which lemons are not packed according to a definite pattern do not meet the requirements of standard pack, but may be certified as meeting the requirements of standard sizing and fill: *Provided*, That the lemons in the containers are fairly uniform in size as defined in § 51.2803: *And provided further*, That the contents have been properly shaken down and the con-

tainer is at least level full at time of packing.

(b) In order to allow for variations incident to proper packing, not more than 5 percent of the containers in any lot may fail to meet the requirements of standard sizing and fill.

## CONDITION STANDARDS FOR EXPORT

## § 51.2805 Condition standards for export.

(a) Not more than a total of 10 percent, by count, of the lemons in any container may be soft, affected by decay or contact spot, or have broken skins which are not healed, growth cracks, internal evidence of *Alternaria* development, internal decline (endoxerosis), or serious damage by membranous stain or other internal discoloration, or dryness or mushy condition, except that not more than the following percentages of the defects enumerated shall be allowed:

- (1) One-half of 1 percent for decay;
- (2) 3 percent for contact spot;
- (3) 3 percent for broken skins which are not healed;
- (4) 3 percent for growth cracks;
- (5) 3 percent for internal evidence of *Alternaria* development;
- (6) 3 percent for internal decline (endoxerosis);
- (7) 5 percent for soft;
- (8) 5 percent for serious damage by membranous stain or other internal discoloration; and,
- (9) 5 percent for serious damage by dryness or mushy condition.

(b) Any lot of lemons shall be considered as meeting the condition standards for export if not more than a total of 10 percent, by count, of the lemons in any container have defects enumerated in the condition standards for export: *Provided*, That no sample shall have more than double the percentage specified for any one of the defects enumerated.

## DEFINITIONS

## § 51.2806 Firm.

"Firm" means that the fruit does not yield more than slightly to moderate pressure.

## § 51.2807 Fairly well formed.

"Fairly well formed" means that the fruit shows normal characteristic lemon shape and is not materially flattened on one side. Lemons having moderately thickened necks at the stem end shall be considered as fairly well formed unless the appearance is materially affected.

## § 51.2808 Well formed.

"Well formed" means that the fruit is typically normal in shape with well centered stem and stylar ends.

## § 51.2809 Reasonably smooth.

"Reasonably smooth" means that the appearance of the lemon is not materially affected by protrusions or lumpiness of the skin or by grooves or furrows. Coarse pebbling is an indication of good keeping quality and is not objectionable.

## § 51.2810 Smooth.

"Smooth" means that the skin is of fairly fine grain and that there are no

more than slight furrows radiating from the stem end.

## § 51.2811 Contact spot.

"Contact spot" means an area on the lemon which bears evidence of having been in contact with decay or mold.

§ 51.2812 Internal evidence of *Alternaria* development.

"Internal evidence of *Alternaria* development" includes red or brown staining of the tissue under the button in the core, or in the fibro-vascular bundles.

## § 51.2813 Membranous stain.

"Membranous stain" is a brown or dark discoloration of the walls of the fruit segment.

## § 51.2814 Damage.

"Damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or edible or shipping quality of the fruit. The following specific defects shall be considered as damage:

(a) Dryness or mushy condition when affecting all segments of the fruit more than one-fourth inch at the stem end, or more than the equivalent of this amount, by volume, when occurring in other portions of the fruit;

(b) Scars (including sprayburn and fumigation injury) which exceed the following aggregate areas of different types of scars, or a combination of two or more types of scars the seriousness of which exceeds the maximum allowed for any one type:

(1) Scars which are very dark and which have an aggregate area exceeding that of a circle one-fourth inch in diameter;

(2) Scars which are dark, rough or deep and which have an aggregate area exceeding that of a circle one-half inch in diameter;

(3) Scars which are fairly light in color, slightly rough, or with slight depth and which have an aggregate area exceeding that of a circle 1 inch in diameter; and,

(4) Scars which are light in color, fairly smooth, with no depth and which have an aggregate area of more than 20 percent of the fruit surface;

(c) Oil spots (Oleocellosis or similar injuries) which are more than slightly depressed, soft, or which have an aggregate area exceeding that of a circle one-half inch in diameter;

(d) Scale when more than 10 medium to large California red or purple scale adjacent to button at stem end or scattered over fruit or any scale which affects the appearance of the fruit to a greater extent;

(e) Sunburn which causes appreciable flattening of the fruit, drying of the skin, material change in the color of the skin, appreciable drying of the flesh underneath the affected area or affects more than 25 percent of the fruit surface;

(f) Hollow core which causes the fruit to feel distinctly spongy; and,

(g) Peteca when more than two spots or when having an aggregate area ex-

ceeding that of a circle one-fourth inch in diameter.

§ 51.2815 Fairly well colored.

"Fairly well colored" means that the area of yellow color exceeds the area of green color on the fruit.

§ 51.2816 Well colored.

"Well colored" means that the fruit is yellow in color with not more than a trace of green color. Fruit of a decided bronze color shall not be considered well colored.

§ 51.2817 Fairly firm.

"Fairly firm" means that the fruit may yield to moderate pressure but is not soft.

§ 51.2818 Reasonably well formed.

"Reasonably well formed" means that the fruit is not decidedly flattened, does not have a very long or large neck and is not otherwise decidedly misshapen.

§ 51.2819 Fairly smooth.

"Fairly smooth" means that the skin is not badly folded, badly ridged, or very decidedly lumpy.

§ 51.2820 Serious damage.

"Serious damage" means any specific defect described in this section; or an equally objectionable variation of any of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or shipping quality of the fruit. The following specific defects shall be considered as serious damage:

(a) Membranous stain, or other internal discoloration which seriously affects the appearance of the cut fruit;

(b) Dryness or mushy condition when affecting all segments of the fruit more than one-half inch at the stem end or more than the equivalent of this amount, by volume, when occurring in other portions of the fruit;

(c) Scars (including sprayburn and fumigation injury) which exceed the following aggregate area of different types of scars, or a combination of two or more types of scars the seriousness of which exceeds the maximum allowed for any one type:

(1) Scars which are very dark and which have an aggregate area of more than 5 percent of the fruit surface;

(2) Scars which are dark, rough or deep, and which have an aggregate area of more than 10 percent of the fruit surface;

(3) Scars which are fairly light in color, slightly rough or of slight depth, and which have an aggregate area of more than 25 percent of the fruit surface; and,

(4) Scars which are light in color, fairly smooth, with no depth, and which have an aggregate area of more than 50 percent of the fruit surface;

(d) Oil spots (Oleocellosis or similar injuries) which are soft, or which have an aggregate area exceeding that of a circle 1 inch in diameter;

(e) Scale when California red or purple scale is concentrated as a ring or

blotch, or more than thinly scattered over the fruit surface, or any scale which affects the appearance of the fruit to a greater extent;

(f) Sunburn which causes decided flattening of the fruit, marked drying or dark discoloration of the skin, material drying of the flesh underneath the affected area, or which affects more than one-third of the fruit surface;

(g) Hollow core which causes the fruit to feel excessively spongy;

(h) Peteca when more than five small spots, or when having an aggregate area exceeding that of a circle three-fourths inch in diameter; and,

(i) Growth cracks that are leaking, gummy or not well healed.

§ 51.2821 Moderately well colored.

"Moderately well colored" means that the area of greenish-yellow or yellow color exceeds the area of green color on the fruit.

Dated: June 22, 1964.

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

[F.R. Doc. 64-6322; Filed, June 24, 1964; 8:48 a.m.]

[ 7 CFR Part 51 ]

MIXED NUTS IN THE SHELL

Proposed U.S. Standards for Grades<sup>1</sup>

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance of U.S. Standards for Mixed Nuts in the Shell pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed standards should file the same in duplicate, not later than July 25, 1964, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public inspection during official hours of business (paragraph (b) of § 1.27, as amended at 29 F.R. 7311).

Statement of considerations leading to the proposed issuance of the grade standards. The Agricultural Marketing Service made preliminary studies in the development of these proposed standards at the request of packers of mixed nuts.

The industry, as well as the consumer, has long been confused by the various terms used in describing packages of mixed nuts. Their main interest is in the development of standard terminology for describing quality, size, and percentages of the different kinds of nuts in the mixture. U.S. Standards for Mixed Nuts would also serve as a point

<sup>1</sup>Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

of reference for Federal Specifications for Mixed Nuts in the Shell.

These standards specify quality, size, and minimum and maximum mixture requirements of species of nuts within the mixture. Detailed quality and size requirements are not necessary in these standards because quality and size specifications, and tolerances, are fully set forth in the individual standards for each kind of nut.

It is believed that these standards would serve as a useful basis for transactions between buyers and sellers, and that the mixed nut industry would benefit from their use. The consumer would also be aided in selective buying if the grade markings are placed on the individual packages.

All interested persons are urged to give careful consideration to these proposed standards, and to make recommendations concerning them within the period provided for the submission of comments.

The proposed standards are as follows:

GENERAL

Sec.  
51.3520 General.

GRADES

51.3521 U.S. No. 1 Large Mixed.  
51.3522 U.S. No. 1 Medium Mixed.  
51.3523 U.S. Select Mixed.

AUTHORITY: The provision in this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended; 1090 as amended; 7 U.S.C. 1622, 1624.

GENERAL

§ 51.3520 General.

(a) Any lot of mixed nuts in the shell which is classified as meeting the requirements of a U.S. Mixed Nut Grade must conform to the mixture, size, and grade as set forth in one of the following grades. Each species of nut shall be graded individually in accordance with U.S. Standards currently in effect for that species. The percentages in the mixture shall be determined on the basis of weight, and each species must conform to the minimum and maximum percentages specified in the mixture as set forth in §§ 51.3521-51.3523.

(b) A composite sample shall be drawn to determine mixture, size, and grade. When any species in the lot fails to meet the requirements as to mixture, size, or grade, the entire lot will fail to meet the U.S. Mixed Nut Grade requirement.

GRADES

§ 51.3521 U.S. No. 1 Large Mixed.

Species of nut	Allowable mixture		Minimum size	Grade
	Minimum percent	Maximum percent		
Almonds...	10	20	3/4 inch..	U.S. No. 1.
Brazils...	25	35	Large....	U.S. No. 1.
Filberts...	10	20	do.....	U.S. No. 1.
Pecans...	10	20	do.....	At least 80 percent U.S. No. 1 quality, restricted to 6 percent serious damage.
Walnuts...	20	30	do.....	U.S. No. 1.

## § 51.3522 U.S. No. 1 Medium Mixed.

Species of nut	Allowable mixture		Minimum size	Grade
	Minimum percent	Maximum percent		
Almonds...	10	20	2 3/4 inch...	U.S. No. 1.
Brazils...	25	35	Medium...	U.S. No. 1.
Filberts...	10	20	do	U.S. No. 1.
Pecans...	10	20	do	At least 80 percent U.S. No. 1 quality, restricted to 6 percent serious damage.
Walnuts...	20	30	do	U.S. No. 1.

## § 51.3523 U.S. Select Mixed.

Species of nut	Allowable mixture		Minimum size	Grade
	Minimum percent	Maximum percent		
Almonds...	5	40	2 3/4 inch...	U.S. No. 1.
Brazils...	5	40	Medium...	U.S. No. 1.
Filberts...	5	40	Small...	U.S. No. 1.
Pecans...	5	40	do	U.S. Commercial or better.
Walnuts...	5	40	Baby.....	U.S. No. 2 or better.

Dated: June 22, 1964.

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

[F.R. Doc. 64-6323; Filed, June 24, 1964;  
8:49 a.m.]

## [ 7 CFR Part 1071 ]

[Docket No. AO-227-A12-R01]

## MILK IN THE NEOSHO VALLEY MARKETING AREA

## Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Parsons, Kans., on February 27-28, 1962, pursuant to notice thereof issued on February 5, 1962 (27 F.R. 1179) and at Denver, Colo., on January 14-18, 1963, pursuant to notice thereof issued on December 20, 1962 (27 F.R. 12775).

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area;
2. Pool plant requirements;
3. Producer and producer milk definitions;
4. Level of class I price;
5. Basic butterfat content for pricing purposes;
6. Milk not fully regulated by this order and transfers to other orders; and
7. Conforming and administrative changes.

Upon the basis of the evidence introduced at the February 1962 hearing and the record thereof, the Assistant Secre-

tary on August 3, 1962 (27 F.R.; F.R. Doc. 62-7953) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. The hearing held at Denver, Colo., in January 1963, was a reopening of the hearing held at Parsons, Kans., in February 1962, for the purpose of obtaining additional testimony with respect to issue No. 6. On January 23, 1964, the Assistant Secretary filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of opportunity to file written exceptions with respect to issue No. 6 (29 F.R. 2204; F.R. Doc. 64-1490).

The findings and conclusions, rulings, and general findings of the recommended decision (27 F.R. 7887; F.R. Doc. 62-7953) are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. Under Issue No. 1 the first paragraph is revised, the seventh paragraph is deleted and a new eighth paragraph is added.
2. Under Issue No. 2 the first paragraph is revised and the last eight paragraphs are deleted.
3. The last paragraph of Issue No. 4 is deleted.
4. Issues No. 5 and No. 6 are revised.

1. *Expansion of the marketing area.* No change should be made in the definition of the marketing area.

It was proposed that the Neosho Valley marketing area be expanded to include Craig, Nowata, Ottawa, and Washington Counties, all in the State of Oklahoma. The majority of the milk being sold in these counties is priced under the Neosho Valley marketing order. More specifically, evidence indicated approximately 85 percent of the milk sold in Craig, 60 percent in Nowata, 80 percent in Ottawa, and 70 percent in Washington County is priced under the Neosho Valley marketing order. Some milk sold in these counties is priced under the Oklahoma metropolitan order. A small amount of milk sold in Ottawa County is priced under the Ozarks order. Other milk being sold in Craig, Ottawa and Nowata Counties is unregulated.

The health regulations applicable in the area proposed are the same as for the present Neosho Valley marketing area.

There are only two milk plants located in the area which was proposed for addition to the marketing area. One of these is operating as a producer-dealer and distributing only in Nowata County. The milk distributed from this plant is not being labeled as grade A. The other plant, located in Craig County, purchases grade A milk from six to eight dairy farmers and distributes milk in Craig and Ottawa Counties.

The proponent of the proposal to expand the marketing area contended that the unregulated plant distributing Grade A milk products has increased its sales considerably in the past year. Furthermore, he asserts, a recent affiliation by this plant with a larger milk company enhances its financial position, thus increasing its possibilities of expansion and competitive position. This plant

has been selling milk at lower retail prices in Craig and Ottawa Counties than handlers regulated under the Neosho Valley order. Without regulation the opportunity exists for this plant to pass price cuts back to some producers. However, the proponent offered no data as to prices paid producers by the operator of the plant located in Craig County. Furthermore, other handlers failed to support the allegation that Neosho Valley handlers are at a competitive disadvantage in this area.

The proponent sells approximately 4 percent of his total fluid milk products in Craig County, 4 percent in Ottawa County, and 4 percent in Nowata County. The total sales in these counties are relatively small since the total population of the three counties is only about 55,000.

The proponent's sales in Craig, Nowata, and Ottawa Counties do not represent a major part of his total sales. The inclusion of these counties would subject other persons to regulation although no specific need for such regulation was shown. Furthermore, the large proportion of sales by Neosho Valley handlers is a recent development in Craig and Ottawa Counties. In August 1961 a large distributor switched its service to these counties from its plant in Tulsa to its plant in Parsons, Kansas. This leaves some doubt whether these counties will remain primarily a sales area for Neosho Valley handlers, or whether these counties will be connected primarily with the Oklahoma metropolitan market.

Whereas the volume of sales by any single Neosho Valley handler is relatively small in Craig, Nowata, and Ottawa Counties the situation is very different in Washington County. The proponent sells 27 percent of his total fluid milk products in Washington County. This county has a much larger population than the other counties proposed; the city of Bartlesville accounts for about 28,000 of the 42,000 total county population. The proponent supplies this area with milk products since his plant, located in Coffeyville, Kans., is in close proximity to the major sales area in Washington County. The proponent sells 70 percent of all fluid milk products distributed in the county. The remaining 30 percent of total sales in the county is made by handlers who are regulated under the Oklahoma metropolitan order. Because the proponent has such a large proportion of the sales in Washington County the inclusion of that county in the marketing area was proposed in the recommended decision.

Vigorous exceptions to the inclusion of Washington County in the Neosho Valley marketing area were filed by a cooperative association of producers whose members supply handlers regulated by the Oklahoma metropolitan order. This cooperative contended that Washington County, which is directly adjacent to Tulsa County in the Oklahoma metropolitan area, should be regulated as a part of the Oklahoma metropolitan area. The addition of this county to the Oklahoma metropolitan area cannot be considered on this record. However, since

there is no immediate problem of disorderly marketing due to unpriced milk in the county, it should not be included in the Neosho Valley marketing area at this time.

Opposition testimony indicated that more producers in the proposed counties are associated with the Oklahoma metropolitan order than the Neosho Valley order. The marketing area definition describes the area in which handlers sell milk on routes, not where farms of producers are located. Hence, the location of producers' farms is not a matter for consideration in deciding this aspect of the regulation.

2. *Pool plant requirements and obligations of nonpool distributing plants.* The term "Approved plant" should be redesignated "Pool plant", and the definition of such pool plant should be amended to require additional performance standards as a prerequisite to pooling the milk receipts of such plant. The operator of a plant distributing class I milk in the marketing area that does not qualify as a pool plant (a nonpool plant) should have the option of paying into the pool any amount by which the classified value of milk receipts from dairy farmers exceeds the gross payments to such farmers in lieu of the present rate of compensatory payment computed on the volume of his distribution in the marketing area. The expense of administration should be the same as that for a fully regulated handler if the first option is elected.

2. *Pool plant requirements.* The term "approved plant" should be redesignated "pool plant" and the definition of such pool plant should be amended to require additional performance standards as a prerequisite to pooling the milk receipts of such plant.

At the present time a distributing plant need distribute only 10 percent of its grade A receipts as class I milk on routes in the marketing area to be fully regulated under the order. Thus, a plant from which nearly 90 percent of its grade A receipts of milk are used in manufactured dairy products can share in the market pool and draw from the pool, payments representing the difference between the blend pool price and the class II milk price.

Producers who have provided the dependable supply of class I milk for the market have been forced to provide the funds for such payments to a plant, located at Fort Scott, Kansas, which manufactured between 80 and 90 percent of its grade A receipts. Furthermore, milk from this plant has not been made available for class I uses as needed and this has forced handlers who were in short supply to go outside the market to purchase milk needed for fluid sales. More specifically, an attempt was made by a bargaining cooperative to shift milk into class I uses from this plant at Fort Scott. The operator of this plant indicated to the cooperative that new producers to replace any which might switch delivery to another plant would be added so that the manufacturing operation could be maintained. Thus, the lack of a standard based on the percentage of a plant's receipts which must be used in class I

has made it difficult to utilize available milk in the market for fluid sales when it was needed. Official notice is taken of the fact that the plant at Fort Scott has discontinued operations subsequent to the hearing. Although the problem is presently alleviated, the fact remains that such a situation could occur in the future if no reasonable standards of performance are required for a plant to obtain pool status.

It is necessary, therefore, to set an additional performance standard to determine which plants and what milk constitutes the regular and normal supplies which should become subject to full regulation. Performance standards should be such that any plant which uses a substantial proportion of its grade A receipts for class I sales in the Neosho Valley marketing area should share in the marketwide equalization. Only those plants which are genuinely associated with the fluid milk market should be allowed to participate in the marketwide pool.

An appropriate standard to accomplish these objectives would require that a plant, distributing at least 10 percent of its grade A receipts as class I milk on routes in the marketing area, should also dispose of for class I purposes an amount equal to at least 45 percent, during the months of September through March, and 30 percent during the months of April through August, of its receipts of grade A milk from farmers to qualify as a pool plant under this order.

Normally, a plant should utilize at least half of its grade A receipts from farmers for class I purposes to be considered primarily a fluid milk distributing plant. This market, however, has had relatively low utilization of its grade A receipts in class I and the use in manufacturing has been relatively large. A percentage requirement of 45 percent should be a reasonable standard in this area for a plant to share in the marketwide pool during September through March. The lower percentage requirement during the months of April through August is necessary to allow plants to maintain pool status during months of normally flush production. Although it was proposed that March also have the lower percentage requirement there was little indication that the surplus has been great enough to warrant the lower requirement in that month. Since the months of July and August normally have a relatively high surplus the lower utilization requirement should be extended to include these months.

A plant which has sufficient class I sales in the marketing area to qualify as a pool plant may still, from time-to-time, have difficulty in meeting the utilization requirements for a particular month. Therefore, a distributing plant should be allowed to maintain pool status for a given month if the plant meets the distribution requirements (i.e. 10 percent of grade A receipts sold as class I in the marketing area) in the current month and has met the utilization requirements in the current month or five of the six preceding months. This will prevent inadvertent loss of pool status.

Moreover, if the plant is selling milk to other handlers, it will allow some time for the other handlers to make adjustments in their dealings with a plant that does not meet the required utilization percentages.

The present order provides that a plant operated by a cooperative association must meet the same requirements as any other plant to obtain pooling status. A cooperative association operating a plant which distributes milk in the marketing area proposed that a plant located in the marketing area and operated by a cooperative association be allowed pool status if it delivered any milk of its member producers directly to a pool plant of another handler. The witness for the proponent claimed that his cooperative association carried the reserve for the market and made milk available to the other handlers in the order area. The cooperative has sold some milk to other handlers in the market. However, opposing testimony indicated that this cooperative association has not always obligated itself to making milk available to the pool plants of other handlers.

The cooperative plant's principal business is its own route sales and shipment of milk to plants in other markets for class I use. From January 1961 through January 1962 this cooperative's plant utilized approximately 39 percent of its grade A milk receipts for its own class I trade sales. About 7 percent of these receipts were class I sales to other handlers and 10 percent were shipped to plants in other markets for class I use. About 44 percent of the cooperative plant's grade A receipts were used in manufactured products. The cooperative's proposal, if adopted, would allow the plant of a cooperative association to obtain equalization payments from the pool even though its milk supply was not available to other plants in the market. This would defeat the purpose of the performance standards as stated above and is hereby denied.

However, a cooperative association operating a plant which provides manufacturing facilities for other handlers' surplus milk should receive special consideration in its pooling requirements so as not to restrict such a plant from receiving excess milk from other cooperative associations. Free movement of milk is essential if such a plant is to be utilized for manufacturing surplus milk when necessary. Therefore, grade A milk which is received at the manufacturing plant of a cooperative association from another cooperative association in its capacity as a handler should be excluded from the total receipts of grade A milk in computing the performance requirements of such a plant. The cooperative association's plant or any other plant should be permitted to include in its plant receipts any milk which it diverts to other handlers' plants in determining pooling qualification. It is more efficient to divert milk directly from producers' farms than to receive milk at a plant and then transport milk to other pool plants.

Most plants distributing at least 10 percent of their grade A receipts as class I milk in the marketing area at the pres-

ent time should have no difficulty in meeting the proposed minimum requirements of class I usage for pool status. With the exception of the plant at Fort Scott, all plants would have qualified under these standards except one plant for one month (which failed by less than one percent) during the past three years. A handler this close to the qualifying percentage could adjust his operations to remain a pool plant, or to disqualify himself from being a pool plant according to his own choosing.

The efficient handling of milk in the area can be promoted by providing that a supply plant which has demonstrated its association with the market by making the required shipments of milk in the short season may continue its pool status in the flush production season without making specified shipments which would not be needed at distributing plants. The order presently provides automatic pool status for a supply plant during December through July if the supply plant qualified as a pool plant during the preceding August-November period. There are no supply plants serving the market at this time. However, if receipts from supply plants are needed, shipments would be required during the months when production is low relative to class I sales. Accordingly, this provision should be changed to give a supply plant automatic pool status if it desires during April through August if pool plant requirements have been met in September through March.

**3. Producer and producer milk definitions.** The "producer" definition should be changed to allow handlers to divert producers' milk to the manufacturing facilities of nonpool plants which may be partially regulated. A definition of "producer milk" should be added to clarify which milk is to be priced and pooled by each handler.

The order presently provides that grade A milk, to be eligible for pricing and pooling under the Neosho Valley order, be received at a pool plant or diverted by the operator of a pool plant to a nonpool plant except a plant which is regulated under another order or partially regulated under the Neosho Valley order.

When a producer's milk is not needed for grade A purposes in the market, the movement of such milk to a nonpool plant should be facilitated. The deletion of the reference prohibiting diversions to partially regulated handlers will allow producers' milk to be diverted to the manufacturing facilities of partially regulated handlers without such farmers losing status as producers. A handler can presently receive producer milk and transfer it to such nonpool plants. By allowing fully regulated handlers to divert this milk, unnecessary handling of surplus grade A milk will be avoided. Such milk should be treated as a receipt of producer milk at the location of the pool plant from which diverted.

The term "producer milk" should be added to clarify which milk is to be priced and pooled by each handler. Producer milk should be defined to include the skim milk and butterfat received by a handler at a pool plant from producers,

or diverted to a nonpool plant, other than the plant of a producer-handler or a plant at which milk is priced and pooled under the provisions of another Federal order, for the account of the operator of a pool plant or a cooperative association. The operator of the receiving pool plant should account for all milk received directly from producers' farms unless a cooperative association in its capacity as a handler elects to account for bulk tank milk which it causes to be delivered to a pool plant from farms of its member producers. When the cooperative association accounts for milk of its member producers such milk should be considered as a receipt by the cooperative association at the receiving pool plant. If a producer-handler receives milk directly from another dairy farmer he automatically loses his producer-handler status, and becomes a partially or fully regulated handler.

**4. Level of class I price.** The class I pricing formula should not be changed.

The present class I pricing formula establishes the price level by adding a differential to a basic formula price. This basic formula price is similar to that used in surrounding markets and keeps the Neosho Valley class I price in general alignment with these markets. The Neosho class I price is further limited by holding it within a range of the Oklahoma Metropolitan class I price minus 33 cents and the Ozarks class I price plus 15 cents.

It was proposed that the Neosho Valley class I price be established by adding 15 cents to the Ozarks class I price. It was also suggested at the hearing that the Minnesota-Wisconsin manufacturing milk price series be used as a basic formula.

The class I price in the Neosho Valley market has maintained about the same relationship to the class I prices in the Ozarks and Oklahoma metropolitan markets over the past 3-year period, although the Neosho price moved closer to the Oklahoma price in 1961. Evidence presented also indicates that milk has been moving freely in all directions, both into and out of the Neosho Valley marketing area. There is no evidence that the Neosho Valley price has attracted additional supplies of milk from the Ozarks area.

The Oklahoma metropolitan class I price has determined the Neosho Valley class I price in all but one month since September 1960. The Oklahoma metropolitan class I price has been reduced by a supply-demand adjuster as receipts in that market have increased relative to sales. The Neosho Valley market has also shown increases in receipts relative to sales. The supply areas for these two markets overlap. The Oklahoma metropolitan adjuster reflects these conditions and has adjusted the Neosho Valley class I price accordingly. Since price adjustments are reflecting the current supply-demand situation through the present provisions, there is no need for a change in the level of the class I price.

**5. Basic butterfat content for pricing purposes.** The proposal to change the basic butterfat content at which prices

are computed and announced is dealt with on the basis of another hearing record. Hence, no action is taken on this record.

**6. Milk not fully regulated by this order and transfers to other orders.** The material issue relating to the marketing of milk in the Neosho Valley market and its supply system from sources not fully regulated by the Neosho Valley order along with the same issue with respect to 24 other markets was the subject of a hearing held at Denver, Colo., January 14-18, 1963. The classification of milk moved from one Federal order market to another was also considered at that hearing. On the basis of that hearing record a recommended decision was issued January 23, 1964 (29 F.R. 2204; F.R. Doc. 64-1490). The material issues, findings and conclusions, rulings and general findings of the final decision in that proceeding issued June 19, 1964, insofar as they pertain to the Neosho Valley Federal milk order, are hereby approved and adopted as if set forth in full herein.

In addition, the following specific findings and conclusions apply to the Neosho Valley order.

The payments which handlers regulated under another order are required to make when the Neosho Valley order class I price exceeds the class I price under the other order should be discontinued.

The Neosho Valley order contains a provision which requires a handler whose milk is priced under another order to make a payment on all class I milk disposed of in the Neosho Valley marketing area at a rate equal to the amount by which the Neosho Valley price adjusted for location of the plant exceeds the other order class I price. Payments are required only when the average Neosho class I price has exceeded the other order price over a 12-month period. If the other order contains a provision to implement the transfer of funds, the market administrator transfers the funds from such payments to the market administrator of the other order under which the handler is regulated. If the other order does not provide for the receipt of such funds they are deposited in the Neosho Valley producer-settlement fund.

Payments under this provision have been made handlers subject to the Ozarks order and by a handler subject to the Kansas City order. Both of those orders contain provisions for the transfer of payments to the respective market. The provision in the Neosho Valley order together with the implementing provisions of the Kansas City and Ozarks milk orders thereby establish a different price for milk sold in the Neosho Valley marketing area by handlers regulated under the Kansas City and Ozarks orders than those handlers are required to pay for milk sold in any other area.

The supporters of the provision contend this special pricing is necessary to eliminate any competitive advantage which handlers regulated under another order might have in selling milk in the Neosho Valley marketing area when the class I price in the other regulated market is lower than the Neosho price.

The opponents of the higher price required for milk sold in the Neosho Valley

area by handlers regulated under other orders contended that Neosho handlers had a competitive advantage over them because the Neosho market was protected from lower-priced milk but Neosho handlers had the opportunity to move milk into another market whenever the price in such other market exceeded the Neosho price.

The removal of competitive price advantages which stem from the location of a milk plant in relation to its sales area is not necessarily desirable, nor is it possible, under the Neosho Valley order. A single class I price is effective under the Neosho Valley order for plants located in an area extending for 50 miles beyond the territory bounded by Joplin and Nevada, Mo., on the east and Chanute and Independence, Kans., on the west. Identical class I prices are appropriate within the broad area because supply and demand conditions are uniform throughout the area.

Neosho handlers compete with each other and with handlers regulated under other orders, and there is no doubt that some handlers may have a price advantage on milk distributed at a given location. Within the Neosho area each handler has an advantage in transportation savings on sales made in the city where his milk plant is located. When milk moves from the Neosho market to an area where a higher class I price exists because of the supply and demand condition in that market, Neosho handlers may have some advantage over handlers in that area. Conversely, handlers who are located in an area where milk is available at a lower price may have an advantage over Neosho handlers in sales at certain locations in the Neosho Valley marketing area.

As the findings with respect to the class I price level state, there is no basis for revising the class I pricing in the Neosho Valley order formula since it is reflecting the current marketing conditions in the Neosho Valley area. Different supply and demand conditions exist in the adjacent Federal order markets. Generally, the Ozarks market can obtain an alternative supply of milk at a slightly lower price and the Oklahoma metropolitan market requires a higher class I price to maintain an adequate supply. This condition is reflected in the pattern of class I prices for the respective markets. The higher prices outside the Ozarks area direct the flow of milk from that area of heavy milk production to areas where production is less intensive. Thus, the prices which handlers regulated under other orders pay for class I milk at the location of their plants are in general alignment with prices payable at various plants under the Neosho Valley order, when receiving and transfer costs and the supply of milk in relation to demand is taken into account. Hence, there is no need at this time for the provision which requires handlers regulated under other orders to pay the class I price established under the Neosho Valley order when the Neosho price exceeds the other order price over a 12-month period.

**Rulings on exceptions.** In arriving at the findings and conclusions, and the regulatory provisions of this decision,

each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

**Marketing agreement and order.** Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Neosho Valley Marketing Area", and "Order Amending the Order Regulating Handling of Milk in the Neosho Valley Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

**It is hereby ordered,** That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

**Determination of representative period.** The month of February 1964 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Neosho Valley marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on June 19, 1964.

GEORGE L. MEHREN,  
Assistant Secretary.

**Order<sup>1</sup> Amending the Order Regulating the Handling of Milk in the Neosho Valley Marketing Area**

**§ 1071.0 Findings and determinations.**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) **Findings upon the basis of the hearing record.** Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR

<sup>1</sup>This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Neosho Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

**Order relative to handling.** It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Neosho Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Assistant Secretary, on January 23, 1964, and published in the FEDERAL REGISTER on February 7, 1964 (29 F.R. 2204; F.R. Doc. 64-1490), shall be and are the terms and provisions of this order, and are set forth in full herein subject to further changes in the following sections: §§ 1071.8, 1071.9, 1071.22, 1071.30, 1071.32, 1071.41, 1071.44, 1071.53, 1071.62, 1071.70, 1071.71, 1071.93, and 1071.97.

1. Section 1071.7 is revised to read as follows:

**§ 1071.7 Pool plant.**

"Pool plant" means any milk plant described in paragraph (a) or (b) of this section, which is approved by the appropriate health authority having jurisdiction in the marketing area, except the plant of a producer-handler or a plant exempt pursuant to § 1071.61.

(a) Any plant, hereinafter referred to as a "distributing pool plant" from which:

(1) During the current delivery period there is distributed as class I milk on routes in the marketing area, an amount equal to 10 percent or more of such plant's grade A receipts from dairy farmers as specified in subparagraph (2) of this paragraph; and

(i) During the current delivery period there is disposed of as class I milk an amount not less than an applicable percentage of such plant's grade A receipts as specified in subparagraph (2) of this

paragraph as follows: (a) April through August, 30 percent; and (b) September through March, 45 percent; or

(1) During five of the six immediately preceding delivery periods, such plant was a pool plant by virtue of meeting the specifications pursuant to subdivision (1) of this subparagraph; and

(2) The grade A receipts from dairy farmers to be used in calculating the percentages specified in subparagraph (1) of this paragraph, for each plant shall include all receipts of grade A milk from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1071.9(c) (3) subject to the following provisions:

(i) Milk diverted to another plant for the account of the operator of the plant from which the milk was diverted shall be included in the receipts of the plant from which diverted for the purposes of this section, if the milk is claimed as diverted on the report of the diverting handler filed for the month pursuant to § 1071.30 (if such claim is made by the diverting handler, milk so diverted shall be excluded from the receipts of the plant to which diverted); and

(ii) Milk received at a plant operated by a cooperative association from another cooperative association acting as a handler pursuant to § 1071.9(c) (2) shall be excluded from the cooperative association's plant receipts for the purposes of this section.

(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the delivery period no less than 50 percent of the grade A milk received from dairy farmers is shipped to a plant(s) described in paragraph (a) of this section: *Provided*, That if such plant is a pool plant during each of the months of September through March it shall be designated as a pool plant in the next succeeding months of April through August, unless the market administrator is requested by means of written application on or before the 7th day after the end of the month that the plant should not be a pool plant. All plants described in this subparagraph which are operated by one handler may be considered as a unit, upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice, and the notice of any change in designation, shall be furnished on or before the 7th day following the month to which the notice applies. In any of the months of April through August a unit shall not contain plants which were not qualified as pool plants either individually or as members of another unit, during each of the previous months of September through March.

2. Section 1071.8 is revised to read as follows:

#### § 1071.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing

and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products qualified for distribution as grade A are distributed on routes in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant from which grade A fluid milk products are moved during the month to a pool plant qualified pursuant to § 1071.7 and which is neither an other order plant nor a producer-handler plant.

3. Section 1071.9 is revised to read as follows:

#### § 1071.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association, with respect to milk of its member producers:

(1) Which it causes to be diverted to a nonpool plant for the account of such association;

(2) Delivered for its account to the pool plant of another cooperative association;

(3) For which it elects to report as a handler and which is delivered to the pool plant(s) of another handler in a tank truck owned, operated, or controlled by such association; and

(d) A producer-handler, or any person who operates an other order plant which is exempt pursuant to § 1071.61.

4. Section 1071.10 is redesignated § 1071.11 and a new § 1071.10 is inserted as follows:

#### § 1071.10 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk under a dairy farm permit or rating issued by the appropriate health authority having jurisdiction in the marketing area over the production of milk disposed of for consumption as grade A milk whose milk is:

(a) Received at a pool plant; or

(b) Diverted from a pool plant to a nonpool plant in accordance with the provisions of § 1071.12.

5. Sections 1071.11 and 1071.12 are redesignated §§ 1071.13 and 1071.14 and § 1071.12 is inserted as follows:

#### § 1071.12 Producer milk.

"Producer milk" shall be that skim milk or butterfat for each handler's account in milk received pursuant to paragraphs (a) and (b) as follows:

(a) For a handler operating a pool plant, producer milk shall include:

(1) Milk received directly from producers' farms (including such handler's

own farm production) at such pool plant, except milk for which a cooperative association is the handler pursuant to § 1071.9(c); and

(2) Milk diverted by such pool plant operator to a nonpool plant pursuant to paragraph (c) of this section.

(b) For a cooperative association in its capacity as a handler pursuant to § 1071.9, producer milk shall include:

(1) Milk received directly from producers' farms for its account at pool plants (such milk shall be considered as having been received by the cooperative association at the plant to which it is delivered and then transferred to the plant operator); and

(2) Milk diverted for its account to nonpool plants pursuant to paragraph (c) of this section.

(c) Milk diverted from producers' farms to a nonpool plant for the account of a pool plant operator or the account of a cooperative association shall be considered as diverted by the handler for whose account it was diverted, if the diverting handler claimed the diversion on his report for the month filed pursuant to § 1071.30 and the milk was not received at a plant of a producer-handler or a plant at which milk is priced and pooled under the provisions of another Federal order issued pursuant to the Act. Milk diverted shall be considered as received at the pool plant from which it was diverted for the purpose of determining applicable location differentials.

6. The section as redesignated § 1071.13 is revised to read as follows:

#### § 1071.13 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except: (1) Producer milk; (2) receipts from other pool plants and from cooperative associations as handlers pursuant to § 1071.9(c) (2) and (3); and

(b) Any nonfluid milk product which is reprocessed or converted to another product in the plant during the month.

7. Add § 1071.15 as follows:

#### § 1071.15 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store) of any class I milk product, other than a delivery to a pool plant or nonpool plant.

8. Add § 1071.16 as follows:

#### § 1071.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream, and any mixture (except bulk ice cream mix, eggnog, and aerated cream) of cream and milk or skim milk.

9. In § 1071.22, paragraphs (l), (m), and (n) are added as follows:

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1071.46(a) (8) and the corresponding step of § 1071.46(b), the market administrator shall estimate and publicly announce the utilization (to



the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1071.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

10. Section 1071.30 is revised to read as follows:

**§ 1071.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each delivery period, each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator for each plant as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Receipts for his account of producer milk;

(2) Milk and milk products received from other pool plants and from a cooperative association which is a handler pursuant to § 1071.9(c);

(3) Other source milk; and

(4) Inventories on hand at the beginning and the end of the delivery period;

(b) The utilization of all skim milk and butterfat required to be reported by this section;

(c) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require; and

(d) Each handler specified in § 1071.9 (b) who operates a partially regulated distributing plant shall report as required in this section, except that receipts in grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as class I milk on routes.

11. Section 1071.31 is revised to read as follows:

**§ 1071.31 Payroll reports.**

(a) On or before the 20th day of each delivery period each handler who operates a pool plant(s) and each handler who operates a partially regulated distributing plant and has not requested to make payments pursuant to § 1071.62(b) shall submit to the market administrator his producer payroll for the preceding

delivery period which shall show (1) the total pounds of milk received from each producer or cooperative association, and the total pounds of butterfat contained in such milk; (2) the net amount of such handler's payment to each producer or cooperative association; and (3) the nature and amount of any deductions or charges involved in such payments.

(b) Each handler making payments pursuant to § 1071.62(a) shall report the information required pursuant to this section substituting receipts from dairy farmers for receipts from producers.

12. Section 1071.33(a) is revised to read as follows:

**§ 1071.33 Records and facilities.**

(a) The receipts and utilization of all skim milk and butterfat in producer milk and all other skim milk and butterfat in milk and milk products handled during the month and in inventories at the beginning and end of the month.

13. Section 1071.41 is revised to read as follows:

**§ 1071.41 Classes of utilization.**

Subject to the conditions set forth in § 1071.43 and § 1071.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (including reconstituted skim milk) except those classified pursuant to paragraph (b) (2) of this section; or

(2) In inventory in the form of fluid milk products at the end of the delivery period; or

(3) Not specifically accounted for as class II utilization;

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of for livestock feed;

(3) In shrinkage of skim milk and butterfat, respectively, but not in excess of:

(i) Two percent (5 percent with respect to skim milk during the months of April, May, and June) of receipts directly from producers and from a cooperative association which is a handler pursuant to § 1071.9(c) (2) or (3); plus

(ii) One and a half percent (4.5 percent with respect to skim milk during the months of April, May, and June) of receipts in bulk from:

(a) Pool plants;

(b) Other order plants, exclusive of the quantity for which class II utilization was requested by the operator of such plant and the handler; and

(c) Unregulated supply plants, exclusive of the quantity for which class II utilization was requested by the handler; less

(iii) One and a half percent (4.5 percent with respect to skim milk during the months of April, May, and June) of transfers in bulk to pool plants; and

(4) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1071.42(b) (2).

14. Section 1071.42 is revised to read as follows:

**§ 1071.42 Shrinkage.**

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each plant; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat, respectively, in amounts equal to 50 times the maximum amount that may be computed pursuant to § 1071.41(b) (3); and (2) skim milk and butterfat in other source milk in the form of fluid milk products, exclusive of that specified in § 1071.41(b) (3).

15. Section 1071.44 is revised to read as follows:

**§ 1071.44 Transfers.**

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the class mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, otherwise as class I milk, if transferred or diverted from a handler pursuant to § 1071.9(c) to a pool plant or from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1071.46(a) (8) and the corresponding step of § 1071.46 (b);

(2) If the transferor plant received during the months other source milk to be allocated pursuant to § 1071.46(a) (4) and the corresponding step of § 1071.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1071.46(a) (7) or (8) and the corresponding steps of § 1071.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As class I milk, if transferred from a pool plant to a producer-handler;

(c) As class I milk, if transferred or diverted in the form of milk or skim milk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles by the shortest highway distance as determined by the market administrator, from the Square at Chanute, Kans., and cream so transferred shall be classified as class II;

(d) Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the Square

at Chanute, Kans., unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1071.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of grade A milk for such nonpool plant;

(ii) Any class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which

allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as class II to the extent of the class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If the information concerning classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as class I, and milk allocated to other classes shall be classified as class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1071.41.

16. Section 1071.46 is revised to read as follows:

**§ 1071.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1071.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in class II the pounds of skim milk classified as class II pursuant to § 1071.41(b)(3);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From class I milk, the remainder of such receipts;

(3) Subtract from the pounds of skim milk remaining in class I the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in class II, but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant;

(a) For which the handler requests class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants, from cooperative handlers pursuant to § 1071.9(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if class II utilization was requested by the operator of such plant and the handler;

(6) Add to the remaining pounds of skim milk in class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (5) (i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (5) (ii) of this paragraph;

(i) In series beginning with class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated class II utilization of skim milk announced for the month by the market administrator pursuant to § 1071.22(1) or the percentage that class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1071.44(a);

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and de-

termine the weighted average butterfat content of producer milk in each class.

17. Section 1071.53 is revised to read as follows:

**§ 1071.53 Location adjustments to handlers.**

(a) For milk received from producers at a pool plant located more than 50 miles by shortest highway distance as measured by the market administrator, from the nearest of the city halls in Joplin or Nevada, Mo., or Chanute or Independence, Kans., and disposed of as class I milk or assigned class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which a location adjustment is applicable, the price computed pursuant to § 1071.51(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 60 miles from such city hall and by an additional two cents for each 15 miles or fraction thereof that such distance exceeds 60 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned class I disposition at the transferee plant in a volume not in excess of that by which 105 percent of class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1071.9(c), and the pounds assigned as class I to receipts from other order plants and unregulated supply plants. Such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

18. Section 1071.61 is revised to read as follows:

**§ 1071.61 Handlers subject to other orders.**

In the case of any handler (as defined in this section) who the Secretary determines disposed of a greater portion of his milk as class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the Act, or who otherwise is determined pursuant to the provisions of another milk marketing agreement or order to be subject to the pricing and payment provisions of such agreement or order, the provisions of this order shall not apply except that the handler shall, with respect to his total receipts and utilization of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator pursuant to § 1071.33.

19. Section 1071.62 is revised to read as follows:

**§ 1071.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month

either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1071.30(d) and 1071.31 the information necessary to compute the amount specified in paragraph (a), he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) The obligation that would have been computed pursuant to § 1071.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1071.70(d) and a credit in the amount specified in § 1071.93(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1071.30(d) and 1071.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1071.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification to such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total

and determine the weighted average butterfat content; and

(4) From the value of such milk at the class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the class II price).

20. Section 1071.70 is revised to read as follows:

**§ 1071.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1071.46(c), by the applicable class prices (adjusted pursuant to §§ 1071.52 and 1071.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1071.46(a)(10) and the corresponding step of § 1071.46(b) by the applicable class prices;

(c) Add an amount equal to the difference between the value at the class I price applicable at the pool plant and the value at the class II price, with respect to skim milk and butterfat in other source milk subtracted from class I pursuant to § 1071.46(a)(4) and the corresponding step of § 1071.46(b);

(d) Add an amount equal to the value at the class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from class I pursuant to § 1071.46(a)(7) and the corresponding step of § 1071.46(b).

21. Section 1071.71 is revised to read as follows:

**§ 1071.71 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight for milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1071.70 for all handlers who filed the reports prescribed by § 1071.30 for the month and who made the payments pursuant to §§ 1071.90 and 1071.93 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1071.91;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1071.91 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1071.70 (d);

(f) Subtract not less than four cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

22. In § 1071.90(c) the reference "§ 1071.8(d)" is changed to "§ 1071.9(c) (2) and (3)".

23. In § 1071.91, paragraph (b) is revised to read as follows:

§ 1071.91 Butterfat and location differentials to producers and on nonpool milk.

(b) *Location differential.* For milk which is received from producers at a pool plant located more than 50 miles by shortest highway distance, as determined by the market administrator, from the city hall in Joplin or Nevada, Mo., or Chanute or Independence, Kans., whichever is closest, there shall be deducted 10 cents per hundredweight of milk if such plant is located more than 50 miles but not more than 60 miles from such city hall and an additional 2.0 cents for each 15 miles or fraction thereof that such distance exceeds 60 miles. For purposes of computations pursuant to §§ 1071.93 and 1071.94 the uniform price shall be adjusted at the rates set forth in § 1071.53 applicable at the location of the nonpool plant from which the milk was received.

24. In § 1071.92 the reference "§ 1071.62(b)" is changed to "§ 1071.62", and the reference "§ 1071.61(c) (2)" is revoked.

25. Section 1071.93 is revised to read as follows:

§ 1071.93 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1071.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices pursuant to § 1071.90; and

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the class II price) with respect to other source milk for which a value is computed pursuant to § 1071.70(d).

26. Section 1071.94 is revised to read as follows:

§ 1071.94 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1071.93(b) ex-

ceeds the amount computed pursuant to § 1071.93(a). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

27. Section 1071.97 is revised to read as follows:

§ 1071.97 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk received by a pool plant operator (including such handler's own production), (b) milk received from a cooperative association as a handler pursuant to § 1071.9(c) (2) and (3), (c) producer milk of a cooperative association as a handler pursuant to § 1071.9(c) (1), (d) other source milk allocated to class I pursuant to § 1071.46 (a) (4) and (7) and the corresponding steps of § 1071.46(b), and (e) class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds class I milk received during the month at such plant from pool plants and other order plants. [F.R. Doc. 64-6328; Filed, June 24, 1964; 8:50 a.m.]

#### [ 7 CFR Part 1098 ]

[Docket No. AO-184-A20]

### MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

#### Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Albert Pick Motel, 320 Murfreesboro Road, Nashville, Tenn., beginning at 9:30 a.m. c.s.t., on July 28, 1964, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Nashville, Tenn., marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposals relative to a redefinition of the marketing area raises the issue whether the provisions of the present order would tend to effectuate the declared policy of the act, if they are

applied to the marketing area as proposed to be redefined and, if not, what modifications of the provisions of the order would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Nashville Milk Producers, Inc.:

*Proposal No. 1.* Amend § 1098.6 by adding to the marketing area the territory within the following counties in Tennessee and Kentucky—Tennessee: Cannon, Clay, Coffee, DeKalb, Fentress, Jackson, Overton, Pickett, Putnam, Warren, and White; Kentucky: Barren, Metcalf, and Monroe.

*Proposal No. 2.* Amend § 1098.53, dealing with location differentials to handlers, so as to replace Nashville, Tenn., as the basing point with Clarksville, Tenn., and Bowling Green, Ky., as the new basing points.

*Proposal No. 3.* Amend § 1098.83(b) so as to make the location differential to producers conform with the location differential to handlers per Proposal No. 2.

*Proposal No. 4.* Amend the producer butterfat differential by deleting the semicolon in § 1098.83(a) and adding "adjusted to the nearest even one-tenth of a cent; and".

*Proposal No. 5.* Amend §§ 1098.81, 1098.82 and other appropriate provisions to provide that the producer-settlement fund monies for milk marketed pursuant to § 1098.8(c) will flow through the market administrator's office in the same manner as that for all other producer milk received by a handler.

Proposed by Anthony Pure Milk Co., Inc.; Jersey Farms Milk Service, Inc.; Purity Dairies, Inc.; and Sealtest Foods, Division, National Dairy Products Corp.:

*Proposal No. 6.* Amend § 1098.6 by adding to the area now defined as the Nashville, Tenn., marketing area, and thereby including in said "marketing area", all the territory within the boundaries of the counties of Maury, Marshall, Giles, Lawrence, Perry, Lewis, Wayne, and Hardin Counties in Tennessee.

*Proposal No. 7.* Amend § 1098.41 to provide classification in class II of both skim milk and butterfat in fluid milk products dumped after prior notification to, and opportunity for verification by the market administrator.

*Proposal No. 8.* Provide class II classification for sour cream mixtures to which cheese or any other food substance other than a milk product has been added, by amending § 1098.15, "Fluid Milk Product" definition, to exclude from said definition "sour cream mixtures to which cheese or any other food substance other than a milk product has been added."

*Proposal No. 9.* Amend § 1098.53—Location differential to handlers—by deleting the language of the first paragraph and the tabulation therein and replacing same with the following:

For that milk which is received from producers at a pool plant located outside of the marketing area and 50 miles or more from the nearest point in the boundary of the marketing area, by shortest hard surfaced highway distance,

as determined by the market administrator and which is transferred to another pool plant in the form of fluid milk products and assigned to class I milk pursuant to the Proviso of this section, or otherwise classified as class I milk, the price specified in § 1098.51(a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the nearest point in the boundary of the marketing area (miles):	Rate per hundredweight (cents)
50 but not more than 70	10.0
For each additional 10 miles or fraction thereof an additional	1.5

**Proposal No. 10.** Amend § 1098.83 (b)—Location differential to producers—to conform with said revision of § 1098.53.

**Proposal No. 11.** Amend § 1098.41 (b) by including therein a provision for class II classification of skim milk and butterfat the utilization of which is established as disposed of to bakeries, candy or soup manufacturers and other food manufacturing establishments which do not dispose of fluid milk products.

Proposed by the Milk Marketing Orders Division, Agricultural Marketing Service:

**Proposal No. 12.** Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Mr. J. B. McCroskey, Suite 1313, 1808 West End Building, Nashville, Tenn. 37203, or from the Hearing Clerk, Room 112, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on June 19, 1964.

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

[F.R. Doc. 64-6310; Filed, June 24, 1964; 8:47 a.m.]

### [7 CFR Part 1134]

[Docket No. AO 301-A3-RO1]

## MILK IN THE WESTERN COLORADO MARKETING AREA

### Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Grand Junction, Colo., on August 7-8, 1962, pursuant to notice thereof issued on July 13, 1962 (27 F.R. 6786) and at Denver, Colo., on January 14-18, 1963, pursuant to notice thereof

issued on December 20, 1962 (27 F.R. 12775).

The material issues on the record of the hearing relate to:

1. Marketwide pooling for distribution of proceeds among producers;
2. Necessary order revisions with respect to:

- (a) Milk to be pooled;
- (b) Classification and allocation of milk;
- (c) Class prices;
- (d) Milk not fully regulated by this order;

- (e) Distribution of proceeds to producers;

- (f) Administrative provisions; and

3. Expansion of the marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary on February 15, 1963 (28 F.R. 1653; F.R. Doc. 63-1938) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto with respect to all issues except No. 2(d). On January 23, 1964, the Assistant Secretary filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of opportunity to file written exceptions with respect to issue No. 2(d) (29 F.R. 2204; F.R. Doc. 64-1059). On June 14, 1963, the Assistant Secretary issued a final decision with respect to issue No. 2(c) (28 F.R. 6294; F.R. Doc. 63-6449). This decision is made with respect to all issues except No. 2(c).

The findings and conclusions, rulings, and general findings of the recommended decision (28 F.R. 1653; F.R. Doc. 63-1938) are hereby approved and adopted and are set forth in full herein subject to the following modifications:

Changes have been made in:

1. The seventh and last paragraphs under "2(b) Classification and allocation".

2. The first paragraph under "Transfers".

3. All the findings of issue "2(d) 'Milk not fully regulated by this order'".

**Findings and conclusions.** The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. **Basis of pooling.** Provision should be made for a marketwide pooling arrangement in lieu of the existing individual-handler pooling. Under the marketwide pool each producer supplying the market will receive a return based on his pro rata share of the class I sales of the entire market.

The existing individual-handler pooling arrangement has existed since the inception of the order. The class I sales of each handler have been shared only among producers delivering milk to that handler. Hence, each handler's minimum blend price to his producers has depended on the proportion of his milk sold in each class.

The cooperative association, representing more than three-fourths of the producers supplying the Western Colorado market proposed the change to

marketwide pooling. The cooperative also asked for a marketwide pool at the promulgation hearing but the decision based on that hearing indicated that an individual-handler pool was more feasible at that time. The decision to adopt individual-handler pooling was based on its simpler administration and the fact that the supply and demand for grade A milk was closely balanced at all of the handlers' plants.

The decision based on the promulgation hearing also stated, "If actual operation of an order reveals that the difference in blend prices are of sufficient magnitude and persistence as to create substantial marketing difficulties, consideration could be given to the adoption of a marketwide pool" (Oct. 14, 1958, 23 F.R. 7919).

Since the issuance of the Western Colorado order, the local milk supply has tended to exceed handlers' requirements for class I sales in most months. The cooperative association has moved surplus milk to outside outlets, primarily for manufacturing uses, as production has increased relative to class I sales. The operators of the plant in Grand Junction, to which most of the nonmember producers ship their milk, have attempted to limit production of nonmember producers. However, the cooperative association actually carries the reserve supply for that plant. When milk production by regular producers exceeded the needs of this plant, the association was asked to withhold delivery of some milk of its members to the plant. The lower returns from the marketing of the reserve or excess supply have been reflected in the returns to the cooperative's members, and nonmember producers have received significantly higher returns than member producers.

The variation in returns as between member and nonmember producers has brought considerable dissatisfaction on the part of some cooperative members and a number have withdrawn from the association to secure the higher returns that nonmembers are receiving. The number of nonmembers has remained relatively stable but their production received at pool plants has increased substantially whereas the number of member producers has decreased with their production received at pool plants declining slightly since inception of the order.

The cooperative association is performing an essential marketing service in shifting milk supplies to meet the fluid needs of handlers and in providing for the orderly disposition of the market's excess or reserve supply. This has tended to maintain an orderly and stable market for all producers. As long as this service could be performed by the association at no basic disadvantage to its producer members, the individual-handler pooling arrangement accommodated the market. However, if orderly marketing is to be maintained, nonmember producers must bear an equitable share of the cost of maintaining the market's reserve supply. This can only be accomplished through marketwide pooling.

The handler to whom most of the non-member producers shipped their milk, as well as a number of nonmember producers, voiced their opposition to marketwide pooling. It was their position that individual-handler pooling implements the enforcement of higher quality standards on the part of handlers and encourages the tailoring of supply in accordance with the market's fluid milk needs. Such producers testified that in the past they have been required to dispose of their own surplus when not needed by a handler.

The milk priced under the Federal order is that milk which is acceptable for disposition as grade A milk in the marketing area and which is marketed in a way that meets prescribed performance requirements. Class I prices are set at levels to secure an adequate supply of such milk. If handlers wish to encourage higher quality milk through premiums they may do so. Higher prices which reflect a disproportionate class I utilization through individual-handler pooling should not be used to defray the cost associated with such higher quality standards.

Even though nonmember producers may have retained surplus milk on the farm on certain occasions, their deliveries of milk to plants varied over a wider range seasonally than deliveries by member producers. The wider seasonality of deliveries by nonmembers was cushioned by the withdrawal of member milk from the plant when it was not needed for class I sales.

The change from individual handler pooling to marketwide pooling requires extensive changes in the order provisions, particularly with respect to distinguishing those operations which are to be subject to full regulation, and what milk supplies and, hence, which dairy farmers constitute the regular supply for the market to whom the minimum prices specified under the order must be paid. A procedure must be provided for the computation of uniform prices and equitable distribution of moneys among all producers. Proponents proposed a complete redrafting of the order to accommodate the change to marketwide pooling.

2. Necessary order provisions with respect to:

(a) *Milk to be pooled.* The milk to be pooled under the order should be only milk produced in compliance with the Grade A inspection requirements of a duly constituted health authority. It should be milk regularly received at those plants primarily engaged in the fluid milk business which process milk for distribution on retail or wholesale routes in the marketing area, or at plants which are regular and substantial suppliers of milk to such processing plants. This milk may be identified by appropriate definition of the terms "distributing plant", "supply plant", "pool plant", "handler", "producer", and "producer-handler".

Milk may be disposed of for fluid consumption in the market under a wide variety of circumstances. Since the marketwide pool results in payment to all producers at the average utilization

for the market, individual handlers are relieved of any responsibility for maintaining a high class I utilization in order to support their pay rates to producers. It is possible that some handlers with operations primarily used for manufacturing might attempt to subject themselves to full regulation for the purposes of maintaining a supply of milk for manufacturing uses through moneys drawn from the pool. However, in order for marketwide pooling to achieve its stabilizing influence to the greatest extent, the returns from the sale of milk should be shared only by producers who constitute the regular and dependable supply of milk for the fluid market. It is necessary, therefore, to establish standards of performance which may be used to determine which plants serve as the regular sources of supply and, therefore, become fully subject to regulation. Milk delivered by dairy farmers to such plants constitutes the regular supply for the fluid market and should share in the market pool.

Plant standards are set forth in the order and apply uniformly to all plants wherever located. Any plant, regardless of location, may be brought under regulation by performing in the manner prescribed. Any plant may be relieved from regulation by no longer operating in a way that brings it within the scope of the order. Thus, whether a plant will be fully or partially regulated, or unregulated, is determined by the decision of the plant operator.

*Distributing plant.* To assist in identifying plants to be either fully or partially regulated under the terms of this order, a definition of a distributing plant is provided. Such a plant is any milk plant at which fluid milk products are pasteurized or packaged and from which grade A fluid milk products are disposed of on a route in the marketing area. A facility or establishment functioning only as a distribution depot for storage of packaged fluid milk products in transit on routes would not constitute a distributing plant.

*Supply plant.* A definition of a supply plant is provided to identify another type of plant which may be subject to regulation under this order. Such a plant is any milk plant at which grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant. A facility or establishment functioning only as a transfer point for transferring milk from one tank truck to another would not constitute a supply plant.

*Pool plant.* The specification of pool plant performance standards is an essential means by which the order achieves the assurance of an adequate supply of pure and wholesome milk for the market. These provisions are, therefore, an important means for advancing the public interest. They specify the manner and the degree to which a plant must perform necessary marketing functions in order to share in the pool funds of the market. Unless these performance standards are specified, it would be possible for plant operators to share in the pool funds without, in fact,

providing significant quantities of milk for class I use in the market.

Alternatively, the pool plant provisions are a means by which the full obligation of regulation as applied to handlers whose markets for class I milk are essentially outside the regulated marketing area is avoided. The provisions, therefore, are the means by which such handlers are relieved of regulation to the extent possible while at the same time assuring that the regulatory scheme will not be nullified by the sale of unlimited quantities of unregulated milk within the regulated marketing area. Experience has shown that some handlers with operations primarily used for manufacturing attempt to subject themselves to full regulation for the purpose of maintaining a supply of milk for manufacturing uses through moneys drawn from the pool. Since earnings in manufacturing milk products are affected by the lower unit costs of large volume operations, such manufacturing plants demand excessive marketing charges for any milk supplied to the fluid market when it was needed. Such marketing charges raise the level of consumer prices unnecessarily and are not in the public interest.

In order to assure that a supply-type plant is performing necessary marketing functions and contributing to an adequate supply of milk for the regulated market, such a plant should be pooled under the order in any month in which 50 percent of its grade A receipts from dairy farmers is moved to a distributing plant(s) which meets the pooling requirements. Proponent's initial proposal would have required the movement of 70 percent of the grade A milk from dairy farmers to distributing pool plants, but this was revised to 50 percent at the hearing. A plant shipping 50 percent or more of its grade A receipts from dairy farmers to distributing plants substantially associated with the market has demonstrated its service to the fluid market for such month. Any plant meeting this shipping requirement in each of the months of August through March, unless it elects nonpool status, should be permitted to retain pooling status during the following months of April through July, regardless of shipments.

The months of April through July are the months of highest production when it would be expected that the regular direct receipts would most likely exceed fluid milk requirements. In such event, it is economically desirable that nearby milk be used for class I purposes and the more distant milk be left at supply plants for manufacturing use. The performance provisions should not force a supply plant to transport milk to distributing plants during peak production months merely to maintain pool status. Accordingly, supply plants which have served the fluid market during the months of shortest production should be permitted to retain pooling status during the flush production months. However, there is no reason why such a plant should be required to pool in any month when it does not meet the shipping requirements. Therefore, it is provided that the operator, by notifying the market administrator in writing prior to the

first day of any month of April through July, may elect not to exercise the option for automatic pooling of his plant for the remainder of the period through July.

A proposal was made whereby a supply plant during a month of automatic qualification could not pool a volume of milk in excess of the average monthly volume of the plant during the qualification period, unless the plant fulfilled the shipping requirements for that month. It was also suggested that, since production normally is higher during April through July than during the qualification period, the milk to be pooled during the automatic qualification months be limited to the same producers that were delivering to the plant during the months of August through March. These proposals were intended to prevent a pool supply plant from adding producers or encouraging production during months of automatic qualification as such an increase may well dilute the value of the milk which is pooled. At present there are no supply plants in the market. Therefore, there is no need for the adoption of such proposals at the present time. If it is found that a handler abuses the automatic qualification privilege by shifting the production of dairy farmers from a nonpool plant to a pool supply plant to draw funds from the pool it may be necessary to give further consideration to such a provision.

A distributing plant is carrying out essential functions in supplying milk for the regulated market and should be qualified as a pool plant in any month in which at least 50 percent of its grade A milk receipts are disposed of in the form of class I milk, and 20 percent of the total class I sales are on routes in the marketing area. A plant which uses less than 50 percent of its receipts as class I milk cannot be considered to be primarily in the fluid milk business. Any plant which distributes less than 20 percent of its class I sales on routes in the marketing area is not contributing significantly to the total class I supply of the western Colorado market. Hence, it is not necessary or desirable to apply full regulation to such a plant.

One handler operates two milk plants in the marketing area. His plant in Delta has facilities for pasteurizing and packaging grade A milk and is fully regulated under the present order. His second milk plant, located in Grand Junction, is used for manufacturing purposes. Since the plant in Delta is limited in cooling facilities it has been this handler's practice to send packaged grade A milk products to the plant in Grand Junction for cooling prior to their final disposition. This handler asked that he have the option of including the plant at Grand Junction as part of his distributing pool plant. The plant at Grand Junction is a nonpool plant at the present time since it does not serve the fluid market except as a facility for storing and cooling packaged fluid milk products. Since this plant does act as a distribution depot, packaged fluid milk products which are returned to the pool plant from the distribution point should be credited to class I disposition to the

depot. The handler has the option to change operations at the plant so as to serve the fluid market as a pool plant.

Federal orders generally provide that a distributing plant meeting the pooling requirements of more than one order shall be regulated under that order covering the area in which the greater volume of class I sales are made. Such a provision is an appropriate standard under this order.

A distributing plant, operated by a producer-handler or one from which less than an average of 200 pounds per day of class I milk is disposed of on routes in the marketing area should be exempted from pool plants status. It is not necessary to pool the sales of producer-handlers who carry their own reserve supply or the distributors of such minimum quantities as do not exceed 200 pounds per day.

**Handler.** The "handler" definition should be revised in conformity with the new plant definitions and extended to provide handler status for a cooperative association with respect to milk diverted to a nonpool plant for its account.

The term "handler" is used to identify those persons on whom obligations and requirements are, or may be, imposed by the order, including the obligation to pay minimum prices established. Such persons include plant operators and cooperative associations of producers under certain circumstances.

Making the cooperative the handler on milk of producers associated with pool plants in the market which is diverted to nonpool plants for the account of the association will facilitate the orderly disposal of the market's reserve supply. Accordingly, the "cooperative association" definition should be revised to insure that a cooperative be an active organization, having full authority in the sale of milk of its members and being engaged in making collective sales of or marketing milk or its products for its members.

It was proposed that a cooperative association be permitted to elect to be the handler with respect to the milk of its member producers delivered to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association. In explaining the need for such a provision, the cooperative association witness stated that handler status was needed to facilitate the diversion of milk to nonpool plants. Handler status with respect to such diversion transactions is provided.

**Producer.** The term "producer" should be revised in conformity with the new plant and handler definitions and to provide rules under which milk diverted to a nonpool plant may be pooled. The term describes those dairy farmers who constitute the regular source of grade A milk supply for the market and to whom the minimum prices specified under the order must be paid.

As has been previously indicated, under individual-handler pooling each handler is governed in the amount of milk which he receives by his needs for class I milk and the relationship of his blend price to that of other handlers. Under marketwide pooling all producers

are returned the same blend price with the result that a handler may add additional milk supplies without affecting his producer pay prices in relation to the prices paid by other handlers. For this reason, it is necessary to provide performance standards to distinguish that milk which has a bona fide association with the fluid market. It is therefore not appropriate to continue the present unlimited diversion provisions.

When a producer's milk is not needed for grade A purposes in the market, the movement of such milk to a nonpool plant should be facilitated. It is provided, therefore, that a cooperative may divert milk of its members to nonpool plants during April through July in an amount up to 60 percent of member milk delivered to pool plants, and 30 percent of such milk during all other months. Diversions in excess of these percentages would not be considered producer milk. Any individual cooperative member's milk may be diverted without limitation as long as his milk is received at a distributing pool plant for at least 5 days during the month, providing of course, the percentage limitations are not exceeded. Similarly, it is provided that handlers who operate distributing pool plants may divert 60 percent, April through July, and 30 percent, August through March of their nonmember producer receipts.

Since issuance of the order the cooperative association has diverted less than 50 percent of the quantity of member milk delivered to pool plants during the months of April through July and less than 30 percent in other months. The diversion rules set forth herein will accommodate the weekend drop in bottling plant receipts during each month and facilitate a greater movement of milk to nonpool plants for manufacturing uses during the months of April through July when supplies are normally greatest.

A handler proposed that diversions be unlimited during April through July. The cooperative, the only handler now diverting milk, however, testified that diversions could be handled efficiently within the 60 percent limitation.

It was also proposed that in addition to percentage limitations a handler operating a pool plant or a cooperative association be allowed to divert an individual producer's milk on a matching poundage basis, i.e. for every pound delivered to a pool plant a pound could be diverted. Such a provision would complicate records and verification procedures and is not necessary since the diversion provisions recommended heretofore should be adequate for this market.

Milk delivered to a nonpool plant would be considered as received by the diverting handler at the plant from which it was diverted for the purpose of location differentials and for determining pool plant status.

To preclude duplicate regulation of milk, provision should be made for excluding as producers, persons whose milk is diverted to a plant at which such milk is subject to the pricing and payment provisions of any other Federal milk order.

**Producer-handler.** The "producer-handler" definition should be defined to include any individual, partnership or corporation which operates a dairy farm and a distributing plant but which, during the month, receives no fluid milk products from other dairy farmers or from sources other than pool plants.

A producer-handler conducts an integrated operation in processing, packaging and distributing milk of his own farm production. Full regulation of such an individual is not necessary if he carries his own reserve milk supply.

The exemption from pricing and pooling of handlers marketing only their own farm production is intended to be limited to bona fide producer-handlers. It is appropriate, therefore, to provide that producer-handler status shall be conditioned on satisfactory proof that the maintenance, care and management of the dairy herd and other resources necessary to produce milk, and the processing, packaging and distributing operations are the personal enterprises of and are conducted at the risk of the individual, partnership or corporation involved.

A producer-handler may occasionally need a small amount of milk due to an emergency with respect to his own supply. Such purchases of supplemental fluid milk products should be limited to class I transfers from pool plants to prevent the influx of unpriced milk from unregulated plants, which may disrupt the market. It was proposed that such transfers be further limited to 5 percent of the producer-handler's class I sales so that the pool of producer milk would be protected from carrying the reserve for such producer-handler's sales. It was also proposed that a producer-handler be fully regulated if his class I sales amounted to over 200 pounds per day. There are no producer-handlers in the market at the present time. If producer-handler's operations are established in the future the necessity for additional requirements to support exemptions may be considered at another hearing.

The producer-handler should be required to make reports of his receipts, utilization, and other information as the market administrator deems necessary to verify the continuing status of such individual, partnership or corporation and to facilitate accounting and verification of transactions which may involve other handlers.

(b) *Classification and allocation.* Class I milk should be defined as all skim milk and butterfat disposed of from a plant as any fluid milk product, with certain exceptions specifically noted as class II uses, or which is not accounted for as class II milk. It was proposed that the "fluid milk products" definition be clarified in specifying which products should or should not be considered as fluid milk products. The general terminology as now used in the Eastern Colorado order is used herein, and is basically the same as contained in the present Western Colorado order, but more specific. In addition, frozen cream is excluded from fluid milk products since it is classified as class II.

Class I milk thus defined includes all fluid products which health authorities in the marketing area generally require to be made from grade A milk.

Fluid milk products fortified with added nonfat milk solids should be classified as class I milk to the extent of the weight of a like quantity of unmodified products of the same butterfat content. The skim milk equivalent of the added solids should be classified as class II milk. Under this system of classification, the fresh milk or skim milk sold in the form of fortified fluid milk products and "diet" foods will return to producers the same value as though sold in unmodified form. The added solids retain their value at the class II price. The water originally associated with the milk solids added in the fortification process does not displace producer milk in class I.

When reconstitution rather than fortification is involved, it is essential that the full skim milk equivalent of the nonfat solids used be classified in class I. Unlike fortification, when nonfat milk solids are used in reconstituting any fluid milk product they displace, in class I use, a volume of producer milk equal to the volume of the finished reconstituted product. Unless handlers are required to account for such solids on a skim milk equivalent basis in class I there would be a substantial incentive for them to reconstitute whenever possible. This would result in unequal costs as between handlers.

Cream which is frozen and stored should be classified as class II. Fluid cream can be frozen and stored during the flush season and used in the fall and winter months when cream might be in short supply. Frozen cream should be class II since it is designed primarily for use in ice cream or ice cream mix. Any frozen cream or other class II product added to a fluid milk product, at the time of such use, is defined as other source milk and assigned accordingly.

Class II use should include skim milk and butterfat used in food products manufactured in commercial food processing establishments where food products are prepared only for consumption off the premises. Such use is recognized as a class II disposition in the other Colorado orders. Classification in class II should be limited to the amounts of skim milk actually used in such manufactured food products.

No change should be made in the present class II classification of inventories on hand at the end of the month. It was proposed that the order provide an "inventory variation" method of classification. There was no showing, however, that the proposed method would be more satisfactory than the present method.

A proposal was made whereby inventories would include all fluid milk products which have not been sold. The present order language and that included herein states that inventory shall include all fluid milk products on hand at the plant. Therefore, the location of inventory depends upon what constitutes a plant. All of the apparatus and equipment which is a part of the plant facility

must be considered in this determination. Hence, the market administrator should make such determination in the light of actual circumstances at each plant.

The order presently provides a class II classification and pricing for actual plant shrinkage not in excess of two percent of receipts and no change was proposed in this regard. It was proposed that an appropriate division of the maximum shrinkage allowance between handlers be made when inter-handler transfers are involved, and the method of assigning plant shrinkage to receipts of producer milk and other source milk be specified.

Under normal circumstances losses connected with processing and packaging exceed those of the receiving operation. Proponents proposed that one-half of one percent shrinkage allowance be provided for a receiving operation. This is generally compatible with experience in other Federal order markets and it is therefore concluded to be a reasonable allowance. The division of shrinkage on the basis of one-half of one percent to the receiving handler and 1.5 percent to the transferee handler assures each handler a reasonable share of the total allowable shrinkage.

When a handler uses both pool milk and other source milk in his plant, provision must be made for a division of plant shrinkage among the various sources of receipts. The existing order provides that other source milk shall be assigned a pro rata share of the total plant shrinkage and a handler proposed that no change be made in this regard. However, proration of total shrinkage between pool milk and other source milk received at a pool plant should reflect the varying shrinkage limits just described which may apply to pool milk. Otherwise, a disproportionate share of the total shrinkage could be assigned to pool milk.

*Transfers.* In conjunction with the change in pooling procedure and to implement the orderly disposition of the market's reserve supply, the transfer provisions relating to transfers to non-pool plants should be revised. This discussion deals with transfers to nonpool plants which are not plants fully regulated under the terms of another Federal order. Such transfers are dealt with under issue No. 2(d).

Under the present order, transfers or diversions of milk, skim milk or cream in bulk to a nonfluid milk plant (i.e., a plant not disposing of grade A milk on routes in the marketing area) located not more than 350 miles from the city hall in Grand Junction are classified as class I unless class II is claimed, the operator of the nonfluid plant maintains books and records and allows verification, and not less than an equivalent amount of skim milk and butterfat was actually used as class II in such plant. Transfers or diversions in bulk to a nonfluid plant located more than 350 miles from the city hall in Grand Junction are classified as Class I.

Transfers or diversions of fluid milk products in bulk to nonpool plants located more than 350 miles from the city hall in Grand Junction should be



classified, and subject to the same conditions, as milk shipped to nonpool plants within 350 miles of the city hall in Grand Junction. The cooperative association has been diverting surplus milk to a manufacturing plant in Ogden, Utah. Other manufacturing facilities are located in the same general area, but may be located over 350 miles from Grand Junction. Shipments of surplus milk to such manufacturing plants should not be precluded by virtue of an automatic Class I classification.

Such shipments would still be classified as class I unless class II is claimed, the operator of the nonpool plant maintains books and records and allows verification, and the transferee plant does not have class I usage in excess of the milk received during the month from dairy farmers who constitute the regular supply for such plant. If class I milk disposed of by a nonpool plant exceeds the sum of receipts from regular dairy farmers, provision should be made whereby this excess quantity is assigned to class I from pool plants. Disposition from a nonpool plant should be classified by the market administrator by treating such plant as if it were a pool plant.

It is possible that nonpool plants which might be available as outlets for this market's reserve milk supply may be fully regulated under another order or may be totally unregulated. In either situation such plants may be receiving milk from other Federal order plants at which it is classified and priced.

To assure equity for local producers when milk from more than one order is involved it is provided that the classification of the transfers or diversions shall be a pro rata share of other Federal order milk classified in each class at the transferee plant under the provisions of the other order. This procedure will insure compatibility of classification as between orders and at the same time provide assurance that their milk is being priced in accordance with its actual use value.

(d) *Milk not fully regulated by this order.* The material issue relating to the marketing of milk in the Western Colorado market and its supply system from sources not fully regulated by the Western Colorado order along with the same issue with respect to 24 other markets was the subject of a hearing held at Denver, Colo., January 14-18, 1963. On the basis of that hearing record a recommended decision was issued January 23, 1964 (29 F.R. 2204; F.R. Doc. 64-1059). The material issues, findings and conclusions, rulings and general findings of the final decision in that proceeding issued June 19, 1964, insofar as they pertain to the Western Colorado Federal milk order, are hereby approved and adopted as if set forth in full herein.

(e) *Distribution of proceeds to producers.* Payments to producers under the marketwide pool will require a producer-settlement fund for making adjustment in payments, as among handlers, to the end that the total sums paid by each handler will equal the value of milk received by him at the prices specified by the order. A handler who

is required to pay more according to his utilization than he is required to pay his producers should pay such difference into the producer-settlement fund. A handler who is required to pay less according to his utilization than he is required to pay his producers shall receive such difference from the producer-settlement fund. Amounts paid in and out of the producer-settlement fund for this purpose will equate except for minor differences due to rounding.

For efficient functioning of the producer-settlement fund, a reasonable reserve should be set aside each month. This fund is necessary to cover such contingencies as a failure of a handler to pay his monthly billing to the fund or the payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, should be accumulated at a rate not less than 4 cents nor more than 5 cents per hundredweight of producer milk in the market each month.

Provision is made whereby the market administrator, in making payments to any handler, shall offset such payments by any amounts due from such handler. This is sound business practice and without the provision, the market administrator might be required to make payments to a handler who at the moment has not met all of his obligations under the order.

If at any time the balance in the producer-settlement fund is not sufficient to cover payments due to all handlers, provision is made whereby payments to handlers shall be reduced uniformly. The handler in turn may then reduce his payments to producers by an equivalent amount. Under the procedure prescribed, the market administrator would complete payments as soon as the necessary funds became available and handlers in turn would complete payments to producers not later than the next following regular date for payment of producers.

Payments into the producer-settlement fund should be made by the 13th of the month in order for the market administrator to make the required payments out of the fund by the 14th. These dates will help accommodate final payment to producers by handlers to whom payments are due from the producer-settlement fund. The date for payment of the marketing service and administrative assessment should be changed to the 13th of the month. This will allow handlers to pay all funds to the market administrator on the same date.

The order presently provides for payment of producers on a semimonthly basis and for payment to a cooperative association in lieu of payments to its individual producer members, when the cooperative association is authorized by such producers to collect payment. It was proposed that an advance payment to producers be made by the last day of the month and final payment be made by the 16th of the following month. These dates are the same as those used in other Colorado markets and it is therefore concluded that such payment

dates are reasonable. Handlers should be required to pay the cooperative association two days before payment is required to be made to individual producers so that the cooperative will have time to reblend its receipts and pay its members on the same date nonmembers are required to be paid.

Audit adjustments with respect to under-payment of individual producers for milk delivered prior to the effective date of any amended order resulting from this decision should be paid to the producers to whom the money is owed. Audit adjustments which result in monies owed producers due to a revision of a handler's utilization or a change in his total obligation to producers should be paid into the producer-settlement fund.

(f) *Administrative provisions.* In conformity with the change in pooling, the order should be revised to provide for the computation of a single uniform price applicable to all handlers.

The entire order has been redrafted to conform with the changes herein recommended. This includes changes of section references and redrafting of certain provisions for clarity and specificity. Certain other provisions were proposed to be changed to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

*Records and reports.* No basic changes were proposed in the records and reports required of handlers. Conforming changes are necessary to clarify which handlers are responsible for which records and reports in light of the changes in other provisions included in this order.

Handler reports are submitted to the market administrator on or before the seventh of each month. The market administrator should announce the marketwide uniform price for the market by the 12th day of each month. Dates on which payments should be made to producers were discussed earlier. The payroll report of each handler should be submitted to the market administrator on or before the 23d day of each month.

*Expense of administration.* The proposal to reduce the maximum administrative assessment from 5 cents to 4 cents per hundredweight is denied.

The order presently provides that the Secretary may reduce the amount of the administrative assessment without the necessity of amending the order. The rate can thus be reduced when experience indicates a lower rate will be sufficient to provide adequate funds for the administration of the order. A reduction in the number of producers, the reason given for the proposal, does not necessarily mean a reduction in the funds necessary for administration of the order.

*Marketing services.* The proposal to reduce the maximum deduction for marketing services is denied for the same reasons as discussed in denying a reduction in the maximum administrative assessment.

3. *Expansion of the marketing area.* The western Colorado marketing area should be enlarged to include Garfield County, Colorado.

The 1960 census population of Garfield County was approximately 12,000. The population of Glenwood Springs, the largest city, was slightly over 3600. Rifle, the only other major town, had a population of approximately 2100.

The expanded marketing area will conform more closely to the sales territory of handlers regulated by this order. Fully regulated handlers under the present western Colorado order account for approximately 70 percent of the total sales in Garfield County. The remaining 30 percent of the total sales in this county are made by an unregulated distributor located in Glenwood Springs. The proponent, one of the two regulated handlers distributing in this county, sells over 9 percent of his total fluid milk products in Garfield County.

Regulated handlers distributing in Garfield County are at a disadvantage in competing with the unregulated distributor for sales in the proposed marketing area because they must pay the class prices of the order to which their competitor is not subject. Buying practices of the unregulated distributor could lead to instability in the market since he has the opportunity to pay lower prices to farmers than the classified use value of their milk would warrant under the western Colorado order. The presently unregulated distributor in the proposed marketing area would be regulated by this order under the proposed extension of the marketing area.

"There are two fully regulated handlers who distribute fluid milk products in Garfield County. The proponent of the area expansion distributes 30 percent of the total fluid milk products sales in the county. The other regulated handler who makes 40 percent of the sales in the county took no position with respect to the proposed area expansion at the hearing but in his brief argued that the expansion was not necessary. However, the regulated handler who did not support the area expansion was reported to have leased certain packaging facilities which were installed in the unregulated handler's plant. Presumably such facilities would permit the regulated handler to acquire unregulated milk for sale in Garfield County.

"Although no producers or handlers opposed the area expansion at the hearing, a brief was filed by six persons who stated that they were producers supplying the unregulated handler who would become regulated by the area expansion. These producers opposed the area expansion on grounds that they were receiving more for their milk than the producers supplying regulated handlers. This evidence with respect to prices paid is not in the record of the hearing and thus cannot be considered in this decision. However, in any event, the imposition of minimum price regulation on this handler does not prevent him from paying for milk purchased from farmers, prices in excess of minimums established by the order."

*Rulings on proposed findings and conclusions.* Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs,

proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

*General findings.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Rulings on exceptions.* In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Western Colorado Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Western Colorado Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered,* That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of

said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

*Referendum order; determination of representative period; and designation of referendum agent.* It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the western Colorado marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of February 1964 is hereby determined to be the representative period for the conduct of such referendum.

H. Alan Luke is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referendum to be completed on or before the 30th day from the date this decision is issued.

Signed at Washington, D.C., on June 19, 1964.

GEORGE L. MEHREN,  
Assistant Secretary.

Order<sup>1</sup> Amending the Order Regulating the Handling of Milk in the Western Colorado Marketing Area

#### DEFINITIONS

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#### MARKET ADMINISTRATOR

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#### REPORTS, RECORDS, AND FACILITIES

1134.30	Reports of receipts and utilization.
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#### CLASSIFICATION

1134.40	Skim milk and butterfat to be classified.
1134.41	Classes of utilization.

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Sec.	
1134.42	Assignment of shrinkage.
1134.43	Responsibility of handlers and reclassification of milk.
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1134.45	Computation of skim milk and butterfat in each class.
1134.46	Allocation of skim milk and butterfat classified.
1134.47	Allocation of butterfat classified.
1134.48	Computation of total producer milk in each class.

**MINIMUM PRICES**

1134.51	Class prices.
1134.52	Location adjustments to handlers.
1134.53	Butterfat differentials to handlers.
1134.54	Use of equivalent prices.

**EFFECTIVE TIME, SUSPENSION OR TERMINATION**

1134.90	Effective time.
1134.91	Suspension or termination.
1134.92	Continuing obligations.
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**MISCELLANEOUS PROVISIONS**

1134.100	Agents.
1134.101	Separability of provisions.

**AUTHORITY:** The provisions of this Part 1134 issued under secs. 1-19, 48 Stat. 31 as amended; 7 U.S.C. 601-674.

**§ 1134.0 Findings and determinations.**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the western Colorado marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundred-weight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe, with respect to milk specified in 1134.88.

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof the handling of milk in the Western Colorado marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

**DEFINITIONS**

**§ 1134.1 Act.**

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

**§ 1134.2 Secretary.**

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

**§ 1134.3 Department.**

"Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this part.

**§ 1134.4 Person.**

"Person" means any individual, partnership, corporation, association, or any other business unit.

**§ 1134.5 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

**§ 1134.6 Western Colorado marketing area.**

"Western Colorado marketing area" hereinafter called "marketing area" means all the territory within the outer boundaries of the counties of Delta, Garfield, Mesa, and Montrose, all in the State of Colorado.

**§ 1134.7 Distributing plant.**

"Distributing plant" means any plant at which fluid milk products are pasteurized or packaged and from which grade A fluid milk products are disposed of on a route in the marketing area.

**§ 1134.8 Supply plant.**

"Supply plant" means any plant at which grade A milk is received from dairy farmers and from which fluid milk products are moved to a pool distributing plant.

**§ 1134.9 Pool plant.**

"Pool plant" means:

(a) A distributing plant, except a plant exempted in § 1134.60 or § 1134.61, from which during the month:

(1) An amount equal to 50 percent or more of receipts of grade A fluid milk products is disposed of as class I milk; and

(2) An amount equal to 20 percent or more of the total class I disposition is on routes in the marketing area; and

(b) A supply plant from which during the month not less than 50 percent of its receipts of grade A milk from dairy farmers is moved to a distributing pool plant(s). Any supply plant which has qualified as a pool plant in each of the months of August through March shall be a pool plant for each of the following months of April through July 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 April through July unless it fulfills the shipping requirements of this paragraph for such month.

**§ 1134.10 Nonpool plant.**

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is not an other order plant nor a producer-handler plant and from which grade A fluid milk products are moved during the month to a pool plant qualified pursuant to § 1134.9.

**§ 1134.11 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a distributing plant(s) or a supply plant(s); or

(b) A cooperative association with respect to the milk of its member producers

which is diverted from a pool plant to a nonpool plant for the account of such cooperative association.

#### § 1134.12 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, or a dairy farmer with respect to milk which qualifies as producer milk under another Federal order issued pursuant to the Act, who produces milk eligible for distribution as grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is:

(a) Received at a pool plant; or

(b) Diverted from a distributing pool plant to a nonpool plant for the account of the diverting handler, subject to the following conditions:

(1) A cooperative association may divert for its account the milk of any member producer, whose milk is received at a distributing pool plant for at least 5 days during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 60 percent in the months of April, May, June, and July, and 30 percent in other months of its member producer milk received at all pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk;

(2) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to subparagraph (1) of this paragraph, whose milk is received at his pool plant for at least 5 days during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 60 percent in the months of April, May, June, and July, and 30 percent in other months of the milk received at such pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to subparagraph (1) of this paragraph. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk;

(3) For purposes of the requirements of § 1134.9, milk diverted for the account of the operator of a pool plant shall be included in the receipts of the pool plant from which diverted; and

(4) For purposes of location adjustments pursuant to §§ 1134.52 and 1134.81, milk diverted to a nonpool plant shall be considered to have been received at the location of the pool plant from which diverted.

#### § 1134.13 Producer-handler.

"Producer-handler" means any individual, partnership or corporation which operates a dairy farm and a distributing plant and which receives no fluid milk products during the month from other

dairy farmers or from any other source except by transfer from a pool plant. Such individual, partnership or corporation must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding transfers from pool plants) and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such individual, partnership or corporation.

#### § 1134.14 Producer milk.

"Producer milk" means the skim milk and butterfat for each handler's account which is:

(a) Received by the operator of a pool plant: (1) directly from producers' farms at such pool plant; or (2) diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the conditions provided in § 1134.12; or

(b) Diverted by a cooperative association pursuant to § 1134.11(b), subject to the conditions provided in § 1134.12.

#### § 1134.15 Other source milk.

"Other source milk" means all the skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products from any source except (1) producer milk; and (2) from other pool plants.

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month and any disappearance of nonfluid milk products not otherwise accounted for.

#### § 1134.16 Fluid milk products.

"Fluid milk products" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, reconstituted milk or skim milk, fortified milk or skim milk (including "diet" foods), cream (sweet or sour), half and half, or any mixture in fluid form of milk or skim milk and cream (except ice cream mix, frozen dessert mix, frozen cream, aerated cream, eggnog, cultured sour mixture to which cheese or any food substance other than a milk product has been added in an amount not less than three percent by weight of the finished product), which are neither sterilized nor in hermetically sealed containers.

#### § 1134.17 Route.

"Route" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk product other than a delivery to a pool plant or a delivery in bulk to a nonpool plant.

#### MARKET ADMINISTRATOR

#### § 1134.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at, the discretion of the Secretary.

#### § 1134.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

#### § 1134.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of the part;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds received by § 1134.88 the cost of his bond and those of his employees, his own compensation, and all other expenses (except those incurred under § 1134.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Verify all reports and payments of each handler, by audit of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends and by such other means as are necessary;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person, who within 10 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 1134.30 to 1134.32, or (2) payments pursuant to §§ 1134.80 to 1134.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address, the prices determined for each month as follows:

(1) On or before the 6th day of each month the class I price and butterfat

differential for the month computed pursuant to §§ 1134.51(a) and 1134.53(a), respectively;

(2) On or before the 6th day of each month, the class II price and butterfat differential for the preceding month computed pursuant to §§ 1134.51(b) and 1134.53(b), respectively;

(3) On or before the 12th day of each month, the uniform price for producer milk computed pursuant to § 1134.71, and the butterfat differential computed pursuant to § 1134.82, both for the preceding month.

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization or producer milk by such handler; and

(k) Prepare and make available for the benefit of producers, consumers, and handlers, such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this Part and which do not reveal confidential information.

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1134.46(a)(8) and the corresponding step of § 1134.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1134.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

#### REPORTS, RECORDS AND FACILITIES

##### § 1134.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month each handler who operates a pool plant(s) and each cooperative association which is a handler pursuant to § 1134.11(b) shall report to the market administrator, in the detail

and on forms prescribed by the market administrator, for each plant as follows:

(a) The receipts of producer milk, the average butterfat test, and the pounds of butterfat contained therein;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) fluid milk products received from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk;

(d) The pounds of skim milk and butterfat contained in all fluid milk products on hand at the beginning and at the end of the month;

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section; and

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

##### § 1134.31 Payroll reports.

On or before the 23d day of each month each handler who operates a pool plant(s) and each cooperative association which is a handler pursuant to § 1134.11(b) shall submit to the market administrator his payroll for receipts during the preceding month which shall show:

(a) The name and days of delivery of each producer with the address of any producer for whom such information was not furnished previously;

(b) The total pounds of milk, and the average butterfat test therefor, received from each producer and cooperative association;

(c) The amount of payment to each producer and cooperative association; and

(d) The nature and amount of any deductions or charges involved in such payments.

##### § 1134.32 Other reports.

(a) Each producer-handler, each exempt handler pursuant to § 1134.61, and each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may request; and

(b) Each handler who operates a partially regulated distributing plant shall report as follows:

(1) As required pursuant to § 1134.30, except that receipts in grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area on routes as class I milk; and

(2) As required pursuant to § 1134.31, if he wishes computation pursuant to § 1134.62(a) to be considered in computation of his obligation pursuant to § 1134.62. In such report payments to dairy farmers delivering grade A milk shall be reported in lieu of payments to producers.

##### § 1134.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for

the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk and milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to producers, or to cooperative associations, including any deductions, and the disbursement of money so deducted.

##### § 1134.34 Retention of records.

All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8e(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

#### CLASSIFICATION

##### § 1134.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1134.30 shall be classified pursuant to the provisions of §§ 1134.41 through 1134.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of by use in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

##### § 1134.41 Classes of utilization.

Subject to the conditions set forth in §§ 1134.42 through 1134.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any products fortified with added nonfat milk solids shall be class I in an amount equal only to the weight of an equal volume of milk, skim milk, or cream of the same butterfat content; or

(ii) Products classified pursuant to paragraph (b) (2), (3), (4) and (5) of this section; or

(2) Not specifically accounted for as class II utilization.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of in bulk form as livestock feed;

(3) In the skim milk portion of fluid milk products dumped after prior notification to and opportunity for verification by the market administrator;

(4) The weight of skim milk in fluid milk products which is not included in class I milk pursuant to paragraph (a) (1) (i) of this section;

(5) Disposed of in bulk to commercial food processing establishments where food products are prepared only for consumption off the premises if such fluid milk products are used solely in the manufacturing of such food products;

(6) In inventory of fluid milk products on hand at the plant at the end of the month;

(7) In shrinkage assigned to receipts of skim milk and butterfat pursuant to § 1134.42(b)(2), not to exceed the following:

(i) Two percent of receipts of producer milk described in § 1134.14(a)(1); plus

(ii) One and one-half percent of milk received in bulk tank lots from other pool plants; plus

(iii) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which class II utilization was requested by the operator of such plant and the handler; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which class II utilization was requested by the handler; less

(v) One and one-half percent of milk disposed of in bulk to other milk plants; and

(8) In shrinkage assigned to receipts of other source milk pursuant to § 1134.42(b)(1).

#### § 1134.42 Assignment of shrinkage.

The market administrator shall assign a handler's shrinkage at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) For each handler prorate the resulting amount between:

(1) The pounds of skim milk and butterfat in other source milk received in bulk in the form of fluid milk products, exclusive of that specified in § 1134.41(b)(7); and

(2) The maximum pounds of skim milk and butterfat computed pursuant to § 1134.41(b)(7) divided by 0.02.

#### § 1134.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

#### § 1134.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization mutually indicated in writing to the market administrator by the operators of both plants, on or before the 7th day after the end of the month within which such transfer occurred, otherwise as class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1134.46(a)(8) and the corresponding step of § 1134.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1134.46(a)(3) and the corresponding step of § 1134.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1134.46(a)(7) and (8) and the corresponding steps of § 1134.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As class I milk, if transferred from a pool plant to a producer-handler;

(c) As class I milk, if transferred in consumer packages to a nonpool plant that is not an other order plant;

(d) As class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1134.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so

transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of grade A milk for such nonpool plant;

(ii) Any class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as class II milk;

(v) If any skim milk or butterfat is transferred to a second nonpool plant under this subparagraph, the same conditions of audit, classification and allocation shall apply.

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraphs (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators transfers in bulk form shall be classified as class II to the extent of the class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as class I, and milk allocated to other

classes shall be classified as class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1134.41.

**§ 1134.45 Computation of skim milk and butterfat in each class.**

For each month, the market administrator shall correct for mathematical and other obvious errors, the report submitted by each handler pursuant to § 1134.30 and compute the total pounds of skim milk and butterfat, respectively, in class I and class II milk at each pool plant of each handler (including milk diverted pursuant to § 1134.12).

**§ 1134.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1134.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in class II the pounds of skim milk classified as class II pursuant to § 1134.41(b)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests class II utilization, but not in excess of the pounds of skim milk remaining in class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in class I (excluding class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from

other pool handlers and in receipts in bulk from other order plants; and

(c) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

Should such computation result in a quantity to be subtracted from class II which is in excess of the pounds of skim milk remaining in class II, the pounds of skim milk in class II shall be increased to the quantity to be subtracted and the pounds of skim milk in class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in class II milk, if class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subparagraphs (ii) and (iii) of this para-

graph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of class II milk:

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1134.22(1); or

(b) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to (i) result in the total pounds of skim milk to be subtracted from class II at all pool plants of the handler exceeding the pounds of skim milk remaining in class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in class I after such proration at the pool plants at which received;

(iii) Except as provided in (ii), should proration pursuant to either (i) or (ii) result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1134.44;

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

**MINIMUM PRICES**

**§ 1134.51 Class prices.**

(a) *Class I.* The class I price for each month shall be the price for class I milk established under Federal Order No. 137 regulating the handling of milk in the eastern Colorado marketing area f.o.b. Denver, less 5 cents; and

(b) *Class II milk.* The class II price shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph for the current month rounded to the nearest one-tenth cent:

(1) The average of the basic or field prices paid or to be paid per hundred-weight for milk of 3.5 percent butterfat content received from farmers during the

month at the following plants or places for which prices have been reported to the Department:

*Present Operator and Location*

Pet Milk Co., Wayland, Mich.  
 Pet Milk Co., Coopersville, Mich.  
 Borden Co., New London, Wis.  
 Carnation Co., Richland Center, Wis.  
 Pet Milk Co., Belleville, Wis.  
 White House Milk Co., Manitowoc, Wis.  
 White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed by adding together the plus values pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) From the butter price specified in § 1134.50 for the month subtract 3 cents, add 20 percent thereof, and multiply by 3.5.

(ii) From the weighted average of carlot prices per pound of nonfat dry milk, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.965.

**§ 1134.52 Location adjustments to handlers.**

(a) For milk received from producers at a pool plant located more than 100 miles by shortest highway distance as measured by the market administrator, from the Courthouse in Grand Junction, Colo., and which is classified as class I milk or assigned class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which location adjustments are applicable, the price computed pursuant to § 1134.51(a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such Courthouse and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and the pounds assigned as class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

**§ 1134.53 Butterfat differentials to handlers.**

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1134.51 shall be increased or decreased, respectively, for each one-tenth of one percent of butterfat, by the appropriate rate, rounded in each case to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Multiply the butter price specified in § 1134.51(b) (1) for the preceding month by 0.135; and

(b) *Class II milk.* Multiply the butter price specified in § 1134.51(b) (1) for the current month by 0.120.

**§ 1134.54 Use of equivalent prices.**

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

**APPLICATION OF PROVISIONS**

**§ 1134.60 Producer-handler.**

Sections 1134.40 through 1134.54 and §§ 1134.70 through 1134.88 shall not apply to a producer-handler.

**§ 1134.61 Exempt plants.**

The provisions of this part shall not apply to a plant specified in this section except that the operator of such plant shall make such reports of receipts and utilization of milk as the market administrator may require and allow verification of such reports by the market administrator.

(a) Any distributing plant from which less than an average of 200 pounds per day of class I milk is disposed of on routes in the marketing area during the month.

(b) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to § 1134.9(a) and more class I milk is disposed of from such plant on routes in the Western Colorado marketing area than in the marketing area regulated pursuant to such other order.

(c) Any plant qualified pursuant to § 1134.9(b) for any portion of the period of April through July, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

**§ 1134.62 Obligations of handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant except one exempt pursuant to § 1134.61 shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraphs (a) or (b) of this section. If the handler fails to report pursuant to § 1134.32 the information necessary to compute the amount specified in paragraph (a), he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1134.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to class I milk.

There shall be included in the obligation so computed a charge in the amount specified in § 1134.70(e) and a credit in the amount specified in § 1134.84(b) (2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to § 1134.32 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1134.9(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification to such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the class II price).

**DETERMINATION OF UNIFORM PRICE**

**§ 1134.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each pool handler for each pool plant during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1134.46(c), by the applicable class prices (adjusted pursuant to §§ 1134.52 and 1134.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1134.46(a) (10) and the corresponding



step of § 1134.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the class II price for the preceding month and the class I price for the current month by the hundredweight of skim milk and butterfat subtracted from class I pursuant to § 1134.46(a)(5) and the corresponding step of § 1134.46(b);

(d) Add an amount equal to the difference between the value at the class I price applicable at the pool plant and the value at the class II price, with respect to skim milk and butterfat in other source milk subtracted from class I pursuant to § 1134.46(a)(3) and the corresponding step of § 1134.46(b);

(e) Add an amount equal to the value at the class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from class I pursuant to § 1134.46(a)(7) and the corresponding step of § 1134.46(b).

#### § 1134.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1134.70 for all handlers who filed the reports prescribed by § 1134.30 for the month and who made the payments pursuant to §§ 1134.80 and 1134.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1134.81;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1134.82 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1134.70(e);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

#### § 1134.72 Notification of handlers.

On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the total thereof;

(b) The uniform price computed pursuant to § 1134.71 and the producer location and butterfat differentials computed pursuant to §§ 1134.81, and 1134.82; and

(c) The amounts to be paid by such handler pursuant to §§ 1134.84, 1134.86, 1134.87, and 1134.88 and the amounts due such handler pursuant to §§ 1134.85 and 1134.86.

#### PAYMENTS

##### § 1134.80 Payment to producers.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(a) Not later than the last day of the month, to each producer from whom he received milk during the first 18 days of the month, an advance payment for the milk received during the first 15 days of the month, at the class II price for the preceding month;

(b) Not later than the 16th day of the month, for milk received during the preceding month, an amount computed at not less than the uniform price per hundredweight (§ 1134.71), subject to the butterfat differential (§ 1134.82), location adjustment (§ 1134.81), and adjustments for errors made in previous payments minus (1) payments made pursuant to paragraph (a) of this section, (2) marketing service deductions (§ 1134.87), and (3) deductions approved by the market administrator and authorized in writing by the producer. If the handler has not received full payment for the delivery period from the market administrator pursuant to § 1134.85, he may reduce his total payments to all producers uniformly by the amount owing to him by the market administrator. The handler shall, however, complete all payments not later than the next 16th day of the month following receipt of the balance from the market administrator.

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim by the cooperative association, each handler shall pay to the cooperative association on or before the second day preceding the dates set out in paragraphs (a) and (b) of this section an amount equal to the sum of the individual payments otherwise payable to the producer-members of such organization. This payment shall be made for all milk of each producer certified by the cooperative association as a member, beginning the first day of the month following receipt of the certification and ending the last day of the month next preceding the date on which a written notice from the cooperative association terminating the membership was received.

(2) A copy of the request for payment, promise to reimburse, and certified list of members, shall be filed simultaneously with the market administrator. He may verify the information by auditing the records of the cooperative association.

Exceptions to the accuracy of the membership certification by a producer or by a handler, shall be made in writing to the market administrator for his determination.

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk, a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

##### § 1134.81 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1134.52; and

(b) For purposes of computations pursuant to §§ 1134.84 and 1134.85 the uniform price shall be adjusted at the rates set forth in § 1134.52 applicable at the location of the nonpool plant from which the milk was received.

##### § 1134.82 Butterfat differential to producers.

The applicable uniform price to be paid to producers pursuant to § 1134.80 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to § 1134.53 (a) and (b), weighted by the pounds of butterfat in producer milk in each class and the result rounded to the nearest tenth of a cent.

##### § 1134.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1134.62, 1134.84, and 1134.86 and out of which he shall make all payments pursuant to §§ 1134.85 and 1134.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

##### § 1134.84 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1134.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1134.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the class II price) with respect to other source milk for which a value is computed pursuant to § 1134.70 (e).

**§ 1134.85 Payments out of the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1134.84(b) exceeds the amount computed pursuant to § 1134.84 (a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

**§ 1134.86 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer or the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

**§ 1134.87 Marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1134.80, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 14th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

**§ 1134.88 Expense of administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk including such handler's own production, (b) other source milk allocated to class I pursuant to § 1134.46(a) (3) and (7) and the corresponding steps of § 1134.46 (b), and (c) class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds class I milk received during the month at such plant from pool plants and other order plants.

**§ 1134.89 Termination of obligations.**

The provisions of this section shall to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator received the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the names of such producer(s) or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator notifies a handler, the said 2-year period, with respect to such obligation, shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section a handler's obligations under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the payment (including deduction or offset by the market administrator) was made by the handler, if a refund on such payment is claimed unless such handler, within the applicable period of time, files, pursuant to section 8c(15) (A) of the Act, a petition claiming such money.

**EFFECTIVE TIME, SUSPENSION OR TERMINATION**

**§ 1134.90 Effective time.**

The provisions of this part or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

**§ 1134.91 Suspension or termination.**

The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct, or do not tend to effectuate the declared policy of the Act, terminate or suspend the operation of any or all provisions of this part or any amendments thereto. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

**§ 1134.92 Continuing obligations.**

If upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

**§ 1134.93 Liquidation.**

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

**MISCELLANEOUS PROVISIONS**

**§ 1134.100 Agents.**

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

## § 1134.101 Separability of provisions.

If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F.R. Doc. 64-6329; Filed, June 24, 1964; 8:50 a.m.]

## CIVIL AERONAUTICS BOARD

[ 14 CFR Parts 207, 399 ]

[Economic Regs. Docket No. 14148; EDR-48F, PSDR-8D]

## CHARTER TRIPS AND SPECIAL SERVICES

## Supplemental Notice of Proposed Rule Making and Notice of Oral Argument

JUNE 22, 1964.

The Board in 29 F.R. 1476 and by circulation of a supplemental notice of proposed rule making, EDR-48B and a notice of proposed rule making PSDR-8, dated January 23, 1964, gave notice that it had under consideration revising Part 207 of the Board's Economic Regulations and Part 399 of its Policy Statements as set out in the proposed rule attached thereto. Interested persons were invited to participate in these rule making proceedings by the submission of ten (10) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before February 28, 1964, and by the submission of ten (10) copies of comments responsive to the initial comments on or before March 15, 1964. The date for submission of comments addressed to the notice was subsequently extended to March 9, 1964, and the date for submission of comments addressed to the initial comments was extended to April 3, 1964. Both sets of comments have now been filed, and are now under careful consideration.

Part 207 is a major regulatory proposal which could have a significant effect with respect to all classes of carriers. Consequently, the Board deems it

appropriate and in the public interest to provide interested persons with an opportunity to present their views directly to the Board by way of oral argument. Below is a list of the questions on which the Board desires to hear argument. Included in these questions is the proposal advanced by certain all-cargo carriers to extend the applicability of the proposed policy on the sale of blocked space by such carriers to include sales to air freight forwarders and other large volume shippers, as well as to combination carriers. The Board will not entertain argument with respect to other issues, including, for example, the question of a first refusal right in favor of supplemental carriers. This latter question has been thoroughly explored in the comments, and further argument on the issue would serve no useful purpose.

For the above reasons, the Board herewith gives notice:

1. That the Board will hear oral argument on the issues set forth below at its office at Washington, D.C. on July 8, 1964; and
  2. That all persons desiring to participate in such oral argument shall file with the Chief Examiner on or before June 29, 1964, a written request to participate therein. The request should indicate the time allotment desired.
- The parties will be notified at a later date as to the time to be allotted them to participate in the oral argument.

(Secs. 204(a) and 1001 of the Federal Aviation Act of 1958; 72 Stat. 743, 788; 49 U.S.C. 1324 and 1481)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

## Oral argument questions:

1. Should the Board adopt any limitation on the off-route passenger and cargo charter authority of the combination carriers? If so, how should such limitation be computed?
2. Should the Board adopt any limitation on the off-route passenger charter authority of the all-cargo carriers? If so, how should such limitation be computed?
3. Should the Board give the all-cargo carriers unrestricted off-route cargo charter authority within their areas of operation as defined in proposed Part 207? If not, what limitations should be placed on such authority?

4. Should the Board establish a first refusal right in favor of all-cargo carriers with respect to off-route cargo charter trips by combination carriers?

5. Should the Board abolish the present first refusal restriction in present § 207.8?

6. What type of special treatment, if any, should the Board accord to military charters?

7. Should the Board adopt a policy to permit the all-cargo carriers to sell blocked space at wholesale rates to such combination carriers as may choose to purchase such space to provide service between the certificated points of the combination carrier involved? Should the all-cargo carriers be permitted to sell blocked space at wholesale rates to air freight forwarders and other large volume shippers?

[F.R. Doc. 64-6319; Filed, June 24, 1964; 8:48 a.m.]

[ 14 CFR Parts 207, 399 ]

[Docket 14148] \*

## CHARTER TRIPS AND SPECIAL SERVICES; STATEMENTS OF GENERAL POLICY

## Notice of Oral Argument

Notice is hereby given that oral argument in the above-entitled matters is assigned to be heard on July 8, 1964, at 10:00 a.m. (eastern daylight saving time) in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

The Board desires that the oral argument in connection with the above-entitled matters be heard in two parts: One devoted to Part 207; and the second, to blocked-space agreements. In notifying the Chief Examiner of your intention to participate in oral argument you are requested to specify which part you desire to present arguments on or whether you desire to address yourself to both parts. The amount of time deemed necessary for your presentation on each point should be indicated on or before June 29, 1964.

Dated at Washington, D.C., June 23, 1964.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F.R. Doc. 64-6359; Filed, June 24, 1964; 8:50 a.m.]

# Notices

## DEPARTMENT OF STATE

### Agency for International Development

[Delegation of Authority 42]

#### PRINCIPAL DIPLOMATIC OFFICER IN MEXICO

##### Delegation of Authority With Respect to Administration of A.I.D. Program

Pursuant to the authority delegated to me by Delegation of Authority No. 104 from the Secretary of State of November 3, 1961 (26 F.R. 10608), I hereby delegate to the principal diplomatic officer of the United States in Mexico with respect to the administration of the foreign assistance program within the country to which he is accredited, the authorities delegated to Directors of Missions of the Agency for International Development (A.I.D.) in the following delegations, subject to the limitations applicable to the exercise of such authorities by the A.I.D. Mission Directors:

(1) Unpublished Delegation of Authority of January 10, 1955;

(2) Delegation of Authority of November 26, 1954, as amended (19 F.R. 8049);

(3) Paragraphs 4 and 5 of Delegation of Authority of September 28, 1960 (25 F.R. 9927).

In addition to the foregoing, there is hereby delegated to the aforesaid diplomatic officer the authorities delegated to A.I.D. Mission Directors in existing A.I.D. manual orders, regulations (published or otherwise), policy directives, policy determinations, memoranda, and other instructions.

This delegation of authority is effective immediately.

Dated: June 2, 1964.

DAVID E. BELL,  
Administrator.

[F.R. Doc. 64-6303; Filed, June 24, 1964;  
8:46 a.m.]

[Delegation of Authority 43]

#### CERTAIN OFFICERS

##### Delegation of Authority Regarding Acceptance of Donated Nonmilitary Property and Services Pursuant to Section 635(d) of the Foreign Assistance Act of 1961, as Amended

Pursuant to the authority delegated to me by Delegation of Authority No. 104, as amended, dated November 3, 1961, from the Secretary of State, entitled Foreign Assistance Act of 1961 and certain Related Acts, I hereby redelegate the authority contained in Section 635(d) of the Foreign Assistance Act of 1961, as amended, as follows:

8122

To the Assistant Administrator for the Near East-South Asia, the Assistant Administrator for Latin America and U.S. Coordinator for the Alliance for Progress, the Assistant Administrator for Africa and the Assistant Administrator for the Far East, each for the countries or areas within their responsibility, the following functions: (1) To accept and use non-military property and related services of any kind made available by gift, devise, bequest, grant or otherwise in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended, and (2) to sign on behalf of A.I.D. implementing documents, as appropriate, accepting property and related services.

The authority delegated herein to execute implementing documents in connection with the acceptance of donated property or services by A.I.D. may be redelegated to subordinate officers and employees, including chiefs of Missions or A.I.D. Representatives abroad.

This Delegation of Authority shall be effective immediately.

Dated: June 12, 1964.

WILLIAM S. GAUD,  
Deputy Administrator.

[F.R. Doc. 64-6304; Filed, June 24, 1964;  
8:46 a.m.]

[Delegation of Authority 44]

#### ASSISTANT ADMINISTRATOR FOR MATERIAL RESOURCES

##### Delegation of Authority Regarding Ocean Carriers

Pursuant to the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State dated November 3, 1961 (26 F.R. 10608), I hereby delegate authority to the Assistant Administrator for Material Resources, with authority to redelegate, to make commitments to ocean carriers to indemnify such carriers in case of loss resulting to them because of release of commodities upon A.I.D.'s request without requiring the presentation of bills of lading. This authority shall extend only to commodities owned by A.I.D. as a result of termination of the A.I.D. program in Cambodia.

Commitments described in the foregoing paragraph which the Assistant Administrator for Material Resources or his delegate may have made before the effective date of this delegation are hereby ratified.

This Delegation of Authority shall be effective immediately.

Dated: June 17, 1964.

WILLIAM S. GAUD,  
Deputy Administrator.

[F.R. Doc. 64-6305; Filed, June 24, 1964;  
8:47 a.m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Classification No. 3]

#### NEW MEXICO

##### Small Tract Classification

1. Pursuant to authority redelegated to me by the State Director as published in the FEDERAL REGISTER, June 22, 1963 (28 F.R. 6468), as amended, I hereby classify the following described public lands consisting of three 5-acre small tracts located in Valencia County, N. Mex., as suitable for sale at public auction for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended:

NEW MEXICO PRINCIPAL MERIDIAN

T. 8 N., R. 17 W.

Tract No.	Legal description	Acres	Appraised value
1.....	Sec. 30: E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$	5	\$190
2.....	N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$	5	190
3.....	W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$	5	190

2. Classification of the above described land by this order segregates it from all appropriations, including locations under the mining laws and applications under mineral leasing laws.

3. The land is located approximately forty miles south of Gallup, N. Mex. New Mexico State Highway No. 32, which is not paved, provides access to the tracts. The lands are rolling, being occupied by pinon, juniper, native grasses, and annuals. Culinary water is not presently developed but ground water is available. The nearest schools, stores, and other community services are available in Gallup, 40 miles to the north. The soil is sandy loam of shallow to medium depth. There is no evidence of mining claims, metallic, or nonmetallic minerals.

4. William W. Crockett, Norma Laverne Crockett, and David T. Crockett, of P.O. Box 11, Fence Lake, N. Mex. claim an equity in a frame house and a service station along with other improvements on the public land now occupied by them. In the event they are not the successful bidders at the sale, they will be allowed a reasonable period of time in which to negotiate with the successful applicant for the tract as to the disposition of the improvements thereon.

The successful applicant will be required to pay William W. Crockett, et al., a price mutually agreed upon with them for any improvements they decide to leave on the land and which are of value to the successful applicant. Proof of such agreements and payment must be filed within a reasonable time with the Manager, Land Office, U.S. Post Office and Federal Building, South Federal

Place, Box 1449, Santa Fe, N. Mex. Upon a showing of inability to agree, the Bureau of Land Management will determine the fair and reasonable value of the improvements left upon the land for which compensation must be paid. Failure of the successful applicants, if they are other than those named above, within a reasonable time, to file proof of full compensation to William W. Crockett, et al., as herein provided, will lead to vacation of the sale.

5. Generally, persons who have previously acquired a tract under the Small Tract Act are not qualified to purchase an additional tract.

6. The land will be subject to sale at public auction at 10:30 a.m. on Wednesday, August 5, 1964.

7. Inquiries concerning this land shall be addressed to Manager, Land Office, P.O. Box 1449, Santa Fe, N. Mex.

CLAUDE A. MARTIN,  
District Manager.

JUNE 18, 1964.

[F.R. Doc. 64-6314; Filed, June 24, 1964; 8:48 a.m.]

[Oregon 015238]

**OREGON**

**Notice of Proposed Withdrawal and Reservation of Land**

JUNE 17, 1964.

The Forest Service, United States Department of Agriculture, has filed an application, Serial No. Oregon 015238, for the withdrawal of the lands described below, from location and entry under the general mining laws, subject to valid existing rights.

The applicant desires the land for development of public outdoor recreation and to safeguard the government's investments in structures and improvements. The lands are located in the Deschutes and Willamette National Forests.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 710 Northeast Holladay, Portland, Oreg. 97232.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or

not the lands will be withdrawn as requested by the Forest Service.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

**OREGON**

**WILLAMETTE MERIDIAN**

**Deschutes and Willamette National Forests  
Waldo Lake Recreation Area**

T. 20 S., R. 5½ E., Unsurveyed  
In sec. 35,  
In sec. 36.

T. 21 S., R. 5½ E., Unsurveyed  
Sec. 1, All,  
In sec. 2,  
In sec. 11,  
Sec. 12, All,  
Sec. 13, All,  
In sec. 14,  
In sec. 23,  
Sec. 24, All,  
In sec. 25,  
In sec. 36.

T. 22 S., R. 5½ E., Unsurveyed  
Sec. 1, All,  
In sec. 12,  
In sec. 13,  
In sec. 25,  
In sec. 36.

T. 20 S., R. 6 E., Unsurveyed  
In sec. 31,  
In sec. 32,  
Sec. 33, All,  
In sec. 34.

T. 21 S., 6 E.  
In sec. 2,  
In sec. 3,  
Sec. 4, All,  
Sec. 5, All,  
In sec. 6,  
Sec. 7, All,  
Sec. 8, All,  
Sec. 9, All,  
Sec. 10, All,  
Sec. 11, All,  
In sec. 12,  
In sec. 13,  
Sec. 14, All,  
Sec. 15, All,  
Sec. 16, All,  
Sec. 18, All,  
Sec. 21, All,  
Sec. 22, All,  
In sec. 23,  
In sec. 26,  
Sec. 27, All,  
Sec. 28, All,  
Sec. 29, All,  
Sec. 30, All,  
Sec. 31, All,  
Sec. 32, All,  
Sec. 33, All,  
Sec. 34, All,  
In sec. 35.

T. 22 S., R. 6 E.  
In sec. 2,  
Sec. 3, All,  
Sec. 4, All,  
Sec. 5, All,  
Sec. 6, All,  
Sec. 7, All,  
Sec. 8, All,  
In sec. 9,  
Sec. 10, All,  
In sec. 11,  
In sec. 13,  
In sec. 14,  
In sec. 15,  
In sec. 16,  
In sec. 17,  
In sec. 18,

In sec. 19,  
In sec. 20,  
In sec. 22,  
In sec. 23,  
In sec. 25,  
In sec. 26,  
In sec. 27,  
In sec. 29,  
In sec. 30,  
In sec. 31,  
In sec. 32,  
In sec. 35,  
In sec. 36.  
Deschutes National Forest—approximately 3,801.48 acres.  
Willamette National Forest—approximately 29,311.07 acres.

The total combined area is approximately 33,112.55 acres.

DOUGLAS E. HENRIQUES,  
Manager, Land Office.

[F.R. Doc. 64-6315; Filed, June 24, 1964; 8:48 a.m.]

**CALIFORNIA**

**Proposed Withdrawal and Reservation of Lands**

**Correction**

In F.R. Doc. 64-5778 appearing in the issue of Thursday, June 9, 1964, at page 7518, the entry in the land description reading "T. 11 N., R. 44 W." should be corrected to read "T. 44 N., R. 11 W."

**DEPARTMENT OF AGRICULTURE**

**Office of the Secretary**

**MONTANA ET AL.**

**Designation of Areas for Emergency Loans**

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Montana, New Mexico, and South Carolina, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

**MONTANA**

Cascade.	Pondera.
Choteau.	Teton.
Flathead.	Toole.
Glacier.	

**NEW MEXICO**

Eddy.

**SOUTH CAROLINA**

Florence.	Marion.
Georgetown.	Williamsburg.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 19th day of June 1964.

ORVILLE L. FREEMAN,  
Secretary.

[F.R. Doc. 64-6311; Filed, June 24, 1964; 8:48 a.m.]

## DEPARTMENT OF COMMERCE

## Maritime Administration

[Report No. 34]

LIST OF FREE WORLD AND POLISH  
FLAG VESSELS ARRIVING IN CUBA  
SINCE JANUARY 1, 1963

SECTION 1. The Maritime Administration is making available to the appropriate Departments the following list of vessels which have arrived in Cuba since January 1, 1963, based on information received through June 12, 1964, exclusive of those vessels that called at Cuba on United States Government-approved noncommercial voyages and those listed in section 2. Pursuant to established United States Government policy, the listed vessels are ineligible to carry United States Government-financed cargoes from the United States.

## FLAG OF REGISTRY, NAME OF SHIP

FLAG OF REGISTRY, NAME OF SHIP	Gross tonnage
Total—all flags (223 ships)	1,655,805
British (83 ships)	670,862
Amalia	7,189
Amazon River	7,234
*Ardenode	7,026
Ardgem	6,981
Ardmore	4,664
Ardrowan	7,300
Ardsirod	7,025
**Arlington Court (now Southgate—British flag)	9,662
Athelcrown (Tanker)	11,149
Athelduke (Tanker)	9,089
Athelmere (Tanker)	7,524
Athelmonarch (Tanker)	11,182
Athelsultan (Tanker)	9,149
Avisfaith	7,868
Baxtergate	8,813
Beech Hill	7,150
Canuk Trader	7,151
Cedar Hill	7,156
Chipsee	7,271
**Cosmo Trader (trip to Cuba under ex-name, Ivy Fair—British flag)	4,939
Dairen	7,150
Denmark Hill	8,708
East Breeze	8,789
Eastfortune	7,402
Eirini	7,125
Elm Hill	7,119
Fir Hill	6,807
Free Enterprise	7,542
Garthdale	7,026
Grosvenor Mariner	7,907
Hazelmoor	8,718
Hemisphere	7,121
Ho Fung	5,255
Inchstaffa	7,201
**Ivy Fair (now Cosmo Trader—British flag)	5,388
Kinross	5,923
Kirlemoor	9,486
*La Hortensia	8,236
Linkmoor	10,081
London Endurance (Tanker)	10,081
London Glory (Tanker)	13,157
London Harmony (Tanker)	12,132
London Majesty (Tanker)	10,776
London Pride (Tanker)	10,176
London Spirit (Tanker)	16,195
London Splendour (Tanker)	16,268
London Valour (Tanker)	

\*Added to Report No. 33, appearing in the FEDERAL REGISTER issue of June 10, 1964.

\*\*Ships appearing on the list that have been scrapped or have had changes in name and/or flag of registry.

## FLAG OF REGISTRY, NAME OF SHIP—Continued

FLAG OF REGISTRY, NAME OF SHIP—Continued	Gross tonnage
British—Continued	
Maple Hill	7,139
Maratha Enterprise	7,166
Mulberry Hill	7,121
Muswell Hill	7,131
Nancy Dee	6,597
Newforest	7,185
Newgate	6,743
Newgrove	7,172
Newheath	5,891
Newhill	7,855
Newlane	7,043
Oak Hill	7,139
Oceantramp	6,185
Oceantravel	10,477
Overseas Explorer (Tanker)	16,267
Overseas Pioneer (Tanker)	16,267
Redbrook	7,388
Ruthy Ann	7,361
Sandsend	7,236
Santa Granda	7,229
Sea Coral	10,421
Shienfoon	7,127
Shun Fung	7,148
**Southgate (trip to Cuba under ex-name, Arlington Court—British flag)	
Stanwear	8,108
Streatham Hill	7,130
Sudbury Hill	7,140
Suva Breeze	4,970
Swift River	7,251
Sycamore Hill	7,124
Thames Breeze	7,878
**Timios Stavros (previous trips to Cuba under Greek flag)	5,269
Vercharmian	7,265
Vermont	7,381
West Breeze	8,718
Yungfutary	5,388
Yunglutaton	5,414
Zela M.	7,237
Greek: (43 ships)	342,576
Agios Therapon	5,617
Akastos	7,331
Aldebaran (Tanker)	12,897
Alice	7,189
**Ambassade (sold Hongkong ship breakers)	8,600
Americana	7,104
Anacreon	7,359
Anatoli	7,178
**Andromachi (trips to Cuba under ex-name, Penelope—Greek flag)	
Antonia	5,171
Apollon	9,744
Armathia	7,091
Athanassios K.	7,216
Barbarino	7,084
Kalliopei Michalos	7,249
Capetan Petros	7,291
Everest	8,418
Flora M.	7,031
Gallni	7,244
Gloria	7,266
Irena	7,128
Istros II	7,232
Kapetan Kostis	7,275
Kyra Hariklia	5,032
Marla Theresa	6,888
Marigo	7,245
Maroudio	7,147
Mastro-Stellos II	7,369
**Nicolaos F. (trip to Cuba under ex-name, Nicolaos Franglitas—Greek flag)	7,282
**Nicolaos Franglitas (now Nicolaos F.—Greek flag)	
**Pamit (now Christos—Lebanese flag)	7,199
Pantanassa	3,929
Pantanasia	7,131
Paxoi	7,144
**Penelope (now Andromachi)	7,144
Perseus (Tanker)	6,712
	15,852

## FLAG OF REGISTRY, NAME OF SHIP—Continued

FLAG OF REGISTRY, NAME OF SHIP—Continued	Gross tonnage
Greek—Continued	
**Plate Trader (trip to Cuba under ex-name, Stylianos N. Vlassopoulos—Greek flag)	10,820
**Presvia (broken up)	7,128
Propontis	16,718
*Proteus (Tanker)	5,911
Redestos	
**Seirios (sold Japanese ship breakers)	7,239
Sirius (Tanker)	16,241
**Stylianos N. Vlassopoulos (now Plate Trader—Greek flag)	7,244
**Timios Stavros (now British flag)	
Tina	7,362
Western Trader	9,268
Lebanese (49 ships)	321,311
Agia Sophia	3,106
Aiolos II	7,256
Ais Gianni	6,997
Akamas	7,285
Alaska	6,989
Anthas	7,044
Antonis	6,259
Ares	4,557
Areti	7,176
Aristefs	6,995
Astr	5,324
Athamas	4,729
Carnation	4,884
**Christos (trip to Cuba under ex-name, Pamit—Greek flag)	
Chaire	5,411
Cris	6,032
Dimos	7,187
Free Trader	7,067
Giorgos Tsakiroglou	7,240
Granikos	7,282
Ilena	5,925
Ioannis Aspiotis	7,297
Kalliopei D. Lemos	5,103
Leftric	7,176
Malou	7,145
Mantric	7,255
Marichristina	7,124
Marymark	4,383
Mersinidi	6,782
*Mimosa	7,314
Mousse	6,984
Noelle	7,251
Noemi	7,070
Olga	7,199
Panagos	7,133
Parmarina	6,721
**Razani (broken up)	7,253
Rio	7,194
St. Anthony	5,349
St. Nicolas	7,165
San John	5,172
San Spyridon	7,260
Stevio	7,066
Tertric	7,045
Theologos	6,529
Toula	4,561
Vassiliki	7,192
Vestric	6,453
Vergolivada	6,339
Yanxilas	10,051
Polish (13 ships)	87,426
Baltyk	6,963
Bialystok	7,173
Bytom	5,967
Chopin	6,987
Chorzow	7,227
Huta F'orian	7,258
Huta Labedy	7,221
Huta Ostrowiec	7,175
Huta Zgoda	6,840
Kopalnia Miechowice	7,223
Kopalnia Siemianowice	7,165
Kopalnia Wujek	7,033
Piast	3,184

FLAG OF REGISTRY, NAME OF SHIP—Continued

	Gross tonnage
Italian (9 ships)-----	79,539
Achille-----	6,950
Airone-----	6,969
Andrea Costa (Tanker)-----	10,440
Aspromonte-----	7,154
Giuseppe Giulettil (Tanker)-----	17,519
Montiron-----	1,595
Nazareno-----	7,173
San Nicola (Tanker)-----	12,461
Santa Lucia-----	9,278
Yugoslav (6 ships)-----	42,801
Bar-----	7,233
Cavtat-----	7,266
Cetinje-----	7,200
Dugi Otok-----	6,997
Promina-----	6,960
**Trebisnjica (wrecked)-----	7,145
Spanish (5 ships)-----	8,159
Castillo Ampudia-----	3,566
Escorpion-----	999
Sierra Andia-----	1,596
Sierra Madre-----	999
Sierra Maria-----	999
Norwegian (4 ships)-----	34,503
Lovdal (Tanker)-----	12,764
Ole Bratt-----	5,252
Polyclipper (Tanker)-----	11,737
**Tine (now Jezreel—Panamanian flag)-----	4,750
French (4 ships)-----	10,028
Circe-----	2,874
Enee-----	1,232
**Guinee (now Comfort, Chinese "Formosa" flag)-----	3,048
Nellee-----	2,874
Moroccan (4 ships)-----	32,614
Atlas-----	10,392
Banora-----	3,082
Mauritanie-----	10,392
Toubkal-----	8,748
Swedish (2 ships)-----	14,295
**Atlantic Friend (now Atlantic Venture—Liberian flag)-----	7,805
Dagmar-----	6,490
Finnish (1 ship):	
Valny (Tanker)-----	11,691
Chinese (Formosa):	
**Comfort (trip to Cuba under ex-name, Guinee—French flag).	
Liberian:	
**Atlantic Venture (trip to Cuba under ex-name, Atlantic Friend—Swedish flag).	
Panamanian:	
**Jezreel (trip to Cuba under ex-name, Tine—Norwegian flag).	

\*\*Ships appearing on the list that have been scrapped or have had changes in name and/or flag of registry.

SEC. 2. In accordance with approved procedures, the vessels listed below which called at Cuba after January 1, 1963, have reacquired eligibility to carry United States Government-financed cargoes from the United States by virtue of the persons who control the vessels having given satisfactory certification and assurance:

(a) That such vessels will not, thenceforth, be employed in the Cuba trade so long as it remains the policy of the United States Government to discourage such trade; and

(b) That no other vessels under their control will thenceforth be employed in the Cuba trade, except as provided in paragraph (c); and

(c) That vessels under their control which are covered by contractual obligations, including charters, entered into prior to December 16, 1963, requiring their employment in the Cuba trade shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

FLAG OF REGISTRY AND NAME OF SHIP

a. Since last report: None.  
b. Previous reports:

Flag of registry:	Number of ships
British-----	10
Danish-----	1
German (West)-----	1
Greek-----	16
Italian-----	4
Japanese-----	1
Norwegian-----	2

SEC. 3. The ships listed in sections 1 and 2 have made the following number of trips to Cuba since January 1, 1963, based on information received through June 12, 1964:

Flag of registry	Number of trips								
	1963		1964						
	Jan-June	July-Dec.	Jan.	Feb.	Mar.	Apr.	May	June	Total
British-----	66	67	15	7	21	20	15	2	213
Greek-----	55	44	1	5	3	4	4	1	112
Lebanese-----	28	36	6	4	13	8	7	1	103
Norwegian-----	9	5	2	1	1	1	2	1	20
Italian-----	10	6	1	1	1	3	1	1	22
Yugoslav-----	6	6	1	1	1	1	1	1	16
Spanish-----	2	6	1	3	1	3	1	1	14
Danish-----	1	1	1	1	1	1	1	1	1
Finnish-----	1	1	1	1	1	1	1	1	1
French-----	1	8	1	1	1	1	1	1	9
German (West)-----	1	1	1	1	1	1	1	1	1
Japanese-----	1	1	1	1	1	1	1	1	1
Moroccan-----	2	7	2	2	1	1	1	1	12
Swedish-----	2	1	1	1	1	1	1	1	3
Subtotal-----	184	186	26	23	39	37	30	3	528
Polish-----	10	8	1	3	1	2	1	1	25
Grand total-----	194	194	27	26	40	39	30	3	553

NOTE: Trip totals in this section exceed ship totals in sections 1 and 2 because some of the ships made more than one trip to Cuba.

Dated: June 17, 1964.

J. W. GULICK,  
Deputy Maritime Administrator.

[F.R. Doc. 64-6309; Filed, June 24, 1964; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FINE ORGANICS, INC.

Notice of Filing of Petition Regarding Food Additives

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 1414) has been filed by Fine Organics, Inc., 205 Main Street, Lodi, N.J., proposing that paragraph (b) of § 121.2527 *Antistatic agents in plastics* be amended by changing the item "N,N-Bis(2-hydroxyethyl) alkyl (C<sub>14</sub>-C<sub>18</sub>) amine" to read "N,N - Bis(2-hydroxyethyl) alkyl (C<sub>12</sub>-C<sub>18</sub>) amine."

Dated June 19, 1964.

MALCOM R. STEPHENS,  
Assistant Commissioner  
for Regulations.

[F.R. Doc. 64-6317; Filed, June 24, 1964; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 15346; Order E-20961]

PACIFIC AIR FREIGHT, INC.

Order of Investigation and Suspension Regarding "Parcel Post" Liability

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of June 1964.

By tariff revision<sup>1</sup> marked to become effective June 25, 1964, Pacific Air Freight, Inc., proposes to establish a liability rule applicable to "parcel post" traffic. The liability rule specifies that the forwarder is not liable for any loss or damage regarding any "parcel post" shipment unless a value is declared by the shipper on the airbill at the time the shipment is received by the forwarder, and that the valuation which can be placed on any such shipment is limited not to exceed \$200.

No complaints have been filed.

The services of Pacific Air Freight are common carrier services, notwithstanding the name ascribed to the subject

<sup>1</sup> Pacific Air Freight, Inc., C.A.B. No. 14.

traffic by the forwarder. Such services have historically been subject to liability rules which contemplate a basic liability on the part of carrier or forwarder for loss or damage of any shipment, and afford an opportunity to the shipper to pay an added charge and declare excess valuation. The instant proposal appears to be an innovation which may have considerable impact upon the shipping public, and Pacific Air Freight has submitted no data or information in justification of the proposed rule.

Upon consideration of the foregoing matters, it appears that the proposed liability rule may be unjust or unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, and therefore should be investigated. The Board also finds that in view of the substantial impact which this rule may have upon the shipping public and its novelty, the provision should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204 and 1002 thereof:

*It is ordered, That:*

1. An investigation be instituted to determine whether the charges and provisions of Rule No. 30 appearing on 2nd Revised Page 4 of Pacific Air Freight, Inc., C.A.B. No. 14 are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful and if found to be unlawful to determine and prescribe the lawful charges and provisions;

2. Pending hearing and decision by the Board, Rule No. 30 appearing on 2nd Revised Page 4 of Pacific Air Freight, Inc., C.A.B. No. 14 is suspended and its use deferred to and including September 22, 1964, unless otherwise ordered by the Board and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order be served upon Pacific Air Freight, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

[F.R. Doc. 64-6320; Filed, June 24, 1964;  
8:48 a.m.]

## FEDERAL AVIATION AGENCY

[OE Docket No. 64-SO-11]

### LOUISVILLE AND NASHVILLE RAILROAD CO.

#### Determination of Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal for aeronautical comment and has conducted a study (SO-OE-3376) to determine its effect upon the safe and efficient utilization of navigable airspace.

The Louisville and Nashville Railroad Co., Louisville, Ky., proposes to increase by 15.5 feet an existing pole line near Chattanooga, Tenn., at latitude 35°02'39" N., longitude 85°11'51" W. The new overall height of the poles would be 697.5 feet above mean sea level (42 feet above ground).

The site of the proposed alteration is approximately 1,100 feet north-northeast of the approach end of Runway 19 and 550 east of the extended runway centerline at Lovell Field, Chattanooga, Tenn. At the proposed height, the pole line would exceed the 50:1 slope ratio of the airport imaginary surface as defined in § 77.27(a) of the Federal Aviation Regulations, as applied to this runway, by 11.8 feet. A slope ratio of 30.4:1 would be required.

The aeronautical study disclosed that the proposed increase in the height of the pole line would require an increase from a 200-foot ceiling, ½ mile visibility to a 300-foot ceiling, ¾ mile visibility for the straight-in landing minimum of the standard instrument approach procedure AL-79-ILS-RWY-19 for this airport.

The study further disclosed that there were 3,293 instrument approaches to Lovell Field during calendar year 1963. The greater percentage of this number were to Runway 19 which is the primary approach runway. If the proposed alteration were accomplished, the pole line would encroach into the approach surface and derogate the maximum use of this runway under minimum weather conditions. Any increase in approach minimums would have a substantial adverse effect upon aeronautical operations at this airport.

Visual flight rules operations would not be affected by this alteration.

Based upon the aeronautical study, it is the finding of the Agency that the proposed increase to the height of this pole line would have a substantial adverse effect upon IFR aeronautical operations, procedures, and minimum altitudes associated with the ILS approach at this airport.

Therefore, pursuant to the authority delegated to me by the Administrator (§ 77.37 [New]), it is found that the proposed alteration would have a substantial adverse effect upon the safe and efficient utilization of navigable airspace; and it is hereby determined that the proposed pole line would be a hazard to air navigation.

This determination is effective and will become final 30 days after the date of issuance unless an appeal is filed under § 77.39 [New] (27 F.R. 10352). If the appeal is denied, the determination will then become final as of the date of the denial or 30 days after the issuance of the determination, whichever is later.

Issued in Washington, D.C., on June 16, 1964.

JOSEPH VIVARI,  
Acting Chief,  
Obstruction Evaluation Branch.

[F.R. Doc. 64-6293; Filed, June 24, 1964;  
8:45 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15510; FCC 64-543]

### CAPITAL CITIES BROADCASTING CORP. (WPAT)

#### Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of Capital Cities Broadcasting Corporation (WPAT), Paterson, New Jersey, Docket No. 15510, File No. BP-15378; has: 930kc, 5kw, DA-2, U, Class III-A (Paterson, N.J.), requests: 930kc, 5kw, DA-2, U, Class III-A (Jersey City, N.J.) for construction permit.

1. The Commission has before it for consideration the above-captioned application; objections to it filed by Long Island Broadcasting Corporation, Westinghouse Broadcasting Company, Inc., Bartell Broadcasters of New York, Inc., and Storer Radio, Inc. (licensees respectively of Stations WWRL, WINS, WADO, and WHN, all of New York, N.Y.); and pleadings subsequent and responsive thereto.

2. The Commission finds that, except as indicated by the issues specified below, the applicant is legally, technically, financially, and otherwise qualified to construct and operate as proposed.

3. The applicant seeks a change in the designated location of Station WPAT from Paterson to Jersey City, N.J., and proposes to move the station's transmitter to a new site. WPAT is the only standard broadcast station assigned to Paterson; if its request for a change in designated location is granted, it will be the only standard broadcast station assigned to Jersey City. At present, WPAT provides day and night service to both Paterson and Jersey City; contrariwise, engineering data submitted by the applicant indicates that WPAT operating as proposed would not provide either day or night service to Paterson (although it would provide increased signal strength towards New York City, the residents of which now receive a multiplicity of local standard broadcast services). In view of the foregoing, it is clear that a substantial question exists, under section 307(b) of the Communications Act of 1934, as amended, as to the comparative needs of the areas now served by WPAT and those which would be served by that station operating as proposed, and that, in effect, the determination to be made is equivalent to the determination necessary between two stations, one proposing operation at Paterson and the other at Jersey City, taking into consideration the effect of loss of service as a result of the proposed move.

4. The above-mentioned licensees of stations WWRL, WINS, WADO, and WHN object to the WPAT application on the grounds that, because of the proximity of the proposed WPAT trans-



mitter site to their transmitters, operation of WPAT as proposed would adversely affect the radiation patterns of those stations or cause them objectionable injury from cross-modulation or reradiation. They each request that the application be designated for hearing on that issue—or, in the alternative, that any grant of the application be made subject to a condition placing full responsibility upon WPAT's licensee for the avoidance of such harm to their respective stations. After the objections were filed, the applicant submitted an amendment moving its proposed transmitter site to a location three miles south of the location originally proposed. In the Commission's opinion, that change has effectively eliminated the grounds of objection offered by the licensees of WWRL, WINS, WADO, and WHN if an appropriate condition, as specified hereafter, is made a part of the construction permit in the event the WPAT application is ultimately granted.

5. In view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearings on the issues set forth below.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WPAT and the availability of other primary service to such areas and populations.

2. To determine the comparative needs of the areas now served by Station WPAT, including the city of Paterson, New Jersey, and the areas to be served by Station WPAT operating as proposed including Jersey City, N.J., for broadcast service and, in view thereof, whether a grant of the subject application would be in accordance with section 307(b) of the Communications Act of 1934, as amended.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

It is further ordered, That, in the event of a grant of the application, the construction permit shall contain the following conditions:

Permittee shall assume responsibility for the elimination of interference due to external cross-modulation and for the installation and adjustment of filter circuits or other equipment in the antenna systems of the proposed operation and of stations WNEW, WMCA, WINS, WLIB, WHN, WADO, or any other stations which may be necessary, to prevent adverse effects due to internal cross-modulation and reradiation; and, prior to the erection of the WPAT antenna towers and subsequent thereto, sufficient field intensity measurements shall be made on the stations named in this condition, to establish that their radiation patterns

have not been adversely affected due to reradiation. In addition, field observations shall be made to determine whether spurious emissions exist, and any objectionable interference problems resulting therefrom shall be eliminated.

Pending a final decision in Docket No. 14419 with respect to pre-sunrise operation with daytime facilities, the present provisions of § 73.87 of the Commission's rules are not extended to this authorization, and such operation is precluded.

It is further ordered, That the objections filed by the licensees of stations WWRL, WINS, WADO, and WHN, are granted to the extent indicated above and are denied in all other respects.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: June 17, 1964.

Released: June 22, 1964.

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

[F.R. Doc. 64-6324; Filed, June 24, 1964; 8:49 a.m.]

[Docket Nos. 14597, 15203; FCC 64M-572]

**KWEN BROADCASTING CO. AND WOODLAND BROADCASTING CO.**

**Notice of Oral Argument**

In re applications of Felix Joynt and James Joynt d/b as KWEN Broadcasting Company, Port Arthur, Tex., Docket No. 14597, File No. BP-13627, Woodland Broadcasting Company, Vidor, Tex., Docket No. 15203, File No. BP-15973; for construction permits.

The Hearing Examiner will hear oral argument, limited to the issue relating to section 307(b), on Wednesday, July 1, 1964, at 10:00 a.m. Each party will be limited to 20 minutes for presentation.

Dated: June 19, 1964.

Released: June 22, 1964.

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

[F.R. Doc. 64-6325; Filed, June 24, 1964; 8:49 a.m.]

<sup>1</sup> Commissioners Henry, Chairman; and Bartley absent; Commissioners Hyde and Lee dissenting.

[Docket Nos. 15358, 15433; FCC 64M-569-53490]

**LOMPOC VALLEY CABLE TV AND LOMPOC VALLEY CABLE TV, INC.**

**Order Regarding Date of Hearing**

ni re applications of Lompoc Valley Cable TV Docket No. 15358, File No. 30779-IB-53X, for operational fixed stations in the business radio service; Lompoc Valley Cable TV, Inc., Docket No. 15433, File No. 29978-IB-24X, for operational fixed stations in the business radio service.

On June 18, 1964, counsel for Central Coast Television, a party, filed a motion to extend the hearing date from June 22 "to a date after action by the Review Board on the appeal filed by Central Coast Television from the Examiner's denial of its petition to postpone the hearing."

Accordingly, it is ordered, This 19th day of June 1964, that Central Coast Television's motion to extend hearing date is granted to the extent that the hearing is rescheduled from June 22 to Thursday, June 25, 1964, at 10 a.m.

Released: June 22, 1964.

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

[F.R. Doc. 64-6326; Filed, June 24, 1964; 8:49 a.m.]

[Docket No. 15428; FCC 64M-554]

**MID-UTAH BROADCASTING CO. (KEYY)**

**Order Continuing Hearing**

In re application of Mid-Utah Broadcasting Company (KEYY), Provo, Utah, Docket No. 15428, File No. BP-15964; for construction permit.

Conflicting commitments require rescheduling of the date scheduled for the commencement of hearing in this proceeding. All other procedural dates can, and are expected to be met. Accordingly, it is ordered, This 17th day of June 1964, that the hearing in this proceeding now due to get under way on June 25 is rescheduled to begin on July 13, 1964, at 10:00 a.m. in the offices of the Commission at Washington, D.C.

Released: June 18, 1964.

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

[F.R. Doc. 64-6327; Filed, June 24, 1964; 8:50 a.m.]

**FEDERAL POWER COMMISSION**

[Docket No. CP64-240]

**ARKANSAS-LOUISIANA GAS CO.**

**Notice of Application**

JUNE 19, 1964.

Take notice that on April 14, 1964, Arkansas-Louisiana Gas Company (Applicant), Shreveport, La., filed an appli-

cation pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon two compressor stations known as Applicant's Trees Station and Rogers Station, respectively, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states (1) the Trees Compressor Station, including building consists of (a) seven gas engines, single tandem, double acting, horizontal type manufactured in 1913 moved to the present location in 1926 and 1928, and (b) four engines manufactured by Snow Gas Engine Co., rated 450 Hp each, and three engines manufactured by Cooper-Bessemer Corp., rated at 500 Hp each; and (2) the Rogers Compressor Station, including building consists of three Snow gas engines, twin tandem, double acting, horizontal type, installed in 1911, each engine rated at 1300 Hp, are obsolete and have not been operated for several years.

The application further states the net salvage value of all the facilities to be abandoned has been computed on the basis of \$5.00 per horsepower, or a total of \$36,000.00.

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 preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and 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 may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 17, 1964.

JOSEPH H. GUTRIDE,  
*Secretary.*

[F.R. Doc. 64-6298; Filed, June 24, 1964;  
8:46 a.m.]

[Docket No. G-14721]

### CITIES SERVICE GAS CO.

#### Notice of Application To Amend

JUNE 18, 1964.

Take notice that on January 22, 1964, Cities Service Gas Company (Applicant),

P.O. Box 1995, Oklahoma City, Okla., filed an application to amend the Commission's order issued October 6, 1958, in Docket No. G-14721 by authorizing Applicant to transport and deliver an additional 125,316 Mcf of natural gas annually, on a direct interruptible basis, to the city of Chanute, Kans., for use by the latter in its power plant, all as more fully set forth in the application to amend on file with the Commission and open to public inspection.

The order of October 6, 1958, authorized Applicant, among other things, to acquire and operate certain facilities and to render direct interruptible natural gas service to the City of Chanute, among other industrial customers.

The herein proposed additional volumes will be used in two new dual-fuel engine driven electric generating units to be added to Chanute's existing municipal power plant.

No additional facilities will be required for the proposed service since Applicant will make deliveries at the existing town border connection.

Protests, petitions to intervene or requests for hearing in this proceeding may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 10, 1964.

JOSEPH H. GUTRIDE,  
*Secretary.*

[F.R. Doc. 64-6299; Filed, June 24, 1964;  
8:46 a.m.]

[Docket Nos. CP63-13, CP63-12]

### MISSISSIPPI RIVER FUEL CORP. AND MISSISSIPPI RIVER TRANSMISSION CORP.

#### Notice of Withdrawal and Application To Amend

JUNE 19, 1964.

Take notice that on June 15, 1964, Mississippi River Transmission Corp. (Transmission) filed an amendment to its application in Docket No. CP63-12.

Take further notice that, on June 15, 1964, Mississippi River Fuel Corp. (Fuel) filed in Docket No. CP63-13 a notice of withdrawal of its application.

By its amendment filed in Docket No. CP63-12, Transmission proposes, among other things, to include among the properties proposed to be acquired, the interests of Fuel in natural gas production under certain leases in the Sligo and Hico-Knowles Fields, La., which interests were not included among the properties originally proposed to be acquired. The amendment would also eliminate the proposal of Transmission, contained in the original application, to acquire the interests of Fuel in Storage Corporation. It would also change the resale rates proposed to be effective upon consummation of the acquisition.

By reason of the proposed transfer of Fuel's interests in the Sligo and Hico-Knowles Fields contained in the amendment filed in Docket No. CP63-12, Fuel has given notice of withdrawal of its application in Docket No. CP63-13, re-

questing authority to sell gas from these fields to Transmission.

Copies of the notice of withdrawal and application to amend have been served upon all parties hereto.

By order of June 9, 1964, hearing on such applications as amended is scheduled to resume July 6, 1964.

Additional 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 and 1.10) on or before July 1, 1964.

JOSEPH H. GUTRIDE,  
*Secretary.*

[F.R. Doc. 64-6300; Filed, June 24, 1964;  
8:46 a.m.]

[Project No. 2351]

### PUBLIC SERVICE CO. OF COLORADO Notice of Application for Amendment of License

JUNE 18, 1964.

Public Notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Public Service Co. of Colorado (Correspondence to: L. R. Patterson, Vice President, Public Service Co. of Colorado, Public Service Co. Building, Denver, Colo.) for amendment of license for Project No. 2351, known as "Cabin Creek Pumped Storage Hydroelectric Project" to be located on South Clear Creek and its tributary, Cabin Creek, in Clear Creek County, Colo., near Georgetown, and affecting lands of the United States within Arapaho National Forest.

The amendment proposed the following principal changes in the project: (1) Increase in the project area for use during construction period; (2) to relocate Upper Reservoir about 400 feet upstream from the presently authorized site, and to raise the maximum operating water level by 27 feet to elevation 11,196 feet, and to reduce the size of the spillway to care for only the natural runoff of Cabin Creek; (3) to relocate Lower Reservoir about 1,000 feet upstream from the presently authorized site, and to raise the maximum operating water level by 14 feet to elevation 10,012 feet, and change the spillway in the left embankment from ungated, open channel type to tunnel type; (4) to realign the power tunnel as required by new location of Upper Reservoir, change its profile, and reduce the sizes of the upper portions; (5) to change installed generating capacity of the powerhouse from 225,000 kw in three units to 300,000 kw in two units; (6) and to shift the switchyard from north to the south side of the powerhouse.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is August 13, 1964. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,  
*Secretary.*

[F.R. Doc. 64-6301; Filed, June 24, 1964;  
8:46 a.m.]

[Docket Nos. G-17960 etc.]

**TURNBULL & ZOCH DRILLING CO.  
ET AL.****Order Severing Proceedings, Consolidating Proceedings, Cancelling Docket Numbers, Fixing Date for Prehearing Conference and Notice of Applications; Correction**

JUNE 18, 1964.

In the Order Severing Proceedings, Consolidating Proceedings, Cancelling Docket Numbers, Fixing Date for Prehearing Conference and Notice of Applications, issued May 28, 1964 and published in the FEDERAL REGISTER June 5, 1964 (F.R. Doc. 64-5525; 29 F.R. 7334), add the counties "Aransas and Jim Wells" to footnote 1.

In ordering paragraph (A) insert the Docket No. "G-18987" between G-18861 and G-19052.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 64-6302; Filed, June 24, 1964;  
8:46 a.m.]

**SECURITIES AND EXCHANGE  
COMMISSION**

[File No. 1-3421]

**CONTINENTAL VENDING MACHINE  
CORP.****Order Summarily Suspending Trading**

JUNE 19, 1964.

The common stock, 10 cents par value, of Continental Vending Machine Corp., being listed and registered on the American Stock Exchange and having unlisted trading privileges on the Philadelphia-Baltimore-Washington Stock Exchange, and the 6 percent convertible subordinated debentures due September 1, 1976 being listed and registered on the American Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such securities on such Exchanges and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and the Philadelphia - Baltimore - Washington Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive

or manipulative acts or practices, this order to be effective for the period June 21, 1964 through June 30, 1964, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 64-6294; Filed, June 24, 1964;  
8:45 a.m.]

[File No. 812-1686]

**FINANCIAL INDUSTRIAL FUND, INC.,  
ET AL.****Notice of Filing of Application for Exemption From Provisions Which Prohibit Any Person From Serving or Acting as Investment Adviser of or Principal Underwriter for a Registered Investment Company Except Pursuant to a Written Contract**

JUNE 18, 1964.

In the matters of Financial Industrial Fund, Inc., Financial Industrial Income Fund, Inc., Financial Programs, Inc., 950 Broadway, Denver, Colo.; File No. 812-1686.

Notice is hereby given that Financial Industrial Fund, Inc., a registered investment company, Financial Industrial Income Fund, Inc., a registered investment company, and Financial Programs, Inc. ("Applicants") have filed an application, as amended, for an order pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicants from the provisions of section 15 of the Act to the extent that such provisions may be deemed to have prevented or to prevent Financial Programs, Inc. ("Programs") from serving as investment adviser of or principal underwriter for Financial Industrial Fund, Inc. ("Industrial Fund") and Financial Industrial Income Fund, Inc. ("Income Fund") from January 2, 1964 to the date of special meetings of the shareholders of Industrial Fund and Income Fund to be held not later than August 13, 1964.

Section 15(a) of the Act provides, among other things, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered investment company and provides in substance for its automatic termination in the event of its assignment by the investment adviser.

Section 15(b) provides, among other things, that it shall be unlawful for any principal underwriter for a registered open-end company to offer for sale, sell or deliver after sale any security of which such company is the issuer except pursuant to a written contract with such company, which contract shall provide for its automatic termination in the event of assignment by such underwriter.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any

rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

All interested persons are referred to the application, as amended, on file with the Commission for a complete statement of Applicants' representations, a summary of which is set forth immediately below.

Programs serves as investment adviser and general distributor for Industrial Fund and Income Fund, each of which is a Maryland corporation registered under the Act as an open-end diversified management investment company. The investment advisory agreements between Industrial Fund and Programs and between Income Fund and Programs were last submitted to a vote of shareholders in November 1960. Also, in November 1960, the general distribution agreements between Programs and the two investment companies were renewed by action of the board of directors of each of such companies. Since November 1960 each of the respective contracts between Programs and the two investment companies has been renewed annually by the boards of directors of the respective companies, pursuant to the terms of the contracts and in the manner prescribed by section 15 of the Act.

Subsequent to November 20, 1963, certain Denver businessmen, including C. Frederic Meyer, an officer of Programs, and David F. Lawrence, a partner in Boettcher and Co., a Denver-based member of the New York Stock Exchange, held meetings and discussions with representatives of First Security Investment Co., including William F. Edwards, chairman of the board and chief executive officer of Programs, and president of Industrial Fund and Income Fund, regarding the possible sale of a controlling block of voting securities of Programs. William M. B. Berger, Ronald H. Macdonald, and John V. Amato, officers and directors of Centennial Management and Research Corp. ("Centennial"), (investment adviser and principal underwriter for four registered open-end management investment companies, not affiliated with Applicants in any manner, and with aggregate net assets of approximately \$34,000,000), participated in these early discussions with a view to participation in the purchase by persons associated with Centennial. In December 1963, in connection with these negotiations, Lawrence and Meyer contacted Charles C. Gates, Jr., president of The Gates Rubber Co. ("Gates Rubber"), with a view to ascertaining his interest in participating as an investor in the proposed transaction. Gates expressed a positive interest, but only if Gates Rubber could acquire, as a long-term investment, voting control of Programs. The negotiations culminated with the execution of written contracts on December 31, 1963, whereby, among other things, Gates Rubber agreed to purchase over 87 percent of the voting stock and over 77 percent of the non-voting stock of programs and Boettcher

Investment Co. ("Boettcher"), a wholly owned subsidiary of Boettcher and Co., agreed to purchase about 10 percent of Programs' nonvoting stock. On the same day, Gates Rubber acquired 17 percent and Boettcher acquired 10 percent of the nonvoting stock.

At a special meeting of the board of directors of Programs held January 2, 1964, Lawrence, Berger, and Robert G. Bonham, a director and financial vice-president of Gates Rubber, became directors of Programs. At this same meeting Lawrence was elected president of Programs and the investment committee of Programs, which makes investment recommendations to Industrial Fund and Income Fund, was reconstituted with Edwards, Lawrence, Meyer, and Berger as members.

On January 2, 1964, Lawrence entered upon his duties as president of Programs and Berger became vice president for portfolio management. Shortly thereafter, Macdonald became an assistant to the president in the areas of sales and insurance, serving as liaison between the president and the vice president in charge of sales, and Amato became an assistant to the president for administration serving as liaison between the president and the administrative vice president. Edwards continued as chairman of the board and chief executive officer of Programs.

During the first two weeks in January 1964, counsel for Industrial Fund and Income Fund began preparation of proxy soliciting material to submit to the respective boards of Industrial Fund and Income Fund at meetings to be held on January 16, 1964, for use in connection with special meetings of shareholders proposed to be held February 28, 1964. At meetings on January 16, 1964, the directors of each investment company authorized the holding of a special meeting of shareholders and discussed and approved the preliminary proxy soliciting material for use in connection with the proposed shareholders' meetings, subject to possible further revisions. Since the meetings of the boards of directors, the date of the shareholders' meeting has been postponed pending receipt of definitive comments from the staff of the Commission with respect to the preliminary proxy soliciting material and the completion by the staff of the Division of Corporate Regulation of the Commission of a private investigation with respect to the adequacy and accuracy of the disclosures made in such material.

On or about May 4, 1964, Applicants were advised that it was the opinion of the staff of the Division of Corporate Regulation of the Commission that by reason of the transactions and other events beginning with the execution of the agreement of December 31, 1963, there occurred, on or about January 2, 1964, an assignment, within the meaning of section 2(a)(4) of the Act, of the investment advisory and general distribution agreements between Programs and each of the investment companies, and that since that date Programs has served as investment adviser and general

distributor in contravention of the provisions of section 15 of the Act.

Applicants, believing that the opinion of the staff of the Division of Corporate Regulation is not supported by principles of law or the facts surrounding the transactions, take the position that the investment advisory and general distribution services have been and will continue to be rendered pursuant to valid and subsisting contracts. While Applicants do not at this time seek a determination of the question of whether or not there has been an assignment of the investment advisory and general distribution contracts, they expressly reserve their rights to do so in any manner permitted by law, and do not, by the filing of the application, waive any such rights.

The boards of directors of Applicants consider that payment of compensation to Programs during the period covered by the application for investment advisory and distribution services at the rates provided in the contracts between Programs and each of the investment companies last renewed September 26, 1963, would be lawful and fair and reasonable. However, in order to simplify the issues presented by the application and to terminate as soon as possible any uncertainty over the status of the contracts between Programs and the investment companies, the board of directors of each of the Applicants has agreed to a modified basis of compensation for the period from January 2, 1964, until the entry of the requested order.

Accordingly, the Applicants have agreed that (1) for the period January 2, 1964, to the date of an order of the Commission granting an exemption from the provisions of section 15 of the Act each investment company will pay to Programs its consolidated cost of providing investment advisory and general distribution services to each such company; and (2) from the date of the Commission order to the date of the special meeting of shareholders payments to Programs will be at the rates provided in the contract last renewed September 26, 1963. In each instance the agreement is subject to approval of shareholders of Industrial Fund and Income Fund, respectively.

In the event the shareholders of either or both investment companies approve the first proposal Programs will reimburse such company or companies for the amount paid in excess of the cost to Programs of the services performed during such period.

Applicants agree that the order may provide in effect that, if the shareholders of either Industrial Fund or Income Fund do not approve the resolution authorizing reimbursement of consolidated cost, the exemption granted by the order in relation to such company shall thereupon cease and determine, effective as of the time of the original entry of the order; and in that event the directors of the Applicants concerned will determine what action the Applicants should take in the light thereof.

Applicants also agree that the order may further provide that if the shareholders of either Industrial Fund or Income Fund approve the resolution authorizing reimbursement of consolidated cost from January 2, 1964, to the date

of the Commission's order but do not approve the resolution authorizing compensation for the period from the date of the Commission's order to the date of the special meeting of shareholders at the rates provided in the investment advisory and distribution agreements last renewed September 26, 1963, continuance of the exemption granted by the order will be conditioned upon the acceptance by Programs for such later period of its consolidated cost for investment advisory and distribution services, such cost to be determined in the same manner as for the period from January 2, 1964, to the date of the Commission's order. In the event of such action by the shareholders of either Industrial Fund or Income Fund, the directors of the Applicants concerned will determine whether Programs shall be compensated for its services during such period on the basis of consolidated cost.

Programs does not maintain accounts showing separately the cost of performing investment advisory and distribution services. For the period January 2, 1964 through May 31, 1964, Programs received (a) from Industrial Fund \$583,651 for investment advisory services and \$231,071 net for distribution services (after payment of \$336,669 to sales representatives) for a total of \$814,722, and its cost of providing such services was \$653,522; and (b) from Income Fund \$13,666 for investment advisory services and \$17,271 net for distribution services (after payment of \$25,166 to sales representatives) for a total of \$30,937, and its cost of providing such services was \$24,830. Consequently, for such period, if the first proposal is consummated, Programs will be required to refund \$161,200 to Industrial Fund and \$6,107 to Income Fund. For the period from June 1, 1964, to the date of the Commission's order, consolidated cost will be determined on the same basis as for the earlier period.

In view of the conflicting positions of the staff of the Division of Corporate Regulation and of the Applicants, and in order to remove questions concerning the current advisory and underwriting arrangements, the present application has been filed. In this connection, it is the opinion of the board of directors of Industrial Fund and the board of directors of Income Fund that Programs has performed investment management and underwriting services since January 2, 1964, substantially similar to those performed by it before that date and in accordance with the same or improved standards of performance and that the services performed and to be performed by Programs are necessary to the proper operation of the two investment companies. Applicants therefore submit that the granting of the exemption requested pursuant to section 6(c) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 6, 1964, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a

statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Industrial Fund, Income Fund, and Programs at the address set forth above. Proof of service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 64-6295; Filed, June 24, 1964; 8:45 a.m.]

[File No. 1-4722]

**TASTEE FREEZ INDUSTRIES, INC.**

**Order Summarily Suspending Trading**

JUNE 19, 1964.

The common stock, 67 cents par value, of Tastee Freez Industries, Inc., being listed and registered on the American Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such

security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, that trading in such security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for the period June 21, 1964 through June 30, 1964, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 64-6296; Filed, June 24, 1964; 8:45 a.m.]

**INTERSTATE COMMERCE COMMISSION**

**FOURTH SECTION APPLICATIONS FOR RELIEF**

JUNE 22, 1964.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 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. 39094: *Joint motor-rail rates—Middle Atlantic.* Filed by Middle Atlantic Conference, agent (No. 41), for interested carriers. Rates on various commodities moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Maine, on the one hand, and points in Middle Atlantic territory, on the other.

Grounds for relief: Motortruck competition.

Tariff: Supplement 26 to Middle Atlantic Conference, agent, tariff MF-I.C.C.A-1430.

FSA No. 39095: *Substituted service—ACL, et al., for U.S. Van Lines, Inc.* Filed by Movers' & Warehousemen's Association of America, Inc., agent (No. 6), for interested carriers. Rates on property loaded in highway trailers, between interchange points named in the application, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motortruck competition.

FSA No. 39096: *Class and commodity rates from and to West Paris, Ky.* Filed by O. W. South, Jr., agent (No. A4530), for interested rail carriers. Rates on various commodities moving on class and commodity rates, in carloads and less-than-carloads, from or to West Paris, Ky., on the one hand, and points in United States and Canada, on the other.

Grounds for relief: New station and grouping.

By the Commission.

[SEAL] HAROLD D. McCoy,  
Secretary.

[F.R. Doc. 64-6316; Filed, June 24, 1964; 8:48 a.m.]

**CUMULATIVE CODIFICATION GUIDE—JUNE**

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during June.

<p><b>1 CFR</b></p> <p>CFR Checklist..... 7139</p> <p><b>3 CFR</b></p> <p>PROCLAMATIONS:</p> <p>3593..... 7281</p> <p>3594..... 7971</p> <p>EXECUTIVE ORDERS:</p> <p>10119 (revoked by EO 11157) _ 7973</p> <p>10152 (revoked by EO 11157) _ 7973</p> <p>10168 (revoked by EO 11157) _ 7973</p> <p>10204 (revoked by EO 11157) _ 7973</p> <p>10605 (revoked by EO 11157) _ 7973</p> <p>10618 (revoked by EO 11157) _ 7973</p> <p>10618 (revoked by EO 11157) _ 7973</p> <p>10681 (revoked by EO 11157) _ 7973</p> <p>10739 (revoked by EO 11157) _ 7973</p> <p>10821 (revoked by EO 11157) _ 7973</p> <p>10892 (revoked by EO 11157) _ 7973</p> <p>10989 (revoked by EO 11157) _ 7973</p> <p>11120 (revoked by EO 11157) _ 7973</p> <p>11146 (revoked by EO 11157) _ 7973</p> <p>11156..... 7855</p> <p>11157..... 7973</p> <p>11158..... 7981</p>	<p><b>5 CFR</b></p> <p>213..... 7235, 7380, 7505, 7661, 7983</p> <p>300..... 7766</p> <p>511..... 7801</p> <p>534..... 7801</p> <p>731..... 8049</p> <p>PROPOSED RULES:</p> <p>890..... 7327</p> <p><b>6 CFR</b></p> <p>40..... 7857</p> <p>50..... 7983</p> <p>322..... 7795</p> <p>386..... 7795</p> <p><b>7 CFR</b></p> <p>1..... 7311</p> <p>28..... 7374, 7661</p> <p>29..... 7709</p> <p>51..... 7761</p> <p>52..... 7909</p> <p>54..... 7709</p> <p>55..... 7709</p> <p>56..... 7709</p> <p>70..... 7709, 7857</p>	<p><b>7 CFR—Continued</b></p> <p>81..... 7585</p> <p>301..... 7451, 7863</p> <p>401..... 7413</p> <p>718..... 7311, 7863</p> <p>722..... 7312, 7865</p> <p>724..... 7588, 7763</p> <p>728..... 7139, 7912</p> <p>729..... 7801, 7983</p> <p>730..... 7916</p> <p>777..... 7983</p> <p>778..... 7867</p> <p>908..... 7375, 7589, 7871, 7989</p> <p>910..... 7235, 7375, 7590, 7871</p> <p>911..... 7871</p> <p>916..... 7139-7141, 7590</p> <p>917..... 7141-7143, 7452, 7505, 7989</p> <p>922..... 7803</p> <p>923..... 7375, 7763</p> <p>965..... 7143, 7376, 7590</p> <p>980..... 7143, 7377, 7591</p> <p>987..... 8049</p> <p>1002..... 7283</p> <p>1032..... 7235</p>
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