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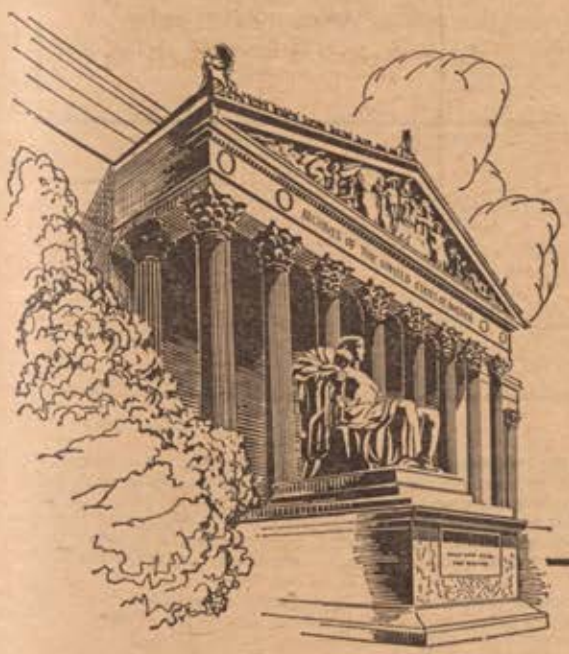

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PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Nursery Stock, Plants, and Seeds

IMPORTATION OF COCONUTS INTO HAWAII

On February 16, 1965, there was published in the FEDERAL REGISTER (30 F.R. 2106) a notice of rule making concerning the proposed issuance of administrative instructions to be designated as 7 CFR 319.37-24b. After due consideration of all relevant matters presented and pursuant to § 319.37-24 of the regulations supplemental to the quarantine relating to the importation of nursery stock, plants, and seeds (7 CFR 319.37-24) issued under sections 1, 5, and 9 of the Plant Quarantine Act of 1912, as amended, and pursuant to said Act and the Act of September 28, 1962 (7 U.S.C. 154, 159, 162, and 450), administrative instructions to be designated as 7 CFR 319.37-24b are hereby issued to read as follows:

§ 319.37-24b Administrative instructions concerning importation of coconuts into Hawaii.

(a) In accordance with § 319.37-24 of the regulations supplemental to the quarantine relating to the importation of nursery stock, plants, and seeds (7 CFR 319.37-24), the Director of the Plant Quarantine Division has determined that the State of Hawaii has taken action to prevent the entry into Hawaii of the cadang-cadang disease and certain insects, virus diseases, fungi, bacteria, and other infectious agents of coconuts, and has promulgated a quarantine prohibiting the entry into Hawaii in interstate movement of any coconut plant or part thereof, including green coconut-leaf products and nuts (Cocos nucifera) capable of propagation, except that entry under permit is authorized for husked coconuts for manufacturing purposes. The State quarantine further provides that palm hearts for edible purposes if free from leaf tissues and insect pests are enterable without restriction, and dried coconut-leaf products such as dried coconut hats and baskets may enter without permit after receiving an approved fumigation. The Director has also determined that the cadang-cadang disease and such other pests as are specified in the Hawaiian quarantine are widespread in coconut producing regions of the world other than Hawaii. There is at the present time no known treatment that will eliminate the organisms specified. Further, the State of Hawaii has requested that the U.S. Department of Agriculture cooperate in the enforcement of their coconut quarantine by prohibiting the importation into Hawaii from any foreign country of any coconut plant or part thereof, including green coconut-leaf products and nuts (Cocos nucifera).

(b) Under authority of § 319.37-24, notice is hereby given that the Division will refuse to issue permits for the importation into Hawaii of coconut plants and nuts (Cocos nucifera), capable of propagation.

(Secs. 1, 5, 9, 37 Stat. 315-318, as amended, 76 Stat. 663; 7 U.S.C. 154, 159, 162, 450; 7 CFR 319.37-24)

These administrative instructions shall become effective March 30, 1965.

These administrative instructions deny the importation into the State of Hawaii from foreign countries of coconut plants and nuts, capable of propagation, in furtherance of action already taken by Hawaii to prevent the introduction therein of certain plant diseases and insects.

In order to effectively cooperate with the State of Hawaii in this matter, these administrative instructions should be made effective as soon as possible. Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 24th day of March 1965.

[SEAL] F. A. JOHNSTON,
Director,
Plant Quarantine Division.

[F.R. Doc. 65-3211; Filed, Mar. 29, 1965; 8:49 a.m.]

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

SUBCHAPTER B—FARM ACREAGE ALLOTMENTS AND MARKETING QUOTAS

PART 729—PEANUTS

Subpart—Determination With Respect to Supply of Valencia Type Peanuts for the 1965-66 Marketing Year

AMOUNT OF INCREASE AND APPORTIONMENT OF INCREASE AMONG STATES

The purpose of this document is to establish that the supply of Valencia type peanuts for the marketing year beginning August 1, 1965, will be insufficient to meet the estimated demand for cleaning and shelling purposes, to establish the extent of increase in State allotments for States producing peanuts of such type required to meet such demand, and to apportion such increase to such States. The determinations contained herein are made pursuant to section 358(c)(2) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1358(c)(2)), which authorizes the Secretary to increase allotments for any type or types of peanuts the supply of which he determines is insufficient to meet the estimated demand for cleaning and shelling purposes at prices at which Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it.

Section 729.1605(a) establishes that the supply of Valencia type peanuts for the marketing year beginning August 1, 1965, will be insufficient to meet the estimated demand for cleaning and shelling purposes at prices at which Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it. Section 729.1605(a) also establishes the total increase in State allotments required to meet the prescribed demand for Valencia type peanuts.

Section 729.1605(b) apportions the increase determined under § 729.1605(a) to States producing Valencia type peanuts. Such increase is prorated to such States on the basis of the average acreage of Valencia type (excluding acreage in excess of farm allotments) grown in each State in the three years 1962-64, but the allotment for no State is increased above the 1947 harvested acreage of peanuts for the State. For the purpose of this document "farm allotments" mean the allotments established for farms prior to any increase from released acreage or from the additional acreage allotted to farms under section 358(c)(2) of the Agricultural Adjustment Act of 1938, as amended. The 1962-64 average acreage used for the purposes of the aforementioned apportionment was determined by the State and county committees from the latest available Federal statistics including data reported by the farm operators and county office records of peanut acreages and production. Such data will be used as the basis for apportioning the increased acreage allotted to States to farms in accordance with the provisions of § 729.1437 of the Allotment and Marketing Quota Regulations for Peanuts of the 1963 and Subsequent Crops (27 F.R. 11920).

Section 729.1605(c) specifies that the increase in acreage allotted to States under § 729.1605(b) shall not be considered in establishing future State, county, or farm acreage allotments.

Public notice of the proposed determination with respect to the supply of Valencia type peanuts for the 1965-66 marketing year was given (30 F.R. 2601) in accordance with the Administrative Procedure Act (5 U.S.C. 1003). This determination is made after due consideration of recommendations submitted in response to such notice. In order that the State and county Agricultural Stabilization and Conservation committees may apportion the additional acreage provided herein for Valencia type peanuts, and issue allotment notices to farm operators at the earliest possible date, it is essential that this determination be made effective as soon as possible. Ac-

cordingly, it is hereby determined and found that compliance with the 30-day effective date provision of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable and contrary to the public interest, and the regulations contained herein shall be effective upon filing with the Director, Office of the Federal Register.

§ 729.1605 Amount of increase and apportionment of increase among States.

(a) *Designation of type for which increase is needed and determination of total increase.* The State acreage allotments for peanuts of the 1965 crop for States which produced Valencia type peanuts during any one or more of the years 1962, 1963, and 1964 shall be increased by a total of 3,056 acres. This increase is determined to be the additional acreage required to meet the demand for Valencia type peanuts for cleaning and shelling purposes at prices at which the Commodity Credit Corporation may sell for such purposes peanuts owned or controlled by it.

(b) *Apportionment of increase to States.* The acreage established in § 729.1605(a), less a reserve of one-fourth of 1 percent to be used for adjusting State allotments determined on the basis of incomplete or inaccurate data, is hereby apportioned to States on the basis of the average acreage (excluding acreage in excess of farm allotments) of Valencia type peanuts in each State in 1962, 1963, and 1964. The increase provided by this section does not result in increasing the State allotment for any State above the 1947 harvested acreage of peanuts for such State.

State	1947 harvested acreage of peanuts	1962-64 average acreage Valencia type peanuts	1965-increase in basic State allotment for Valencia type peanuts	1965 previous State allotment [1]	1965 revised State allotment
	Acres	*Acres*	*Acres*	*Acres*	*Acres*
Alabama	463,000	64.0	25	217,727.2	217,782.2
Arizona	0			714.1	714.1
Arkansas	8,000			4,205.5	4,205.5
California	0			936.1	936.1
Florida	105,000	28.9	11	55,279.6	55,290.6
Georgia	1,124,000	88.5	34	528,529.8	528,563.8
Louisiana	4,000			1,956.2	1,956.2
Mississippi	13,000	32.5	12	7,531.8	7,543.8
Missouri	0			247.0	247.0
New Mexico	14,000	7,258.8	2,788	5,544.6	8,332.6
North Carolina	292,000	2.6	1	168,601.9	168,602.9
Oklahoma	325,000			138,586.4	138,586.4
South Carolina	26,000	53.7	21	13,887.5	13,908.5
Tennessee	5,000	149.6	57	3,607.4	3,664.4
Texas	836,000	258.1	99	357,216.2	357,315.2
Virginia	162,000			105,428.7	105,428.7
National reserve [2]	0		8		8.0
U.S. total	3,377,000	7,936.7	3,056	1,610,000.0	1,613,056.0

[1] Including the acreage apportioned from the reserve for new farm allotments on the basis of approved applications for new farms, and the unused portion of such new farm reserve which was apportioned on the same basis which was used in making the initial 1965 apportionment, as follows (acres): Alabama—24.2; Arizona—0.1; Arkansas—0.5; California—0.1; Florida—44.6; Georgia—767.8; Louisiana—0.2; Mississippi—0.8; New Mexico—96.6; North Carolina—49.9; Oklahoma—167.4; South Carolina—21.5; Tennessee—0.4; Texas—411.2; Virginia—24.7.

[2] For correcting or adjusting State allotments in error because of incomplete or inaccurate data.

Estimated production from the Valencia acreage increase: New Mexico—6,691,200 pounds; other States—306,698 pounds.

(c) *No credit for future allotments.* The increase in acreage allotted to States and farms pursuant to this section shall not be considered in establishing future State, county, or farm acreage allotment.

(d) *Definition of Valencia type peanuts.* As used in this section, Valencia type peanuts shall have the usual meaning provided for in § 729.1413(c).

(Secs. 358, 375, 55 Stat. 89, as amended, 65 Stat. 29, 52 Stat. 66, as amended; 7 U.S.C. 1358, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on March 24, 1965.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65-3212; Filed, Mar. 29, 1965; 8:49 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 3]

PART 1003—MILK IN WASHINGTON, D.C., MARKETING AREA

Order Amending Order

§ 1003.0 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 Washington, D.C., 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.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than April 1, 1965. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator was issued February 17, 1965 and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued March 18, 1965. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective April 1, 1965 and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8(c)(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Washington, D.C., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

1. In § 1003.16 paragraphs (a) and (d) are revised to read as follows.

§ 1003.16 Definitions of milk and milk products.

(a) "Fluid milk product" means milk and skim milk, concentrated milk (including frozen concentrated milk), reconstituted or fortified milk and skim milk, flavored milk and skim milk, cultured skim milk, buttermilk, cream and any mixture of cream and milk or skim milk. "Fluid milk product" shall not include aerated cream, sour cream, yogurt, eggnog, and products which are packaged in hermetically sealed containers;

* * * * *

(d) "Base milk" means milk received from a producer by a pool handler during any of the months of April through June of each year which is not in excess of such producer's daily average base computed pursuant to § 1003.63 multiplied by the number of days on which such producer's milk was received by such pool handler during the month: *Provided*, That with respect to any producer on every-other-day delivery, the day of nondelivery prior to a day of delivery, although such prior day is in the preceding month, shall be considered as a day of delivery for the purpose of this paragraph.

* * * * *

2. In § 1003.63, the introductory text is revised, the language "paragraphs (b), (c) and (d)" in paragraph (a) is revised to "paragraphs (b), (c), (d) and (e)", and a new paragraph (e) is added to read as follows:

§ 1003.63 Computation of base for each producer.

For each of the months of April through June of each year, the market administrator shall compute, subject to the rules set forth in § 1003.64, a base for each producer described in paragraphs (a) through (e) of this section by dividing the applicable quantity of milk receipts specified in such paragraph by 184 (by 185, in the case of a producer on every-other-day delivery schedule who delivered July 1st) less the number of days, if any, during the immediately preceding base-forming period of July through December, for which it is shown that the days production of milk of such producer was not received by a pool handler as described in the applicable paragraph of this section under which such producer's base is computed: *Provided*, That, except as provided in paragraph (e) of this section, the number of days used to compute a producer's base pursuant to this part shall be not less than 154.

* * * * *

(e) For any dairy farmer whose milk was not received at a pool plant during the period July 1, 1964, through December 31, 1964, because it contained pesticidal residues, but who was a producer immediately prior to the action resulting in the loss of his market, the quantity of milk receipts shall be the total pounds of milk received from such dairy farmer during the July–December 1964 period by pool handlers plus the quantity of milk eligible for indemnity payments under the Economic Opportunity Act of 1964 during the same period.

3. Section 1003.64 is revised to read as follows:

§ 1003.64 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base computed pursuant to § 1003.63 or as designated pursuant to paragraph (c) of this section may be transferred in its entirety to any other person upon written application to the market administrator on or before the second day of the month following the month of transfer. Such application shall be on a form approved by the market administrator and shall be signed by the base holder, or his heirs, or assigns and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base shall be transferable only upon receipt of such application signed by all joint holders or their heirs, or assigns.

(b) If a producer operates more than one farm, and milk is received from each at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1003.10 (b) or (c), he shall establish a separate base with respect to producer milk delivered from each such farm; and

(c) Only one base shall be allotted with respect to milk produced by one or more persons where the dairy farm is jointly owned or operated: *Provided*, That in the case of a base established jointly, if a copy of the agreement setting forth as a percentage of the total the interests of each person in the base is filed with the market administrator before the end of the base-making period, then upon termination of the agreement each joint holder will be entitled to his stated share of the base to hold in his own right, or to transfer as provided in paragraph (a) of this section (including transfer to a partnership of which he is a member) such division with respect to any joint holder to be effective as of the end of any month during which an application for such division signed by each joint holder is received by the market administrator.

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

Effective date: April 1, 1965.

Signed at Washington, D.C., on March 25, 1965.

CHARLES S. MURPHY,
Under Secretary.

[F.R. Doc. 65-3226; Filed, Mar. 29, 1965; 8:49 a.m.]

[Milk Order 36]

PART 1036—MILK IN NORTHEASTERN OHIO MARKETING AREA

Order Amending Order

AUTHORITY: The provisions of this Part 1036 issued under secs. 1–10, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1036.0 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 Northeastern Ohio 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.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than April 1, 1965. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator was issued February 16, 1965, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued March 18, 1965. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective April 1, 1965, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c) Administrative Procedure Act, 5 U.S.C. 1001–1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Northeastern Ohio marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

DEFINITIONS

§ 1036.1 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.).

§ 1036.2 Secretary.

"Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 1036.3 Department of Agriculture.

"Department of Agriculture" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 1036.4 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

§ 1036.5 Northeastern Ohio marketing area.

"Northeastern Ohio marketing area", hereinafter referred to as the "marketing area", means all territory within the boundaries of Cuyahoga and Summit Counties; Stark County, except Paris and Sugar Creek Townships; the City of Ashtabula in Ashtabula County; Knox Township in Columbiana County; Willoughby, Mentor and Kirtland Townships and the City of Painesville in Lake County; Black River, Sheffield, Avon Lake, Avon, Amherst, Elyria, Ridgeville, Carlisle, Eaton, Columbia and Grafton Townships in Lorain County; Smith Township in Mahoning County, except Great Lot 35 thereof; Liverpool, Brunswick, Hinckley, York, Granger, Medina, Lafayette, Montville, Sharon and Wadsworth Townships in Medina County; Franklin, Ravenna, Brimfield and Suffield Townships and Lots 5 to 10, 15 to 20, 25 to 30, and 35 to 40, inclusive, of Randolph Township in Portage County; and Sections 1, 2, 3, 10, 11 and 12 of Sugar Creek Township in Wayne County; all in the State of Ohio; together with all piers, docks and wharves connected therewith and including all municipal corporations and all Federal or State installations, institutions or establishments therein.

§ 1036.6 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) A cooperative association with respect to the milk of any producer which such cooperative association causes to be diverted for the account of such association from a pool plant to a pool plant or nonpool plant;

(d) A cooperative association with respect to milk of its producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association: *Provided*, That such cooperative association shall not be a handler pursuant to this paragraph unless the market administrator and the handler who is the operator of the pool plant where such milk is to be received are notified in writing by the cooperative association that it elects to be the handler for such milk: *And provided further*, That such milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which such milk is delivered;

(e) A producer-handler, or any person who operates an other order plant.

§ 1036.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the inspection requirements of the appropriate health authority in the marketing area for consumption as fluid milk, which milk is received at a pool plant or diverted pursuant to

§ 1036.10 from a pool plant to a nonpool plant. "Producer" shall not include any such person with respect to milk for which such person retains his status as a producer as defined under another order issued pursuant to the Act and which milk is classified and priced under such other order.

§ 1036.8 Pool plant.

"Pool plant" means any milk plant specified in paragraph (a), (b), (c) or (d) of this section approved by the appropriate health authority in the marketing area, other than the plant of a producer-handler or a plant for which the handler is exempt pursuant to §§ 1036.90 and 1036.91.

(a) A plant at which milk is packaged and from which (1) fluid milk products classified as Class I milk are distributed on a route in the marketing area; and (2) total disposition of such fluid milk products on routes is 50 percent or more of total receipts during the month of milk approved for fluid use by a duly authorized health authority from dairy farmers, through reload points and from other plants, except that during each of the months of April through July the percentage requirements of this paragraph shall be 40 percent if such plant qualified during each of the preceding months of August through March.

(b) A plant from which there has been delivered to pool plant(s) described in paragraph (a) of this section, either during the current month or during any period of consecutive months ending with the current month, 30 percent or more of its total dairy farm supply of milk;

(c) A plant which was a pool plant during each month of the preceding period of August through January and during that period delivered to pool plant(s) described in paragraph (a) of this section 10 percent or more of its monthly total dairy farm supply of milk during each such month, and 30 percent or more of its total dairy farm supply during the entire August–January period, shall, unless written notice of withdrawal is received by the market administrator before the first day of the month, be a pool plant as follows:

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

(2) During each successive month of August through January in which it delivers 10 percent or more of its total dairy farm supply to pool plant(s) described in paragraph (a) of this section.

(d) A plant located less than 40 miles from the Public Square in Cleveland, Ohio, or less than 27.5 miles from the nearer of the City Hall in Akron, the City Hall in Canton or the City Hall in Ashtabula, Ohio, operated by a cooperative association, or associations, if one-half or more of the milk (exclusive of that received at pool plants described in paragraphs (b) and (c) of this section) delivered during the immediately preceding six-month period by producers who are members of such association(s) including amounts transferred from the plant of the cooperative association, was received at the pool plants of other handlers;

(e) All pool plants described in paragraph (b) or (c) of this section, respectively, operated by a handler may be considered as one plant for the purpose of meeting the percentage requirement of such paragraphs if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested; and

(f) A plant which replaces a pool plant shall acquire immediately the pool plant status of the replaced plant if the operator thereof shows to the satisfaction of the market administrator that 50 percent or more of the dairy farmers delivering milk to it previously had been producers at the pool plant so replaced.

§ 1036.9 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 acceptable to an appropriate health authority for distribution in the marketing area are distributed in consumer-type packages or dispenser units on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which milk, skim milk, or cream acceptable to an appropriate health authority for distribution in the marketing area is shipped to a pool plant.

§ 1036.10 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk which is:

(a) Received at a pool plant directly from a dairy farmer or from a handler pursuant to § 1036.6(d);

(b) Diverted from the farm of a producer to a nonpool plant in any month of April through July and in any other month in which at least 6 days' production of the producer is delivered to a pool plant, subject to the following:

(1) Milk so diverted for the account of the operator of a pool plant shall be deemed to have been received at the plant from which diverted; and

(2) Milk so diverted from the plant of another handler for the account of a cooperative association shall be priced at the location of the plant from which diverted; and

(c) Diverted from the farm of a producer to another pool plant for the account of the handler operating the pool plant from which diverted. Milk so diverted shall be deemed to have been received for the account of such handler at the location of the pool plant from which diverted if at least 6 days' production of the producer is delivered to such plant during the month.

§ 1036.11 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) receipts from other pool plants and (2) producer milk; and (b) products, other than fluid milk products, from any source (including those produced at the pool plant) which are reprocessed or converted to another product in the pool plant during the month.

§ 1036.12 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk and flavored milk drinks unmodified or "fortified" including "dietary milk products" and reconstituted milk or skim milk; concentrated milk not in hermetically sealed cans; and cream and mixtures of cream and milk or skim milk. "Fluid milk product" shall not include sterilized cream packaged in hermetically sealed containers which is disposed of in the same form as received, frozen or sour cream, aerated cream products, eggnog, ice cream and frozen dessert mixes or milk shake mix.

§ 1036.13 Producer-handler.

"Producer-handler" means a dairy farmer who operates a milk plant from which Class I products are distributed on route(s) in the marketing area and receives no fluid milk products during the month except milk of his own production or by transfer from pool plants.

§ 1036.14 Route.

"Route" means a delivery (including a delivery by a vendor or sale from a plant or plant store) of any fluid milk product (except bulk cream) classified as Class I milk to a wholesale or retail outlet other than a delivery to any milk plant.

§ 1036.15 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 sale or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

§ 1036.16 [Reserved]

§ 1036.17 [Reserved]

§ 1036.18 Reload point.

"Reload point" means a location which is both more than 40 miles from the Public Square in Cleveland, Ohio, and more than 27.5 miles from the nearer of the City Hall in Akron, the City Hall in Canton or the City Hall in Ashtabula, Ohio, at which facilities approved by the

appropriate health authority in the marketing area for transfer of milk from one tank truck to another and for washing of tank trucks are maintained, and at which milk moved from the farm in a tank truck is commingled with other such milk before entering a milk plant. All reloading operations on the premises of a pool plant shall be considered to be a part of such pool plant's operation. Otherwise the operations at a reload point shall be considered to be a part of the operation of the pool plant to which the major portion of the milk moved from farms to the reload point normally moves, except for the application of location adjustments pursuant to §§ 1036.55 and 1036.81.

MARKET ADMINISTRATOR

§ 1036.20 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.

§ 1036.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 1036.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of funds provided by § 1036.86:

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 1036.87, necessarily incurred by him in the maintenance and functioning of his office in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, 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 day upon which he is required to perform such acts, has not made (1) reports pursuant to § 1036.30, or (2) payments pursuant to §§ 1036.80, 1036.84, 1036.86, 1036.87, or 1036.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) On or before the 20th day of each month, report to each cooperative association that so requests the class utilization of milk received during the preceding month by each handler from producers who are members of such association, prorating to such receipts the class utilization of all producer receipts of such handler;

(i) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or nonhandler upon whose utilization the classification of skim milk and butterfat for such handler depends;

(j) On or before the dates specified herein, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following:

(1) The sixth day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the Class II milk price and the Class II butterfat differential, both for the preceding month; and

(2) The 14th day of each month the uniform price computed pursuant to § 1036.71 and the butterfat differential computed pursuant to § 1036.82; and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1036.46(h) and the corresponding step of § 1036.47, 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 §§ 1036.46 and 1036.47 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

§ 1036.30 Reports of receipts and utilization.

On or before the eighth day after the end of the month each handler except a handler pursuant to § 1036.6(e) and a handler exempt pursuant to § 1036.91 shall report to the market administrator for such month in detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in, or used in the production of:

(1) Milk received from producers (or qualified dairy farmers, in case of a nonpool plant) and from handlers pursuant to § 1036.6(d);

(2) Fluid milk products received from other pool plants;

(3) Other source milk; and

(4) Inventories of fluid milk products on hand at the beginning of the month; and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section, including a separate statement with respect to:

(1) Disposition of fluid milk products on routes in the marketing area; and

(2) Inventories of fluid milk products on hand at the end of the month; and

(c) Such other information as the market administrator may prescribe.

§ 1036.31 Other reports.

(a) On or before the eighth day after the end of the month, each handler pursuant to § 1036.6(d) shall report to the market administrator in detail and on forms prescribed by the market administrator the quantities of skim milk and butterfat in producer milk delivered to each pool plant in the month.

(b) Each producer-handler and each handler exempt pursuant to §§ 1036.90 or 1036.91 shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 1036.32 Payroll reports.

On or before the 25th day after the end of each month, each handler who received milk from producers and/or handlers pursuant to § 1036.6(d) and each handler except a handler who elected at the time of reporting to make payments pursuant to § 1036.75(b) who operates a partially regulated distributing plant shall submit to the market administrator his producer payroll for the month (in the case of the handler operating the partially regulated distributing plant, his payroll for qualified dairy farmers), which shall show:

(a) The pounds of milk, and the percentage of butterfat contained therein, received from each producer;

(b) The amount and date of payment to each producer or cooperative association pursuant to § 1036.80; and

(c) The nature and amount of each deduction or charge involved in the payments referred to in paragraph (b) of this paragraph.

§ 1036.33 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 all of his operations and such facilities as, in the opinion of the market administrator, are necessary to verify reports or to ascertain the correct information with respect to:

(a) The receipts and utilization of all skim milk and butterfat required to be reported pursuant to § 1036.30 or § 1036.31;

(b) The pounds of skim milk and butterfat contained in or represented by each fluid milk product on hand at the beginning and at the end of each month;

(c) The weights and tests for butterfat and for other contents of all milk and milk products handled; and

(d) Payments to producers and to cooperative associations.

§ 1036.34 Retention of records.

All books and records required under this part 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 calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1036.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1036.30 shall be classified pursuant to §§ 1036.41 through 1036.48.

§ 1036.41 Classes of utilization.

Subject to the conditions set forth in §§ 1036.43 through 1036.46, the classes of utilization shall be as follows:

(a) *Class I.* Class I shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products, except those classified pursuant to paragraph (c)(2), (3) and (8) of this section, except that fluid milk products which have been fortified by the addition of nonfat solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content, and

(2) Not specifically accounted for as Class II;

(b) *Class II.* Class II shall be all skim milk and butterfat:

(1) Used to produce a product other than a fluid milk product;

(2) Disposed of in fluid milk products in bulk to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(3) Disposed of for livestock feed or dumped subject to prior notification to and inspection (at his discretion) by the market administrator;

(4) In frozen cream;

(5) In inventory of fluid milk products on hand at the end of the month;

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1036.42(a)(1) but not in excess of:

(i) Two percent of producer milk (except that received from a handler pursuant to § 1036.6(d)):

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1036.6(d): *Provided*, That if the handler receiving such milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2 percent;

(iii) Plus 1.5 percent of milk received in bulk tank lots from pool plants of other handlers;

(iv) Plus 1.5 percent of receipts of fluid milk products in bulk from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of such plants and the handlers;

(v) Plus 1.5 percent of receipts of fluid milk products in bulk from unregulated supply plants exclusive of the quantity for which Class II utilization is requested by the handler; and

(vi) Less 1.5 percent of milk disposed of in bulk tank lots to pool plants of other handlers;

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1036.42(a)(2); and

(8) Contained in that portion of "fortified" fluid milk products not classified as Class I milk.

§ 1036.42 Shrinkage.

(a) If a handler has receipts of other source milk shrinkage shall be prorated between: (1) Skim milk and butterfat in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 1036.41(b)(6); and (2) skim milk and butterfat in other sources milk in fluid form, exclusive of that specified in § 1036.41(b)(6).

(b) Producer milk diverted by a handler from his pool plant to an other plant (pool or nonpool) without first having been received for the purposes of weighing in the diverting handler's pool plant shall be excluded from receipts at the diverting handler's pool plant and shall be included in the receipts of the plant to which such milk was diverted for the purpose of computing shrinkage.

§ 1036.43 Transfers.

Skim milk or butterfat disposed of by a handler from a pool plant, including transfers or diversions made by a cooperative association shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted to a pool plant of another handler subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1036.46(h) and the corresponding step of § 1036.47;

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1036.46(c) and the corresponding step of § 1036.47, 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 § 1036.46 (g) or (h) and the corresponding steps of § 1036.47, 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 to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 265 miles by the shortest highway distance as determined by the market administrator, from the Public Square in Cleveland, Ohio;

(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, located not more than 265 miles, by the shortest highway distance as determined by the market administrator, from the Public Square in Cleveland, Ohio, 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 § 1036.30 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 re-

ceipts 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 subparagraph (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 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 § 1036.41.

§ 1036.44 Responsibility of handlers and reclassification of milk.

All skim milk and butterfat shall be classified as Class I milk unless the handler who first received such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 1036.45 Computation of the skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the monthly report of receipts and utilization submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, and Class II milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water reasonably associated with such solids in the form of whole milk.

§ 1036.46 Allocation of butterfat classified.

The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to producer milk:

(a) Subtract from the total pounds of butterfat in Class II the pounds of butterfat classified as Class II pursuant to § 1036.41(b)(6);

(b) Subtract from the remaining pounds of butterfat in each class the pounds of butterfat in fluid milk products received in packaged form from other order plants as follows:

(1) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(2) From Class I milk, the remainder of such receipts;

(c) Subtract in the order specified below from the pounds of butterfat remaining in each class, in series beginning with Class II, the pounds of butterfat in each of the following:

(1) Other source milk in a form other than that of a fluid milk product;

(2) Receipts of fluid milk products for which appropriate health approval is not established, or which are from unidentified sources; and

(3) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(d) Subtract, in the order specified below from the pounds of butterfat remaining in Class II but not in excess of such quantity.

(1) Receipts of fluid milk products from an unregulated supply plant:

(i) For which the handler requests Class II utilization; or

(ii) Which are in excess of the pounds of butterfat determined by multiplying the pounds of butterfat remaining in Class I milk by 1.25 and subtracting the sum of the pounds of butterfat in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(2) 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;

(e) Subtract from the pounds of butterfat remaining in each class, in series beginning with Class II, the pounds of butterfat in inventory of fluid milk products on hand at the beginning of the month;

(f) Add to the remaining pounds of butterfat in Class II milk the pounds subtracted pursuant to paragraph (a) of this section;

(g) Subtract from the pounds of butterfat remaining in each class, pro rata to such quantities, the pounds of butterfat in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to paragraph (d)(1) of this section;

(h) Subtract from the pounds of butterfat remaining in each class, in the following order, the pounds of butterfat 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 paragraph (d)(2) of this section:

(1) 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 butterfat announced for the month by the market administrator pursuant to § 1036.22(1) or the percentage that Class II utilization remaining is of the total remaining utilization of butterfat of the handler; and

(2) From Class I, the remaining pounds of such receipts;

(i) Subtract from the pounds of butterfat remaining in each class the pounds of butterfat received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1036.43(a); and

(j) If the pounds of butterfat remaining in all classes exceed the pounds of butterfat in producer milk, subtract such excess from the pounds of butterfat remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage".

§ 1036.47 Allocation of skim milk.

Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in § 1036.46.

§ 1036.48 Computation of total producer milk in each class.

The amounts computed pursuant to §§ 1036.46 and 1036.47 shall be combined into one total for each class and the weighted average butterfat content of producer milk in each class determined.

MINIMUM PRICES

§ 1036.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the United States Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1036.51 Class I milk prices.

The respective minimum prices per hundredweight to be paid by each handler, f.o.b. his plant for milk received from producers or from a cooperative association, during the month which is classified as Class I milk, shall be as follows, as computed by the market administrator:

(a) Add to the basic formula price for the preceding month the following amount for the period indicated:

Delivery period:	*Amount*
April through July	$1.40
All others	1.80

and add or subtract a "supply-demand adjustment" computed as follows:

(1) Divide the total quantity of producer milk during the second and third months preceding by the gross quantity of milk utilized as Class I (adjusted to eliminate duplications due to interhandler transfers) at pool plants in the same two months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "current utilization percentage".

(2) Compute a "deviation percentage" by subtracting from the current utilization percentage as computed in subparagraph (1) of this paragraph, the "standard utilization percentage" shown below:

Month for which the price is being computed	*Standard utilization percentage*
January	130
February	129
March	129
April	130
May	131
June	132
July	141
August	149
September	142
October	128
November	126
December	128

(3) Determine the amount of the supply-demand adjustment from the following schedule:

Deviation percentage:	*Amount of supply-demand adjustment (cents)*
+13 or over	−25
+10 or +11	−19
+7 or +8	−13
+4 or +5	−7
+2 to −2	0
−4 or −5	+7
−7 or −8	+13
−10 or −11	+19
−13 or below	+25

When the deviation percentage does not fall within the tabulated brackets, the adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket used in the previous month.

§ 1036.52 Class II milk price.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for producer milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month, which is classified as Class II utilization, shall be the basic formula price, as computed pursuant to § 1036.50, but in no event shall the Class II price exceed the price per hundredweight computed by adding together the plus amounts computed as follows, plus 10 cents:

(a) From the average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter for the month as reported by the Department of Agriculture for the Chicago market, subtract three cents, add 20 percent of the resulting amount and then multiply by 3.5; and

(b) From the weighted average of the carlot prices per pound of spray process nonfat dry milk solids for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965.

§ 1036.53 [Reserved]

§ 1036.54 Butterfat differentials to handlers.

If the average butterfat content of the milk of any handler allocated to any class is more or less than 3.5 percent, there shall be added to the prices of milk for each class as computed pursuant to §§ 1036.51 and 1036.52 for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 3.5 percent, an amount equal to the average daily wholesale price per pound of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month, multiplied by the following factors:

(a) *Class I milk.* Multiply by 1.3 and divide the result by 10;

(b) *Class II milk.* Multiply by 1.15 and divide the result by 10.

§ 1036.55 Handler location adjustment.

For milk received from producers at a pool plant or reload point which is located both 40 miles or more from the Public Square in Cleveland, Ohio, and also 27.5 miles or more from the nearer of the City Hall in Akron, the City Hall in Canton or the City Hall in Ashtabula, Ohio, and which, is moved in fluid form to another pool plant, is classified as Class I without movement in fluid form to another plant, or is otherwise classified as Class I, and for other source milk for which a location adjustment credit is applicable, the Class I price pursuant to § 1036.51 shall be reduced at the rate specified below for the location of such plant.

(a) For purposes of calculating this adjustment, transfers between pool plants shall be assigned as follows:

(1) With respect to fluid milk products moved in bulk form to a pool plant described in § 1036.8(a) in a volume not in excess of that by which an amount equal to 108 percent of Class I utilization at such transferee plant (including the volume assignable under the provisions of this subparagraph with respect to any transfers to a second such plant described in § 1036.8(a)) exceeds receipts of producer milk and that assigned as Class I to receipts from other Federal order plants and unregulated supply plants at such plant. Such volume shall be assigned in sequence as follows: (i) to receipts in the form of fluid milk from reload points considered to be a part of such plant's operations, and (ii) to other receipts of fluid milk products from pool plants, other order plants or reload points in the sequence at which the least total adjustments would apply; and

(2) With respect to fluid milk products moved in bulk to pool plants described in § 1036.8 (b), (c), or (d), in a volume not in excess of that by which 108 percent of the milk classified as Class I utilization without movement as a fluid milk product in bulk form to another pool plant plus that assignable to such plant pursuant to subparagraph (1) of this paragraph exceeds receipts of producer milk and the volume assigned as Class I receipts from other order plants and unregulated supply plants at such plant, such volume to be assignable to transferor plants in the sequence provided in subparagraph (1) of this paragraph.

(b) The rates of location adjustment credit, based on the shortest highway distance from the Public Square in Cleveland, Ohio, as determined by the market administrator, shall be 13 cents per hundredweight for 40.1–60 miles plus 1 cent per hundredweight for each 10 miles or fraction thereof in excess of 60 miles.

§ 1036.56 Equivalent price provision.

Whenever the provisions of this part require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining minimum class prices or for any other purpose and the specified price is not reported or published, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

DETERMINATION OF UNIFORM PRICE

§ 1036.70 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 § 1036.48, by the applicable class prices (adjusted pursuant to §§ 1036.54 and 1036.55);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1036.46(j) and the corresponding step of § 1036.47 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 § 1036.46(e) and the corresponding step of § 1036.47;

(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 § 1036.46(c) and the corresponding step of § 1036.47;

(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 volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1036.46(g) and the corresponding step of § 1036.47.

§ 1036.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1036.70 for all handlers who filed the reports prescribed by § 1036.30 for the month and who made the payments pursuant to §§ 1036.80 and 1036.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1036.81;

(c) Add any amount paid into the producer-settlement fund and subtract any amount paid out of the producer-settlement fund pursuant to § 1036.88(a);

(d) Subtract, if the average butterfat content of the milk specified in paragraph (f) 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 § 1036.82 and multiplying the result by the total hundredweight of such milk;

(e) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(f) 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 § 1036.70(e); and

(g) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1036.74 Notification.

On or before the 14th day after each month the market administrator shall notify each handler who submitted a report for the preceding month pursuant to § 1036.30 of:

(a) The classification pursuant to §§ 1036.46 and 1036.47 of skim milk and butterfat contained in producer milk received by such handler during the month and the value of such milk computed pursuant to § 1036.70;

(b) The uniform prices for the month computed pursuant to § 1036.71; and

(c) The amount due such handler pursuant to § 1036.85 and the amount to be paid by such handler pursuant to §§ 1036.84, 1036.86, and 1036.87.

§ 1036.75 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant, except as he is exempt pursuant to § 1036.91, 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 §§ 1036.30 and 1036.32 the information necessary to compute the amount specified in paragraph (a) of this section, 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 § 1036.70 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 weighted average 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 § 1036.70(e) and a credit in the amount specified in § 1036.84(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 §§ 1036.30 and 1036.32 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 § 1036.8(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 of 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 milk, acceptable to an appropriate health authority, 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 or the Class II price, whichever is greater.

PAYMENTS

§ 1036.80 Time and method of payment.

(a) Except as provided by paragraph (b) of this section, on or before the 18th day of each month, each handler (except a cooperative association) shall pay each producer for milk received from him during the preceding month, not less than an amount of money computed by multiplying the total pounds of such milk by the applicable uniform price pursuant to § 1036.71 adjusted by the butterfat and location differentials pursuant to §§ 1036.81 and 1036.82, and less any proper deductions authorized by the producer, including advance payments made pursuant to paragraph (c) of this section: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1036.85 he may reduce such payments uniformly per hundredweight for all producers, by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the

handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association which the Secretary 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 on the part of the association, each handler shall pay to the cooperative association for producer milk on or before the 16th day of each month, in lieu of payments pursuant to paragraph (a) of this section an amount equal to the gross sum due for all milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer and submit to the cooperative association written information which shows for each such member-producer (i) the total pounds of milk received from him during the preceding month, (ii) the total pounds of butterfat contained in such milk, (iii) the number of days on which milk was received, and (iv) the amounts withheld by the handler in payment for supplies sold. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the Association;

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler shall be made by written notice to the market administrator, and shall be subject to his determination;

(c) Upon written request filed with him on or before the 15th day of the month by a producer, or by a cooperative association which collects payments pursuant to paragraph (b) of this section, each handler shall make advance payment as follows:

(1) On or before the last day of the month, to each such producer who has not discontinued delivery of milk to such handler, an amount not less than the value of milk received from such producer during the first 15 days of such month computed at the Class II price for 3.5 percent milk for the preceding month, without deduction for hauling;

(2) On or before the 27th day of the month, to the cooperative association, with respect to milk received during the first 15 days of the month from certified members specified in the request for advance payment, an amount not less than the aggregate value of such milk at the Class II price for 3.5 percent milk for the preceding month, without deduction for hauling; and

(d) On or before the 15th day after the end of each month, each handler shall pay a cooperative association which is a handler, with respect to milk received by him from a pool plant operated by such cooperative association, not less than an amount computed by multiplying the minimum prices for milk in each class, subject to the applicable location adjustment provided by § 1036.55 and the butterfat differential provided by § 1036.54, by the hundredweight of milk in each class pursuant to §§ 1036.46 and 1036.47.

§ 1036.81 Location differentials to producers and on nonpool milk.

(a) In making payments pursuant to paragraphs (a) and (b) of § 1036.80 a handler may deduct with respect to all milk received from producers at a pool plant or reload point which is located both 40 miles or more from the Public Square in Cleveland, Ohio, and also 27.5 miles or more from the nearer of the City Hall in Akron, the City Hall in Canton, or the City Hall in Ashtabula, Ohio, by the shortest highway distance as determined by the market administrator, at the rates specified in § 1036.55 based on the mileage measured from the Public Square in Cleveland, Ohio.

(b) For purposes of computations pursuant to §§ 1036.84 and 1036.85 the uniform price shall be adjusted at the rates set forth in § 1036.55 applicable at the location of the nonpool plant from which the milk was received.

§ 1036.82 Butterfat differential.

In making payments pursuant to paragraphs (a) and (b) of § 1036.80 there shall be added to or subtracted from the uniform price per hundredweight, for each one-tenth of 1 percent of such butterfat content in milk above or below 3.5 percent, as the case may be, a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a), (b), and (c) of § 1036.54 weighted by the pounds of butterfat in producer milk in classes I and II, respectively, with the result rounded to the nearest tenth of a cent.

§ 1036.83 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 pursuant to § 1036.75 and § 1036.84 and out of which he shall make all payments pursuant to § 1036.85.

§ 1036.84 Payments to the producer-settlement fund.

On or before the 16th 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 § 1036.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1036.80; 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 § 1036.70(e).

§ 1036.85 Payments out of the producer-settlement fund.

On or before the 17th 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 § 1036.84(b) exceeds the amount computed pursuant to § 1036.84(a) less any unpaid obligations of such handler to the market administrator pursuant to §§ 1036.84, 1036.86, 1036.87, or 1036.88: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments to all such handlers pursuant to this paragraph the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 1036.86 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 three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1036.46(c) and § 1036.46 (g) and the corresponding steps of § 1036.47, and (c) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants, except one exempt pursuant to § 1036.91, that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1036.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to paragraphs (a) and (b) of § 1036.80, with respect to all milk received from each producer (except milk of such handler's own production) at a plant, not operated by a cooperative association of which such producer is a member, shall deduct five cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, to be announced by the market administrator on or before the 14th day after the end of each month; and, on or before the 16th day after the end of such month, shall pay such deductions to the market administrator. Such monies shall be expended by the market administrator to verify weights, samples, and tests of the

milk of such producers and to provide such producers with market information; such services to be performed in whole or in part by the market administrator, or by an agent engaged by and responsible to him;

(b) In the case of producers whose milk is received at a plant, not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the market administrator, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions from payments required pursuant to paragraphs (a) and (b) of § 1036.80 as may be authorized by such producers, and pay such deductions on or before the 16th day after the end of each month to the cooperative association rendering such services and of which such producers are members.

§ 1036.88 Adjustment of accounts.

(a) *Payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

(b) *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1036.84, 1036.85, 1036.86, 1036.87 or paragraph (a) of this section shall be increased one-half of one percent on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter until such obligation is paid.

§ 1036.89 Termination of obligations.

The provisions of this section shall apply 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 calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers; the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this 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 two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the months during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this 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;

(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 two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

APPLICATION OF PROVISIONS

§ 1036.90 Milk subject to other Federal orders.

Milk received at the plant of a handler at which the handling of milk is fully subject during the month to the pricing and payment provisions of another marketing agreement or order issued pursuant to the Act and from which the disposition of Class I milk in the other Federal marketing area exceeds that in the Northeastern Ohio marketing area shall be exempted for such month from all provisions of this part except §§ 1036.31, 1036.32, 1036.33 and 1036.34 unless the Secretary determines that the applicable order should more appropriately be determined on some other basis.

§ 1036.91 Handler exemption.

A handler who operates a plant described in §§ 1036.8(a) or 1036.9 located outside the marketing area from which an average of less than 300 points (one point being defined as one-half pint of cream or one quart of any other fluid milk product) of Class I milk per day is disposed of during the month on a route(s) operated wholly or partly within the marketing area shall be exempted for such month from all provisions of this part except §§ 1036.31, 1036.32, 1036.33 and 1036.34.

§ 1036.92 Producer-handler.

A producer-handler shall be exempt from all provisions of this subpart except §§ 1036.31, 1036.33 and 1036.34.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1036.100 Effective time.

The provisions of this part or of any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1036.101 Suspension or termination.

The Secretary shall, whenever he finds that this part, or any provisions of this part, obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this part or any such provision of this part.

§ 1036.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations under this part 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.

§ 1036.103 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all 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 liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1036.110 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1036.111 Separability of provisions.

If any provision 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.

Effective date: April 1, 1965.

Signed at Washington, D.C., on March 25, 1965.

CHARLES S. MURPHY,
Under Secretary.

[F.R. Doc. 65-3227; Filed, Mar. 29, 1965; 8:49 a.m.]

[Milk Order 76]

No. 60—3

PART 1072—MILK IN SIOUX FALLS-MITCHELL, S. DAK., MARKETING AREA

PART 1076—MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

Order Amending and Consolidating Orders

This order amends and consolidates under Part 1076 the order provisions of Parts 1076 (Eastern South Dakota) and 1072 (Sioux Falls-Mitchell), combines and expands the marketing areas defined under these two orders; and designates the new area as the Eastern South Dakota marketing area. Because of the merger of the orders into Part 1076, Part 1072 is no longer appropriate and, therefore, is vacated and reserved for future reassignment to other programs.

Sec.

AUTHORITY: The provisions of this Part 1076 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1076.0 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 Eastern South Dakota 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 hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe with respect to (a) producer milk, including such handlers own production; (b) other source milk allocated to Class I pursuant to § 1076.46 (a) (3) and (7) and the corresponding steps of § 1076.46(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.

(b) *Determinations*—It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Eastern South Dakota 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

§ 1076.1 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.).

§ 1076.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1076.3 Department.

"Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1076.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1076.5 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has 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.

§ 1076.6 Eastern South Dakota marketing area.

"Eastern South Dakota marketing", hereinafter called the "marketing area", means all of the territory within the counties listed below, including all territory within such counties which is occupied by government (municipal, state or Federal) reservations, installations, institutions, or other establishments:

IOWA COUNTY

Lyon.

MINNESOTA COUNTY

Rock.

SOUTH DAKOTA COUNTIES

Aurora.	Kingsbury.
Beadle.	Lake.
Bon Homme.	Lincoln.
Brown.	McCook.
Clark.	McPherson.
Clay.	Miner.
Codington.	Minnehaha.
Davison.	Moody.
Day.	Sanborn.
Douglas.	Spink.
Edmunds.	Turner.
Hamlin.	Union.[2]
Hanson.	Walworth.
Hutchinson.	Yankton.
Jerauld.	

§ 1076.7 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 in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1076.14.

§ 1076.8 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to the milk of producers diverted by the association for the account of such association from a pool plant to a nonpool plant;

(d) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case, the milk is received from producers by the cooperative association at the location of the plant to which it is delivered; and

(e) A producer-handler, or any person who operates an other order plant as described in § 1076.61.

[2] Except Jefferson Township and the city of North Sioux City and the unorganized territory adjacent thereto.

§ 1076.9 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) Receipts of fluid milk products at his plant are solely milk of his own production and from pool plants of other handlers; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 1076.10 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes in the marketing area.

§ 1076.11 Supply plant.

"Supply plant" means a plant from which milk, skim milk, or cream, acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1076.10.

§ 1076.12 Pool plant.

"Pool plant" means a plant, other than that of a producer-handler or a handler partially exempt pursuant to § 1076.61, described in paragraph (a) or (b) of this section. If a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers, cooperative associations pursuant to § 1076.8(d) and from supply plants is disposed of during the month on routes and not less than 15 percent of such receipts are disposed of as Class I milk on routes in the marketing area; and

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers and cooperative associations pursuant to § 1076.8(d) during such month. If such shipments are not less than 50 percent of such receipts during each of the immediately preceding months of September through November, such plant shall be a pool plant for the months of March through June, unless the operator of such plant requests the market administrator in writing that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and such plant shall thereafter be a nonpool plant until it again qualifies as a pool plant on the basis of the shipping requirements set forth in this paragraph.

§ 1076.13 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 that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1076.14 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat produced by producers:

(a) With respect to receipts at a pool plant:

(1) Received directly from such producers; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions of paragraph (c) of this section;

(b) With respect to receipts of a cooperative association:

(1) For which such cooperative association is the handler pursuant to § 1076.8(c), subject to the limitations and conditions of paragraph (c) of this section; and

(2) For which the cooperative association is the handler pursuant to § 1076.8 (d);

(c) With respect to diversions to nonpool plants pursuant to paragraphs (a) (2) and (b) (1) of this section:

(1) Such diversions may be without limit during the months of April through June, but during any other month for not more days of production than is physically received at a pool plant and milk diverted in excess of this limit shall not be producer milk; and

(2) For the purpose of location adjustments pursuant to §§ 1076.53 and 1076.75, milk so diverted shall be priced at the location of the plant from which diverted.

§ 1076.15 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products, except (1) fluid milk products received from pool plants, (2) producer milk, and (3) inventory at the beginning of the month; and

(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.

§ 1076.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, milk drinks (plain or flavored), cream (sweet or sour) and any mixture in fluid form of skim milk and cream (except frozen cream, aerated cream, ice cream, ice cream and frozen dessert mixes, and sterilized products in hermetically sealed containers).

§ 1076.17 Route.

"Route" means a delivery (including delivery by a vendor or a sale from a plant store, or distribution center) of any fluid milk product to retail or wholesale outlets, except a delivery in bulk form to a milk processing plant. The route disposition of a handler shall be attributed to the processing and packaging plant from which the Class I milk is moved to retail or wholesale outlets without intermediate movement to another processing plant.

§ 1076.18 Butter price.

"Butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month.

§ 1076.19 Base milk.

"Base milk" means milk received at a pool plant from a producer during any of the months of March through June that is not in excess of such producer's daily base computed pursuant to § 1076.90 multiplied by the number of days in such month. From the effective date of this order through June 1965 all producer milk received at a pool plant shall be base milk.

§ 1076.20 Excess milk.

"Excess milk" means the amount of milk received at a pool plant from a producer during any of the months of March through June that is in excess of base milk received from such producer during such month.

Market Administrator

§ 1076.25 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.

§ 1076.26 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.

§ 1076.27 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 and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1076.85 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly 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, after the date upon which he is required to perform such acts, has not made the reports or payments required by this part;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce and notify each handler in writing on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 1076.51(a) and the Class I butterfat differential pursuant to § 1076.52(a), both for the current month; and the minimum price for Class II milk pursuant to § 1076.51(b) and the Class II butterfat differential pursuant to § 1076.52(b), both for the preceding month;

(2) The 12th day of each month the weighted average (uniform) price computed pursuant to § 1076.72 and the producer butterfat differential computed pursuant to § 1076.74;

(3) The 12th day after the end of each of the months of March through June, the uniform price for base milk and excess milk pursuant to § 1076.73;

(k) On or before the 12th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk

so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month;

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1076.46(a)(8) and the corresponding step of § 1076.46(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 § 1076.46 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

§ 1076.30 Reports of receipts and utilization.

On or before the 7th day, excluding holidays, after the end of each month each handler, except a producer-handler, shall report to the market administrator for such month in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler operating pool plants shall report the quantities of skim milk and butterfat in:

(1) Receipts at each such plant in:

(i) Producer milk, and the aggregate quantities of base and excess milk;

(ii) Fluid milk products received from pool plants of other handlers and cooperative associations pursuant to § 1076.8(d); and

(iii) Other source milk;

(2) Opening inventories of fluid milk products;

(3) The utilization in each class of the quantities required to be reported; and

(4) Such other information with respect to receipts and utilization as the market administrator may request;

(b) Each handler specified in § 1076.8(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of 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 on routes (other than to pool plants) in the marketing area as Class I milk;

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1076.8(c) or (d) as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 1076.8(c);

(3) The quantities delivered to each pool plant of another handler pursuant to § 1076.8(d); and

(4) Such other information as the market administrator may require.

§ 1076.31 Payroll reports.

On or before the 20th day of each month, each handler except one exempt pursuant to § 1076.61 or one making payments pursuant to § 1076.62(b), shall submit to the market administrator his producer payroll (or in the case of a handler making payments pursuant to § 1076.62(a), his payroll for dairy farmers delivering Grade A milk) which shall show for each producer:

(a) The name and address of the producer or dairy farmer;

(b) The pounds of milk received, including for the months of March through June the total pounds of base and excess milk, and the average butterfat content thereof;

(c) The location at which received, and for each producer whose milk was diverted to a nonpool plant, the number of days production diverted and the location of the nonpool plant; and

(d) The price, amount and date of payment with the nature and amount of any deductions.

§ 1076.32 Other reports.

Each producer-handler and each handler exempt from regulation pursuant to §§ 1076.61 and 1076.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 1076.33 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization in whatever form of all skim milk and butterfat required to be reported pursuant to § 1076.30;

(b) The weight and butterfat and other content of all milk, skim milk, cream, and other milk products handled during the month;

(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 and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1076.34 Retention of records.

All books and records required under this part 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.

If, within such three year period, the market administrator notifies the handler in writing that the retention of such books and records or of specific books and records is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1076.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 1076.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1076.41 through 1076.46. If any water contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1076.41 Classes of utilization.

Subject to the conditions set forth in §§ 1076.42 through 1076.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in inventory of fluid milk products on hand at the end of the month;

(3) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a)(1) of this section;

(4) Which is dumped or disposed of as livestock feed: *Provided*, That in the case of milk which is dumped the handler shall notify the market administrator in advance of his intention to dump such milk and afford the market administrator opportunity to verify such dumping;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant

to § 1076.42(b)(1), but not to exceed the following:

(i) Two percent of milk received directly from producers; plus

(ii) One and one-half percent of milk received in bulk tank lots from pool plants of other handlers; plus

(iii) One and one-half percent of milk received from a cooperative association which is the handler for such milk pursuant to § 1076.8(d), except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights the applicable percentage shall be two percent; plus

(iv) 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

(v) 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

(vi) One and one-half percent of milk disposed of in bulk tank lots to plants of other handlers (except that when the exception specified in subdivision (iii) of this subparagraph applies the applicable percentage shall be two percent) and to nonpool plants; and

(6) In shrinkage assigned pursuant to § 1076.42(b)(2).

§ 1076.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1076.41(b)(5); and

(2) Remaining other source milk received in fluid form.

§ 1076.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who received such skim milk or butterfat from producers or cooperative associations can establish to the satisfaction of the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1076.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject 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 plant(s) of the transferee handler after computations pursuant to § 1076.46(a)(8) and the corresponding step of § 1076.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1076.46(a)(3) and the corresponding step of § 1076.46(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 § 1076.46(a)(7) or (8) and the corresponding steps of § 1076.46(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, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles by the shortest highway distance as determined by the market administrator, from the nearest of the Post Offices of Aberdeen, Huron, Mitchell, Sioux Falls and Watertown, South Dakota, and more than 50 miles from the transferor 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, located not more than 150 miles, by the shortest highway distance as determined by the market administrator from the nearest of the Post Offices of Aberdeen, Huron, Mitchell, Sioux Falls, and Watertown, South Dakota, or not more than 50 miles from the transferor 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 § 1076.30 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 (except in ungraded cream disposed of for manufacturing uses) 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 of 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;

(e) Skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is the handler of such milk pursuant to § 1076.8(d) shall be classified pro rata to the respective amounts thereof remaining in each class after the computation pursuant to § 1076.46(a)(9) and the corresponding step of § 1076.46(b); and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (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 allo-

cated 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 § 1076.41.

§ 1076.45 Computation of the skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the reports submitted by each handler and shall compute the total pounds of butterfat and skim milk in each class for each handler.

§ 1076.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1076.45, the market administrator shall determine the classification of producer milk received by each handler each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1076.41(b)(5);

(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 but not in excess of such quantity:

(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 handlers, 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;

(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) 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 (4)(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 (4)(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 § 1076.27(l) 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 pool plants of other handlers according to the classification assigned pursuant to § 1076.44(a);

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from a cooperative association in its capacity as a handler pursuant to § 1076.8(d) according to the classification assigned pursuant to § 1076.44(e); and

(11) 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

§ 1076.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1076.51 Class prices.

Subject to the provisions of §§ 1076.52 and 1076.53 the class prices per hundredweight shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month, plus $1.30, subject to the following adjustment:

In any month in which the Class I price computed pursuant to § 1068.53 of the Minneapolis-St. Paul order (Part 1068) is increased or decreased more than 10.5 cents as a result of the supply-demand ratio computed thereunder, the Class I price shall be increased or decreased by whatever amount such adjustment exceeds 10.5 cents.

(b) *Class II milk price.* The Class II milk price shall be the basic formula price.

§ 1076.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month calculated pursuant to § 1076.51 shall be increased or decreased, respectively, for each one-tenth of one percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the butter price for the preceding month by 0.120.

(b) *Class II prices.* Multiply the butter price for the current month by 0.110.

§ 1076.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located 100 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the nearest of the Post Offices of Aberdeen, Huron, Mitchell, Sioux Falls, and Watertown, South Dakota, 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 for which a location adjustment is applicable, the price computed pursuant to § 1076.51(a) shall be reduced 15 cents, plus 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 remaining at the transferee plant after computations pursuant to § 1076.46(a)(8) and the corresponding step of § 1076.46(b) in excess of 95 percent of receipts at such plant of milk from producers and cooperative associations pursuant to § 1076.8(d), 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.

§ 1076.54 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

§ 1076.60 Producer-handler.

Sections 1076.40 through 1076.46, 1076.50 through 1076.52, 1076.70 through 1076.73, and 1076.80 through 1076.86 shall not apply to a producer-handler.

§ 1076.61 Plants subject to other Federal orders.

Except for §§ 1076.32 through 1076.34 the provisions of this part shall not apply to a handler with respect to the operation of plants described as follows:

(a) A plant qualified pursuant to § 1076.12(a) from which a lesser volume of fluid milk products is disposed of in the Eastern South Dakota marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order; and

(b) Any plant qualified pursuant to § 1076.12(b) for any portion of the period of March through June, inclusive, that producer milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1076.62 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 amount(s) (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1076.30(b) and 1076.31 the information necessary to compute the amount specified in paragraph (a) of this section, 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 § 1076.70 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 weighted average 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 § 1076.70(e) and a credit in the amount specified in § 1076.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1076.30(b) and 1076.31 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 § 1076.12(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 of 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 (other than to pool plants) 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 weighted average price applicable at such location (not to be less than the Class II price).

DETERMINATION OF PRICES TO PRODUCERS

§ 1076.70 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 § 1076.46(c), by the applicable class prices (adjusted pursuant to §§ 1076.52 and 1076.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1076.46(a)(11) and the corresponding step of § 1076.46(b) by the applicable class prices;

(c) Add the amount obtained from 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 § 1076.46(a)(5) and the corresponding step of § 1076.46(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 § 1076.46(a)(3) and the corresponding step of § 1076.46(b); and

(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 volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1076.46(a)(7) and the corresponding step of § 1076.46(b).

§ 1076.71 Computation of aggregate value used to determine uniform price.

For each month the market administrator shall compute an aggregate value from which to determine the uniform price per hundredweight for milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1076.70 for all handlers who filed the reports prescribed in § 1076.30 for such month, except those in default of payments required pursuant to §§ 1076.80 and 1076.82 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of the milk specified in § 1076.72(a) is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential computed pursuant to § 1076.74, and multiplying the result by the hundredweight of such milk;

(c) Add an amount equal to the total value of the location differential computed pursuant to § 1076.75; and

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund.

§ 1076.72 Computation of weighted average price.

For each month the market administrator shall compute a uniform price per hundredweight of milk received from producers as follows:

(a) Divide the aggregate value computed pursuant to § 1076.71 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 § 1076.70(e); and

(b) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (a) of this section. The result shall be known as the "weighted average price", and except for the months of March through June, shall be the uniform price for milk received from producers.

§ 1076.73 Computation of uniform price for base milk and excess milk.

For each of the months of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, as follows:

(a) From the reports submitted by handlers pursuant to § 1076.30 determine the aggregate classification of producer milk included in the computation of value pursuant to § 1076.71 and the total hundredweight of such milk that is base milk and that is excess milk;

(b) Determine the value of such excess milk on a 3.5 percent butterfat basis by multiplying the total hundredweight of such milk that is not greater than the total Class II milk pursuant to paragraph (a) of this section by the Class II milk price and by adding thereto the value obtained by multiplying the hundredweight of such excess milk that is greater than the quantity of such Class II milk by the Class I milk price;

(c) Divide the value of the excess milk obtained in paragraph (b) of this section by the total hundredweight of such milk, and subtract not less than four nor more than five cents from the price thus computed. The resulting figure shall be the uniform price for excess milk;

(d) From the aggregate value of all milk obtained in § 1076.71 subtract the following:

(1) An amount computed by multiplying the hundredweight of milk specified in § 1076.72(a)(2) by the weighted average price; and

(2) The value of excess milk pursuant to paragraph (b) of this section; and

(e) Divide the amount obtained in paragraph (d) of this section by the total hundredweight of base milk obtained in paragraph (a) of this section and subtract not less than four nor more than five cents from the price thus computed. The resulting figure shall be the uniform price for base milk.

§ 1076.74 Butterfat differentials to producers.

The uniform prices for producer milk shall be increased or decreased for each one-tenth of one percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the total pounds of butterfat in the producer milk allocated to Class I and Class II milk during the month pursuant to § 1076.46 by the respective butterfat differential for each class, computed pursuant to § 1076.52, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 1076.75 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk pursuant to § 1076.72 and the uniform price for base milk pursuant to § 1076.73 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 § 1076.53; and

(b) For purposes of computations pursuant to §§ 1076.82 and 1076.83 the weighted average price shall be adjusted at the rates set forth in § 1076.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1076.76 Notification of handlers.

On or before the 12th day of each month the market administrator shall notify each handler with respect to each of his pool plants:

(a) The amount and value of milk in each class computed pursuant to §§ 1076.46 and 1076.70 and the totals of such amounts and values;

(b) The uniform price computed pursuant to § 1076.72 or § 1076.73, whichever is applicable;

(c) The amount, if any, due such handler from the producer-settlement fund; and

(d) The total amounts to be paid by such handler pursuant to §§ 1076.82 and 1076.85.

PAYMENTS

§ 1076.80 Time and method of payment for producer milk.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 15th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform prices per hundredweight pursuant to §§ 1076.72 and 1076.73 subject to the butterfat differential computed pursuant to § 1076.81 plus or minus adjustments for errors made in previous payments to such producer; and less

(i) Payment made pursuant to subparagraph (1) of this paragraph;

(ii) Location differential deductions pursuant to § 1076.75; and

(iii) Proper deductions authorized by such producer.

(b) Except as provided in paragraph (c) of this section each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(1) of this section;

(2) On or before the 13th day after the end of each month, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(2) of this section;

(c) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1076.8(d) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the weighted average price for the preceding month; and

(2) On or before the 13th day after the end of each month not less than the value of such milk at the applicable class prices, less payment made pursuant to subparagraph (1) of this paragraph;

(d) In making the payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, that shall show:

(1) The month and identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds and the average butterfat content of milk received from the producer, including for the months of March through June, the pounds of base milk and excess milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate that 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 or cooperative association.

§ 1076.81 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 §§ 1076.62, 1076.82, and 1076.84 and out of which he shall make all payments to handlers pursuant to §§ 1076.83 and 1076.84: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from each handler.

§ 1076.82 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: *Provided*, That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue:

(a) The total of the net pool obligation computed pursuant to § 1076.70 for such handler;

(b) The sum of:

(1) The amount of the obligation pursuant to § 1076.80 for such handler for producer milk received during the month; and

(2) The value at the weighted average price 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 § 1076.70(e).

§ 1076.83 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 § 1076.82(b) exceeds the amount computed pursuant to § 1076.82(a): *Provided*, That 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. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1076.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1076.84 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports of payments of any handler discloses errors made in payments to or from the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days of such billing make payments to the market administrator of the amount so billed and whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days make such payment to such handler.

(b) Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association discloses payment of less than is required by § 1076.80, the handler shall make up such payment to the producer or cooperative association not later than the time of making payment next following such disclosure.

§ 1076.85 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 15th 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, including such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1076.46(a) (3) and (7) and the corresponding steps of § 1076.46(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.

§ 1076.86 Termination of obligations.

The provisions of this section shall apply 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 calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this 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 two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation 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 two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff 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.

DETERMINATION OF BASE

§ 1076.90 Daily base.

The daily base of each producer shall be determined by the market administrator and shall be the amount obtained by dividing the total pounds of producer milk received from such producer at all pool plants during the months of September through November immediately preceding by the number of days' production which is received from such producer subject to the following modifications:

(a) If no milk is received from a producer at a pool plant during the months of September through November or if less than 60 days' production is received during such months a daily base of such producer shall be calculated for each of the months of March through June by dividing the pounds of producer milk received from such producer during the month by the number of days in such month and multiplying the quotient by 50 percent for the months of March and April and by 40 percent for the months of May and June;

(b) Any producer for whom a daily base has been established pursuant to this section based on deliveries of 60 or more days during the preceding months of September through November may, in lieu thereof by notifying the market administrator prior to March 31, be allotted a daily base calculated pursuant to paragraph (a) of this section; and

(c) Any person who becomes a producer after the second day of September of any year by virtue of the plant to which such person delivers his milk having become a pool plant, the market administrator shall compute a base equal to that which such producer would have established had the plant to which he ships his milk been a pool plant during the entire base-forming period.

§ 1076.91 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the months of September through November; and

(b) An entire base shall be transferred from a person holding such base to any other person effective as of the first day of any month following receipt by the market administrator of an application for such transfer. Such application shall be on a form approved by the market administrator and shall be signed by the baseholder and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base shall be transferrable only upon receipt of such application signed by all joint holders.

§ 1076.92 Announcement of established bases.

On or before February 15 of each year the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

MISCELLANEOUS PROVISIONS

§ 1076.100 Effective time.

The provisions of this part, or any amendments to this part, shall become effective at such time as the Secretary may declare and shall continue in force

until suspended or terminated pursuant to § 1076.101.

§ 1076.101 Suspension or termination.

The Secretary shall suspend or terminate this part, or any provision thereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate, in any event, whenever the provisions of the Act authorizing it cease to be in effect.

§ 1076.102 Continuing obligations.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator, or such persons, to such person as the Secretary shall direct; and

(3) If so directed by the Secretary execute such assignment or other instruments necessary or appropriate to vest in such person, full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1076.103 Liquidation after suspension or termination.

Upon the suspension or termination of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or control including accounts receivable, and he shall execute and deliver all assignments or other instruments necessary or appropriate to effectuate such disposition. If the funds on hand exceed the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by liquidating such funds, such excess shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1076.104 Separability of provisions.

If any provision 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.

§ 1076.105 Agents.

The Secretary may, by designation in writing name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Effective date: May 1, 1965.

Signed at Washington, D.C., on March 25, 1965.

CHARLES S. MURPHY,
Under Secretary.

[F.R. Doc. 65-3230; Filed, Mar. 29, 1965; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 65-EA-29]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to reflect the change of name of MacArthur Airport, Islip, N.Y., to Long Island Airport, Islip, N.Y., effective April 15, 1965. This will require a change in the wording of the description of the Islip, N.Y., Control Zone (29 F.R. 17606) where it refers to the MacArthur Airport and Islip ILS localizer.

Since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., May 27, 1965, as hereinafter set forth:

Amend § 71.171 of Part 71 so as to delete from the description of the Islip, N.Y., Control Zone the term, "MacArthur Airport" and insert in lieu thereof the term, "Long Island Airport"; delete the term, "Islip" and insert in lieu thereof, "Long Island Airport" as it precedes the words, "ILS localizer".

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on March 12, 1965.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 65-3176; Filed, Mar. 29, 1965; 8:45 a.m.]

[Airspace Docket No. 65-WE-8]

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

Designation of Control Zone

On January 28, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 890) stating that the Federal Aviation Agency proposed to designate a part-time control zone at San Diego, Calif.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., June 24, 1965, as hereinafter set forth.

In § 71.171 (29 F.R. 17581), the following is added:

SAN DIEGO, CALIF. (MONTGOMERY FIELD)

Within a 3-mile radius of Montgomery Field (latitude 32°49'00" N., longitude 117°-08'20" W.), excluding those portions within the NAS Miramar and San Diego (Lindbergh Field) control zones. This control zone is effective from 0700 to 2300 hours, local time daily.

(Sec. 307(a) Federal Aviation Act of 1958, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on March 19, 1965.

NED K. ZARTMAN,
Acting Director, Western Region.

[F.R. Doc. 65-3177; Filed, Mar. 29, 1965; 8:45 a.m.]

[Airspace Docket No. 64-WE-60]

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

Alteration of Control Zone, Designation of Transition Area and Revocation of Control Area Extension

On January 28, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 891) stating that the Federal Aviation Agency proposed to alter the controlled airspace in the Salem, Oreg., terminal area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., July 22, 1965, as hereinafter set forth.

1. In § 71.171 (29 F.R. 17630), the Salem, Oreg., control zone is amended to read:

SALEM, OREG.

Within a 5-mile radius of McNary Field, Salem, Oreg. (latitude 44°54'35" N., longitude 123°00'05" W.) and within 2 miles each side of the Salem ILS localizer SE course, extending from the 5-mile radius zone to the LOM.

2. In § 71.165 (29 F.R. 17576), the Salem, Oreg., control area extension is revoked.

3. In § 71.181 (29 F.R. 17643), the Salem, Oreg., transition area is added as follows:

SALEM, OREG.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of McNary Field, Salem, Oreg. (latitude 44°-54'35" N., longitude 123°00'05" W.); within 2 miles each side of a 196° bearing from the Salem ILS LOM, extending from the 7-mile radius area to 8 miles S of the LOM and within 2 miles each side of the Salem ILS localizer SE course, extending from the 7-mile radius area to 6 miles SE of the LOM; that airspace extending upward from 1,200 feet above the surface within 6 miles SW and 7 miles NE of the 150° and 330° bearings from the Salem ILS LOM, extending from V-23E to V-23W.

(Sec. 307(a), Federal Aviation Act of 1958, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on March 19, 1965.

NED K. ZARTMAN,
Acting Director, Western Region.

[F.R. Doc. 65-3178; Filed, Mar. 29, 1965; 8:45 a.m.]

[Airspace Docket No. 64-WE-64]

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

Alteration of Control Zone

On January 28, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 891), stating that the Federal Aviation Agency proposed to designate a part-time control zone at La Verne, Calif.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., June 4, 1965, as hereinafter set forth.

In § 71.171 (29 F.R. 17581), the following is added:

LA VERNE, CALIF.

Within a 3-mile radius of Brackett Field (latitude 34°05'30" N., longitude 117°47'00" W.); within 2 miles each side of the Pomona VOR 250° radial extending from the 3-mile radius zone to 8 miles SW of the VOR, effective from 0700 to 2300 hours, local time, daily.

(Sec. 307(a), Federal Aviation Act of 1958, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on March 19, 1965.

NED K. ZARTMAN,
Acting Director, Western Region.

[F.R. Doc. 65-3179; Filed, Mar. 29, 1965; 8:45 a.m.]

[Airspace Docket No. 64-EA-45]

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

Alteration of Federal Airways and Control Area Extensions

On January 14, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 488) stating that the Federal Aviation Agency proposed to alter segments of VOR Federal airways Nos. 12, 33, 39, 93, 147, 149, 162, 170, 210, 238, 251, 254, 256, 265, 292, 474, 501, and the Altoona, Pa., and the Harrisburg, Pa., control area extensions.

Interested persons were afforded an opportunity to participate in the proposed rule making through submission of comments. Due consideration was was given to all relevant matter presented.

The National Business Aircraft Association (NBAA) requested reconsideration of the proposed realignment of V-39 between Allentown, Pa., and Poughkeepsie, N.Y., because the realignment would increase the en route mileage by 21 miles. It also stated that there is a primary requirement for a northeastbound route out of Philadelphia, Pa., which should proceed over Allentown to Tannersville, Pa., thence direct to Poughkeepsie. The proposal does not eliminate the northeastbound routing from Philadelphia via Allentown to Poukhkeepsie. A measurement, conducted by the Agency, of the additional distance from Allentown to Poughkeepsie via the proposed alignment, showed that the distance is less than six additional miles, rather than the 21 miles cited by the NBAA. The alignment of V-39, as proposed, would improve the overall traffic handling in the area by providing additional airspace for westbound departures climbing out from the New York Metropolitan area airports before infringing on V-39; would provide a transition route from over the Huguenot, N.Y., VOR straight-in to the Stewart AFB, N.Y.; eliminate crossing points with several airways east of the Huguenot VOR, and would eliminate the crossing point with V-30 east of the East Texas, Pa., VOR.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., May 27, 1965, as hereinafter set forth.

1. Section 71.123 (29 F.R. 17509) is amended as follows:

a. In V-12 "Harrisburg, Pa., including an S alternate from Johnstown to Harrisburg via St. Thomas, Pa.; West Chester, Pa.; to INT of West Chester direct radial to Coyle, N.J., and Woodstown, N.J., 043° radials." is deleted and "to Harrisburg, Pa., including an S alternate from Johnstown to Harrisburg via St. Thomas, Pa." is substituted therefor.

b. In V-33 "Bradford, Pa.;" is deleted and "INT of Philipsburgh 339° and Bradford, Pa., 148° radials; Bradford;" is substituted therefor.

c. In V-39 "Allentown, Pa.; Tannersville, Pa.; Poughkeepsie, N.Y.;" is deleted and "East Texas, Pa.; Allentown, Pa.; Huguenot, N.Y.; INT of Huguenot 032° and Poughkeepsie, N.Y., 259° radials; Poughkeepsie;" is substituted therefor.

d. In V-93 "to Allentown, Pa." is deleted and "East Texas, Pa.; to Allentown, Pa." is substituted therefor.

e. In V-147 ", including an E alternate from Philadelphia International Airport ILS localizer to Allentown via INT of Pottstown 143° and Allentown 173° radials" is deleted.

f. In V-149 "From Allentown, Pa., via" is deleted and "From INT of Tannersville, Pa., 177° and Yardley, Pa., 284° radials via Allentown, Pa.;" is substituted therefor.

g. In V-162 everything after "From Harrisburg, Pa.," is deleted and "via East Texas, Pa.; to Allentown, Pa., including an S alternate from Harrisburg to East Texas via INT of Harrisburg 087° and East Texas 225° radials." is substituted therefor.

h. In V-170 "INT of Lancaster, Pa., direct radial to Allentown, Pa., and Pottstown, Pa., 275° radial;" is deleted and "INT of Ravine 125° and Pottstown, Pa., 278° radials" is substituted therefor.

i. In V-210 "to Harrisburg." is deleted and "Harrisburg; Lancaster, Pa.; to INT of Lancaster 095° and Pottstown, Pa., 143° radials." is substituted therefor.

j. In V-238 everything before "INT of West Chester 120° radial" is deleted and "From Philipsburg, Pa., via Harrisburg, Pa.; INT of Harrisburg 132° and West Chester, Pa., 274° radials; West Chester;" is substituted therefor.

k. In V-251 everything after "Lancaster, Pa.;" is deleted and "to Pottstown, Pa." is substituted therefor.

l. In V-254 everything before "via Pottstown;" is deleted and "From INT of Pottstown, Pa., 278° and East Texas, Pa., 225° radials" is substituted therefor.

m. In V-256 everything before "via Pottstown;" is deleted and "From INT of Pottstown, Pa., 278° and East Texas, Pa., 225° radials" is substituted therefor.

n. In V-265 "Bradford, Pa.;" is deleted and "INT of Philipsburg 339° and Bradford, Pa., 148° radials; Bradford;" is substituted therefor.

o. In V-292 "From Hartford, Conn., via" is deleted and "From Sparta, N.J., via INT of Sparta 082° and Carmel, N.Y., 232° radials; Carmel; Hartford, Conn.;" is substituted therefor.

p. In V-474 "to Lancaster, Pa." is deleted and "INT of Harrisburg, Pa., 132° and West Chester, Pa., 274° radials; West Chester; to INT of West Chester 095° and Woodstown, N.J., 043° radials." is substituted therefor.

q. V-501 is amended to read:

From Martinsburg, W. Va., to St. Thomas, Pa.

2. Section 71.163 (29 F.R. 17552) is amended as follows:

a. In Altoona, Pa. "on the E by V-501," is deleted and "on the E by the Philipsburg, Pa., VORTAC 178° radial." is substituted therefor.

b. Harrisburg, Pa., is amended to read:

Within a 15-mile radius of the Harrisburg VORTAC; including the airspace N of Harrisburg bounded on the N by V-106, on the E by V-31, and on the W by V-33; the airspace

NE of Harrisburg bounded on the N by V-30, on the E by the arc of a 125-mile radius circle centered on the Kennedy, N.Y., VORTAC, on the S and SE by V-162, on the W by V-31; the airspace SE of Harrisburg bounded on the N by V-210, on the SE by V-251, and on the W by V-238; and the airspace NW of Harrisburg bounded on the NW by V-106, on the NE by V-33, on the S by V-12, and on the W by the Philipsburg, Pa., VORTAC, 178° radial; and the airspace SW of Harrisburg bounded on the NW by V-12S, on the S by V-474, on the E by V-223, and on the NE by the 15-mile radius area.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on March 22, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-3180; Filed, Mar. 29, 1965; 8:45 a.m.]

[Airspace Docket No. 64-PC-5]

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

Alteration and Revocation of Federal Airways and Alteration of Transition Area

On January 8, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 233) stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would alter VOR Federal airway No. 2, revoke VOR Federal airway No. 3, and alter the Hilo, Hawaii, transition area.

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

In describing V-2 in the notice the word "Pahoa" was misspelled and action is taken herein to correct the error. Subsequent to publication of the notice, it was determined that the 12-mile radius portion of the 1,200-foot transition area should extend from a 5-mile radius of the General Lyman Airport instead of a 7-mile radius. This action is necessary to include a small segment of airspace to completely encompass a holding pattern. The pertinent airspace is protected now by the associated controlled airspace of V-3 which is revoked herein as proposed. Therefor, the designation of that segment as a transition area does not involve the assignment of additional control area. Since this alteration is minor and does not assign additional controlled airspace, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., June 24, 1965, as hereinafter set forth.

1. Section 71.127 (29 F.R. 17548) is amended as follows:

a. In V-2 Hawaii "to INT of Hilo 091° radial and Long. 154°31'00" W." is deleted and "to INT Hilo 091° radial and the 022° bearing Pahoa, Hawaii, RBN." is substituted therefor.

b. V-3 Hawaii is revoked.

2. Section 71.181 (29 F.R. 17643) is amended as follows: In the Hilo, Hawaii, transition area all after "the Hilo VOR 154° radial;" is deleted and "and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of the Hilo VOR, extending from the arc of a 7-mile radius circle centered on General Lyman Airport clockwise from a line 3 miles southwest of and parallel to the Hilo 334° radial to a line 5 miles south of and parallel to the Hilo VOR 121° radial; and within a 12-mile radius of the Hilo VOR, extending from the arc of a 5-mile radius circle centered on General Lyman Airport clockwise from the Hilo VOR 121° radial to a line 7 miles southwest of and parallel to the Hilo VOR 149° radial, and within 10 miles northwest and 7 miles southeast of the Hilo VOR 034° radial, extending from the 30-mile radius area to 53 miles northeast of the VOR." is substituted therefor.

(Secs. 307(a) and 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510; E.O. 10854 (24 F.R. 9565))

Issued in Washington, D.C., on March 19, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-3181; Filed, Mar. 29, 1965; 8:45 a.m.]

[Airspace Docket No. 64-EA-30]

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

Designation of Transition Area

On Page 892 of the FEDERAL REGISTER of January 28, 1965, there was published a notice of proposed rule making to issue a regulation which would establish a 700-foot transition area over West Point Municipal Airport, West Point, Va.

Interested persons were given 30 days in which to submit written data or views with respect to the proposed regulation. No objections to the proposed regulation were received.

The proposed regulation is hereby adopted without change effective 0001 e.s.t., June 24, 1965.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on March 12, 1965.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

Amend § 71.181 of Part 71 by establishing a West Point, Va., transition area described as follows:

WEST POINT, VA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center of West Point Municipal Airport 37°31'00" N., 76°45'40" W. and within 2 miles each side of the Harcum, Va., VOR 148° radial extending from the 6-mile radius area to 8 miles southeast of the VOR.

[F.R. Doc. 65-3182; Filed, Mar. 29, 1965; 8:45 a.m.]

[Airspace Docket No. 64-CE-102]

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

Alteration of Control Zone and Transition Area

On January 8, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 228) stating that the Federal Aviation Agency proposed to alter controlled airspace in the St. Louis, Mo., terminal area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., April 1, 1965, as hereinafter set forth.

1. In § 71.171 (29 F.R. 17581), the St. Louis, Mo., control zone is amended to read:

ST. LOUIS, MO.

Within a 5-mile radius of Lambert-St. Louis Municipal Airport (latitude 38°44'30" N., longitude 90°21'55" W.), within 2 miles SE and 3 miles NW of the Lambert-St. Louis Municipal Airport Runway 24 ILS localizer SW course extending from the 5-mile radius zone to 12 miles SW of the Lake RBN, within 2 miles each side of the St. Louis VORTAC 142° radial, extending from the 5-mile radius zone to 7 miles NW of the NW end of the Lambert-St. Louis Municipal Airport Runway 12R, within 2 miles each side of the St. Louis Municipal Airport Runway 12R ILS localizer NW course extending from the 5-mile radius zone to the Runway 12R OM and within 2 miles each side of the St. Louis Municipal Airport Runway 12R ILS localizer SE course extending from the 5-mile radius zone to 6 miles SE of the Runway 12R localizer.

2. In § 71.181 (29 F.R. 17643), the St. Louis, Mo., transition area is amended to read:

ST. LOUIS, MO.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lambert-St. Louis Municipal Airport (latitude 38°44'50" N., longitude 90°-21'55" W.), within 5 miles SE and 8 miles NW of the Lambert-St. Louis Municipal Airport Runway 24 ILS localizer NE course extending from the 10-mile radius area to 12 miles NE of the Runway 24 OM, within 5 miles SW and 8 miles NE of the Lambert-St. Louis Municipal Airport Runway 12R ILS localizer NW course extending from Runway 12R OM to 12 miles NW, within a 5-mile radius of Civic Memorial Airport, Alton, Ill. (latitude 38°53'28" N., longitude 90°03'02" W.), within 2 miles each side of the 009° bearing from the Civic Memorial Airport, extending from the 5-mile radius area to 7 miles N of the airport, and within 5 miles S and 8 miles N of the 103° bearing from the Civic Memorial Airport, extending from the airport to 12 miles E of the airport; and that airspace extending upward from 1,200 feet above the surface within a 33-mile radius of Lambert-St. Louis Municipal Airport, within 6 miles SW and 9 miles NE of the St. Louis VORTAC 328° radial, extending from the 33-mile radius area to 36 miles NW of the VORTAC, within a 40-mile radius of Scott AFB, Belleville, Ill. (latitude 38°32'30" N., longitude 89°51'05" W.), and within 5 miles W and 8 miles E of the 009° bearing from Civic Memorial Airport, extending from the airport to 19 miles N of the airport, exclud-

ing the airspace within the Vandalia, Ill., transition area and the portion within a 13-mile radius of the Centralia, Ill., VOR.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on March 16, 1965.

HENRY L. NEWMAN,
Acting Director, Central Region.

[F.R. Doc. 65-3175; Filed, Mar. 29, 1965; 8:45 a.m.]

[Amdt. 91-16; Docket No. 6541]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Flight Limitations in Proximity of Presidential Party

The President is frequently required to travel extensively throughout the United States. In many cases, the public interest in the President causes the assembly on the ground of a large number of persons, and attracts numerous aircraft along the Presidential route and in the vicinity of areas visited by the President. Such conditions may derogate the safety of persons and property on the ground and create a hazard to air commerce. Additionally, on occasion, competent agencies of the United States Government responsible for the security of the President may determine that it is necessary to request that certain regulatory measures be taken by the Federal Aviation Agency. Sometimes such action must be taken on short notice and normal regulatory procedures cannot be employed. This regulation establishes an expeditious method of prescribing such air traffic limitations as may be necessary to safeguard the public and the President.

Since the circumstances associated with each particular situation are too varied, it is impossible to promulgate a rule to satisfy each unique case. Accordingly, the area of applicability, scope and limitations will be specified in a Notice to Airmen (NOTAM). These NOTAM's will be identified by the following introduction, "Flight restriction (appropriate geographical reference). Section 91.104 prohibits aircraft operation * * *" and will specify appropriate limitations and time of effectiveness.

I have determined that there is a requirement for the early adoption of this regulation for the safety of air commerce. Therefore, I find it contrary to the public interest to comply with the notice and public procedures provisions of the Administrative Procedure Act and that good cause exists for making this regulation effective in less than 30 days.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended by adding a new § 91.104 to read as follows:

§ 91.104 Flight limitations in proximity of the Presidential Party.

No person may operate an aircraft, over and in the vicinity of areas to be visited or traveled by the President, contrary to the limitations specified in a Notice to Airmen (NOTAM).

This regulation becomes effective on April 2, 1965, and is adopted under the authority of section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on March 23, 1965.

HAROLD W. GRANT,
Acting Administrator.

[F.R. Doc. 65-3183; Filed, Mar. 29, 1965; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-880]

PART 13—PROHIBITED TRADE PRACTICES

Mead Corp.

Subpart—Acquiring corporate stock or assets: § *13.5 Acquiring corporate stock or assets.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Divestiture order, The Mead Corporation, Dayton, Ohio, Docket C-880, Feb. 12, 1965]

Consent order requiring one of the five largest paper and paperboard companies in the United States—having net sales of $435,116,370 and total assets of $315,231,807 in 1962—to divest itself absolutely, within five years, of the following seven corrugated box converting plants which it acquired since 1956: (1) Corrugator plant located at York, Pa., acquired from York Container Corp., in December 1956; (2) corrugator plant located at Chicago, Ill., acquired from Industrial Container and Paper Corp., in June 1957; (3) corrugator plant located at Grand Rapids, Mich., acquired from Grand Rapids Container Co., Inc., in June 1958, and must install a corrugator machine as specified; (4) corrugator plant located at Baltimore, Md., acquired from Industrial Container Corp., in January 1959; (5) corrugator plant located at North Bergen, N.J., acquired from Gibraltar Corrugated Paper Co., Inc., in March 1959; (6) sheet plant located at Elizabeth, N.J., acquired from Gibraltar Corrugated Paper Co., Inc., in March 1959, which must be reestablished and divested as specified; (7) corrugator plant located at East St. Louis, Ill., acquired from Taylor Container Corp., in March 1964; prohibiting for the next ten years any further acquisitions by respondent in the container board manufacturing or converting industries, without prior approval of the Federal Trade Commission, and to comply with other requirements of the order of divestiture as set forth below.

The order of divestiture, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered*, That the Mead Corp., shall divest itself, absolutely and in good faith, subject to the prior approval of the Commission, of the corrugated box plant located at North Bergen, N.J., which was acquired by respondent as a result of its acquisition of Gibraltar Corrugated Paper Co., Inc., including all rights, title, interests, assets and properties acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of said plant for use in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated products: *Provided*, That said plant shall be divested by respondent in good faith to a person or persons who, insofar as respondent can reasonably determine, intend to and will operate said plant as a going concern for the production of corrugated products: *And, provided further*, That pending the divestiture of said plant, respondent shall not make any change in the plant, machinery, building, equipment, or other property of whatever description which might impair the present capacity for the production of corrugated products by said plant, unless such capacity is fully restored prior to divestiture.

II. *It is ordered*, That the Mead Corp. shall divest itself, absolutely and in good faith, subject to the prior approval of the Commission, of the corrugated box plant located at East St. Louis, Ill., which was acquired by respondent as a result of its acquisition of Taylor Container Corp., including all rights, title, interests, assets and properties acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of said plant for use in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated products: *Provided*, That said plant shall be divested by respondent in good faith to a person or persons who, insofar as respondent can reasonably determine, intend to and will operate said plant as a going concern for the production of corrugated products: *And, provided further*, That pending the divestiture of said plant, respondent shall not make any change in the plant, machinery, building, equipment, or other property of whatever description which might impair the present capacity for the production of corrugated products by said plant, unless such capacity is fully restored prior to divestiture.

III. *It is ordered* That the Mead Corp. shall divest itself, absolutely and in good faith, subject to the prior approval of the Commission, of the corrugated box plant located at Chicago, Illinois, which was acquired by respondent as a result of its acquisition of Industrial Container & Paper Corp., including all rights, title, interests, assets and properties acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of said plant for use in the manu-

facture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated products; provided, that said plant shall be divested by respondent in good faith to a person or persons who, insofar as respondent can reasonably determine, intend to and will operate said plant as a going concern for the production of corrugated products; and, provided further, that pending the divestiture of said plant, respondent shall not make any change in the plant, machinery, building, equipment, or other property of whatever description which might impair the present capacity for the production of corrugated products by said plant, unless such capacity is fully restored prior to divestiture.

IV. *It is ordered*, That the Mead Corp., shall divest itself, absolutely and in good faith, subject to the prior approval of the Commission, of the corrugated box plant located at Baltimore, Md., which was acquired by respondent as a result of its acquisition of Industrial Container Corp., including all rights, title, interests, assets and properties acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of said plant for use in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated products; provided, that said plant shall be divested by respondent in good faith to a person or persons who, insofar as respondent can reasonably determine, intend to and will operate said plant as a going concern for the production of corrugated products: *And, provided further*, That pending the divestiture of said plant, respondent shall not make any change in the plant, machinery, building, equipment, or other property of whatever description which might impair the present capacity for the production of corrugated products by said plant, unless such capacity is fully restored prior to divestiture.

V. *It is further ordered*, That the Mead Corp. shall reestablish in or near Elizabeth, N.J., or at a location designated by a purchaser approved by the Commission, a sheet plant with facilities and equipment which are substantially equivalent to the facilities and equipment at Elizabeth, N.J., owned by Containers, Inc., which was acquired by respondent as a result of its acquisition of Gibraltar Paper Co., Inc., and which facilities and equipment are capable of converting five thousand tons of corrugated board into corrugated products per year, and shall divest itself absolutely and in good faith, subject to the prior approval of the Commission of such reestablished plant in a manner contemplating the operation of this plant by the purchaser as a going concern in the manufacture and sale of corrugated products; and said reestablished plant shall be divested by respondent in good faith to a person or persons who, insofar as it can reasonably determine, intend to and will operate said plant as a going concern for the production of corrugated products.

VI. *It is further ordered*, That the Mead Corp., shall install a corrugator machine in the sheet plant located at Grand Rapids, Mich., which was acquired by respondent as a result of its acquisition of the assets of the Grand Rapids Container Co., Inc., so that said Grand Rapids plant, with the corrugator machine installed, shall be capable of converting approximately eighteen thousand tons of container board into corrugated products and shall divest itself, absolutely and in good faith, subject to the prior approval of the Commission, of such corrugated box plant located at Grand Rapids, Mich. Said divestiture shall include all rights, title, interests, assets and properties acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of said plant, including the corrugator machine referred to above, for use in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated products; provided, that said plant shall be divested by respondent in good faith to a person or persons who, insofar as it can reasonably determine, intend to and will operate said plant as a going concern for the production of corrugated products; provided further, to facilitate the sale of said plant and accomplish the objectives of this order, Mead may, at its option, negotiate with prospective purchasers for the sale of said plant prior to installation of a corrugator machine as above referred to, but on the condition that said prospective purchasers are advised that Mead is obligated to and will install, prior to said purchase or at a time specified by the purchaser, and subject to the approval of the Federal Trade Commission, a corrugator machine in said plant capable of converting approximately eighteen thousand tons of container board into corrugated products per year.

VII. *It is further ordered*, That the Mead Corp., shall divest itself, absolutely and in good faith, subject to the prior approval of the Commission, of all of its stock in York Container Corp., acquired by said respondent as a result of the acquisition in 1956 of Jackson Box Co., by respondent; provided, that such approval shall not be required if Mead sells such stock to the present owners of the remaining share capital of York Container Corp.

VIII. *It is further ordered* That none of the stock, assets and properties, described in Paragraphs I, II, III, IV, V, VI, and VII of this order, shall be divested, sold or transferred, directly or indirectly, to any person who, after such divestiture, is an officer, director, employee or agent of, or under the control or direction of respondent or any of respondent's subsidiary or affiliated corporations, or who owns or controls, directly or indirectly, one (1) percent of the outstanding shares of common stock of the Mead Corp., or, subject to Paragraph VII, to any purchaser who is not approved in advance by the Federal Trade Commission.

As used in this order, "person" or "persons" shall include all members of the immediate families of the individuals specified and corporations, partnerships, associations and other legal entities as well as natural persons.

IX. With respect to the seven specific corrugated box plant divestitures ordered herein, the Mead Corp., shall make every reasonable effort to accomplish divestiture of all of its interest in one of the seven plants herein ordered to be divested within one year from the date of service upon Mead of this order; a second plant within two years of that same date; a third and fourth plant within three years of that same date; a fifth and sixth plant within four years of that same date; and a seventh plant within five years of that same date.

X. If any of the assets or stock described in Paragraphs I, II, III, IV, V, VI, and VII are not sold or disposed of entirely for cash, nothing in this order shall be deemed to prohibit respondent from retaining, accepting and enforcing a lien, mortgage, deed of trust or other security interest in or to any of the aforesaid assets or stock for the purpose of securing to respondent full payment of the prices, with interest, at which any of said properties are sold or disposed of; but if after bona fide disposal of any of the aforesaid assets or stock in accordance with the provisions of this order, respondent, by enforcement of such security interest regains ownership or control of any of such assets or stock, said assets or stock regained shall be redivested, subject to the provisions of this order, within six (6) months from the time of said reacquisition.

XI. *It is further ordered*, That for a period of ten years after the service upon it of this order, the Mead Corp. shall cease and desist from acquiring, directly or indirectly, through subsidiaries, or otherwise, the whole or any part of the share capital, or assets (other than products sold or purchased in the course of business), of, or any other interest in, any domestic concern, corporate or non-corporate, engaged principally or as one of its major commodity lines at the time of such acquisition, in any state of the United States or the District of Columbia, in the business of manufacturing container board, or in the business of converting container board into corrugated products, without the prior approval of the Federal Trade Commission, provided that nothing contained herein shall prohibit the purchase by respondent in the ordinary course of business, of second hand machinery or equipment, used or useful in the manufacture or conversion of any of such products, if such machinery or equipment does not constitute a major part of the assets of the seller.

XII. *It is further ordered*, That respondent shall within sixty (60) days of the service upon it of this order, submit in writing to the Federal Trade Commission its plan for complying with the

provisions of this order, and shall every ninety (90) days thereafter, until the last of the divestitures covered by Paragraphs I, II, III, IV, V, VI, and VII herein shall have been completed, submit to the Federal Trade Commission a report, in writing, setting forth in detail the actions taken by respondent in compliance with the terms of this order. There shall be included in such reports a summary, including indications of the identities of prospective purchasers, of contacts and negotiations of representatives of respondent authorized to negotiate with potential purchasers or their representatives, relating to the sale of such assets, and(subject to any legally recognized privilege, copies of all written communications pertaining to negotiations, offers to buy, or indications of interest in the acquisition of the whole or a part of the assets in question.

Issued: February 12, 1965.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 65-3195; Filed, Mar. 29, 1965; 8:47 a.m.]

[Docket C-878]

PART 13—PROHIBITED TRADE PRACTICES

Pagoda Silks, Inc., et al.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Pagoda Silks, Inc., et al., Honolulu, Hawaii, Docket C-878, Feb. 11, 1965]

In the Matter of Pagoda Silks, Inc., a Corporation, and Lutgarda Tessmer and Dallas G. Tessmer, Individually and as Officers of Said Corporation

Consent order requiring a Hawaii importer, manufacturer, and retailer of wearing apparel and scarves—also known as jusi—to cease violating the Flammable Fabrics Act by importing, manufacturing, and selling articles of wearing apparel made of fabrics which were so highly flammable as to be dangerous when worn.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Pagoda Silks, Inc., a corporation, and its officers, and respondents Lutgarda Tessmer and Dallas G. Tessmer, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or

(b) Manufacturing for sale, selling, offering for sale, introducing, delivering for introduction, transporting or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce;

any article of wearing apparel which, under the provisions of section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

2. Manufacturing for sale, selling, or offering for sale any article of wearing apparel made of fabric, which fabric has been shipped or received in commerce, and which, under section 4 of the Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

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

Issued: February 11, 1965.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 65-3196; Filed, Mar. 29, 1965; 8:47 a.m.]

[Docket 7946]

PART 13—PROHIBITED TRADE PRACTICES

Union Bag-Camp Paper Corp.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Divestiture order, Union Bag-Camp Paper Corp., New York, N.Y., Docket 7946, Feb. 12, 1965]

Consent order requiring a New York City manufacturer of paper products—with assets exceeding $102,000,000 prior to merger with Camp Manufacturing Co., Inc., in 1956—to divest itself absolutely within 18 months of the grocers bag and sack plant located at Richmond, Va., which it acquired as a result of the merger of Union Bag & Paper Corp., with Camp Manufacturing Co., Inc., in 1956; to divest itself of the following five corrugated box plants (1) within 18 months of the plant located at Baltimore, Md., acquired by acquisition of the Eastern Box Co., in 1959, (2) within 30 months of the plant located at Benton Harbor, Mich., acquired by acquisition of River Raisin Paper Co., in 1960, (3) within 36 months of the plant located at Chicago, Ill., Union Bag & Paper Co., owned plant, (4) within 48 months of the plant located at Eaton Rapids, Mich., acquired by acquisition of River Raisin Paper Co., in 1960, (5) within 60 months of the plant located at Washington, Pa., acquired by acquisition of River Raisin Paper Co., in 1960; requiring it to make available and offer for sale to jobbers and other users of paper classified as Census coarse paper, in each of the years 1965–69 at least 70,000 tons of paper (approximate tonnage sold by Camp Manufacturing Co., Inc., to unaffiliated customers during the year 1955), of which 35,000 tons must be of paper classified by Census Bureau as Census coarse paper (SIC category 26216), and in each of the years 1970–1974 at least 50,000 tons of paper, of which 25,000 tons must be of paper classified as Census coarse paper (as designated above), at prescribed prices, quality, terms, and conditions; and to cease and desist from acquiring any company in the kraft paper and board converting industry for the next ten years without prior approval of the Federal Trade Commission.

The order of divestiture, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That Union Bag-Camp Paper Corp., shall divest itself within a period not exceeding eighteen (18) months after the service upon it of this order, absolutely and in good faith, subject to the prior approval of the Commission, of the grocers bag and sack plant, located at Foot of 13th Street, Richmond, Va., which was acquired by respondent as a result of the merger in 1956 of Union Bag & Paper Corp., with Camp Manufacturing Co., Inc., including all assets, properties, rights and privileges, tangible or intangible, acquired by respondent as a result of said merger, which are now located at said plant and used in the manufacture of grocers bags and sacks, together with such machinery and equipment as has been added to or placed on the premises of the said plant and are now used in the manufacture of grocers bags and sacks, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of grocers bags and sacks.

If at the expiration of five (5) years from the date of service upon it of this order, respondent has exhausted its good faith efforts to find a purchaser willing and able to operate this plant as a going concern, and has been unable to find such a purchaser, then respondent shall be allowed to sell this plant in any manner, and to any purchaser available to it.

II. *It is further ordered,* That Union Bag-Camp Paper Corp., shall divest itself within a period not exceeding eighteen (18) months after the service upon it of this order, absolutely and in good faith, subject to the prior approval of the Commission, of the corrugated box plant located at Wagner's Point, Baltimore, Md., which was acquired by respondent as a result of its acquisition of the Eastern Box Co., including all assets, properties, rights and privileges, tangible or intangible, acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of the said corrugated box plant and are now used in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated shipping containers.

III. *It is further ordered*, That Union Bag-Camp Paper Corp. shall divest itself within a period not exceeding thirty (30) months after the service upon it of this order, absolutely and in good faith, subject to the prior approval of the Commission, of the corrugated box plant located at 11th Street and Britain Avenue, Benton Harbor, Mich., which was acquired by respondent as a result of its acquisition of River Raisin Paper Co., including all assets, properties, rights and privileges, tangible or intangible, acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of the said corrugated box plant and are now used in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated shipping containers.

IV. *It is further ordered*, That Union Bag-Camp Paper Corp. shall divest itself, within a period not exceeding thirty-six (36) months after the service upon it of this order, absolutely and in good faith, subject to the prior approval of the Commission, of its corrugated box plant located at 4545 West Palmer Street, Chicago, Ill., including all assets, properties, rights and privileges, tangible or intangible, which are now located at said corrugated box plant and used in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated shipping containers.

V. *It is further ordered*, That Union Bag-Camp Paper Corp. shall divest itself within a period not exceeding forty-eight (48) months after the service upon it of this order, absolutely and in good faith, subject to the prior approval of the Commission, of the corrugated box plant located at Eaton Rapids, Mich., which was acquired by respondent as a result of its acquisition of River Raisin Paper Co., including all assets, properties, rights and privileges, tangible or intangible, acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of the said corrugated box plant and are now used in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated shipping containers.

VI. *It is further ordered*, That Union Bag-Camp Paper Corp. shall divest itself within a period not exceeding sixty (60) months after the service upon it of this order, absolutely and in good faith, subject to the prior approval of the Commission, of the corrugated box plant located at Washington, Pa., which was acquired by respondent as a result of its acquisition of River Raisin Paper Co., including all assets, properties, rights and privileges, tangible or intangible, acquired by respondent as a result of said acquisition, which are now located at said plant and used in the manufacture of corrugated shipping containers, together with such machinery and equipment as has been added to or placed on the premises of the said corrugated box plant and are now used in the manufacture of corrugated shipping containers, in a manner contemplating the operation of this plant, by the purchaser, as a going concern in the manufacture and sale of corrugated shipping containers.

VII. *It is further ordered*, That pending divestiture, respondent shall not make any change in the plant, machinery, buildings, equipment, or other property of whatever description, which might impair the present capacity of the aforementioned Richmond bag plant for the production of grocers bags and sacks, or which might impair the present capacity of the aforementioned Baltimore, Benton Harbor, Chicago, Eaton Rapids, and Washington plants for the production of corrugated shipping containers, unless such capacity is restored prior to divestiture.

VIII. *It is further ordered*, That none of the assets, properties, rights or privileges, described in Paragraphs I, II, III, IV, V, and VI of this order, shall be divested, sold or transferred, directly or indirectly, to any person who is immediately following the divestiture an officer, director, employee, or agent of, or under the control or direction of respondent or any of respondents' subsidiary or affiliated corporations, or who owns or controls, directly or indirectly, one (1) percent of the outstanding shares of common stock of Union Bag-Camp Paper Corp., or to any purchaser who is not approved in advance by the Federal Trade Commission.

As used in the order, the word person shall include all members of the immediate family of the individuals specified and shall include corporations, partnerships, associations and other legal entities, as well as natural persons.

The divestitures herein ordered shall be made by Union Bag-Camp Paper Corp. in good faith to persons who, insofar as Union Bag-Camp Paper Corp. can reasonably determine, intend to and will operate said properties for the production of corrugated shipping containers or grocers bags and sacks, respectively, except as otherwise provided in Paragraph I(b) of this order.

IX. If any of the properties described in Paragraphs I, II, III, IV, V, and VI are not sold or disposed of entirely for cash, nothing in this order shall be deemed to prohibit respondent from retaining, accepting and enforcing a lien, mortgage, deed of trust or other security interest in or to any of the aforesaid properties for the purpose of securing to respondent full payment of the prices, with interest, at which any of said properties are sold or disposed of; but if after bona fide disposal of any of the aforesaid properties in accordance with the provisions of this order, respondent, by enforcement of such security interest regains ownership or control of any such properties, said properties regained shall be redivested, subject to the provisions of this order, within six (6) months from the time of said reacquisition.

X. *It is further ordered*, That, for a period ending December 31, 1974, respondent shall, in good faith, make available and affirmatively offer to sell, and to the extent such offers are accepted, sell: (i) In each of the years 1965–1969, inclusive, at least 70,000 tons of paper (which is the approximate tonnage of paper sold by Camp Manufacturing Co., Inc., to unaffiliated customers during the calendar year 1955), of which 35,000 tons shall be of paper classified as Census coarse paper (SIC category 26216), which shall be sold or offered for sale to jobbers, distributors, users and converters of such Census coarse paper, and (ii) in each of the calendar years 1970–74, inclusive, at least 50,000 tons of paper, of which 25,000 tons shall be of paper classified as Census coarse paper (SIC category 26216), which shall be sold or offered for sale to jobbers, distributors, users and converters of such Census coarse paper. The paper classified as Census coarse paper which must, under the terms of this provision, be offered, and to the extent such offers are accepted, sold, shall be made available and offered for sale by respondent, at prices no higher than respondent's published list prices for such paper, and such sales shall be subject to respondent's standard credit requirements, and shall be made at respondent's standard terms and conditions, and shall be of grades, weights, finishes and sizes regularly made by respondent.

XI. *It is further ordered*, That for a period of ten years after the service upon it of this order, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries, or otherwise, the whole or any part of the share capital, or assets (other than products sold or purchased in the course of business) of, or any other interest in, any domestic concern, corporate or non-corporate, engaged principally or as one of its major commodity lines at the time of such acquisition, in any state of the United States or the District of Columbia, in the business of manufacturing coarse paper, container board, special food board or bleached folding boxboard, in the business of converting coarse paper into grocers bags and sacks, in the business of converting coarse paper into multiwall shipping sacks, or in the business of converting container board into corrugated or solid fibre sheets or shipping containers, without the prior approval of the Federal Trade Commission; provided that nothing contained herein shall prohibit the purchase by respondent, in the ordinary course of business, of coarse paper, container board, special food board, bleached folding boxboard, or finished products converted from coarse paper or container board, or of secondhand machinery or equipment, used or useful in the manufacture or conversion of any of such

products, if such machinery or equipment does not constitute a major part of the assets of the seller; and provided further that the prohibitions of this paragraph shall not apply to the acquisition of share capital or assets of any company which is already a subsidiary of Union Bag-Camp Paper Corp. on the date of this order. The term subsidiary as used herein shall mean any company in which Union Bag-Camp Paper Corp., owns in excess of 50 percent of the capital stock.

XII. Jurisdiction shall be retained by the Commission so that respondent may at any time hereinafter petition the Commission for construction or modification of this order, including particularly, but without limitation, Paragraph X, which the Commission will consider, and, on proper showing by respondent, allow to the extent it finds such constructions or modifications to be warranted and consistent with section 7 of the Clayton Act, as amended.

XIII. Nothing contained in this order shall be considered to have been violated by any action or inaction over which respondent shall have no control, where such action or inaction shall have been occasioned by war, civil insurrection, strikes, embargoes, catastrophes, eminent domain, acts of the sovereign, or acts of God.

XIVa. *It is further ordered*, That respondent shall within sixty (60) days of the service upon it of this order, submit in writing to the Federal Trade Commission its plan for complying with the provisions of this order, other than Paragraph X, and shall every ninety (90) days thereafter, until the last of the divestitures covered by Paragraphs I, II, III, IV, V, and VI herein shall have been completed, submit to the Federal Trade Commission a report, in writing, setting forth in detail the actions taken by respondent in compliance with the terms of this order. There shall be included in such reports a summary, including indications of the identities of prospective purchasers, of contacts and negotiations of representatives of respondent authorized to negotiate with potential purchasers or their representatives, relating to the sale of such assets, and, subject to any legally recognized privilege, copies of all written communications pertaining to negotiations, offers to buy, or indications of interest in the acquisition of the whole or a part of the assets in question.

It is further ordered, That, commencing June 30, 1965, and every six (6) months thereafter until December 31, 1974, respondent shall submit to the Federal Trade Commission a report in writing, setting forth the actions taken by respondent in compliance with the terms of Paragraph X of this order.

Issued: February 12, 1965.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 65-3197; Filed, Mar. 29, 1965; 8:47 a.m.]

No. 60——5

[Docket C-879]

PART 13—PROHIBITED TRADE PRACTICES

721 Corp. and Bonwit Teller

Subpart—Misbranding or mislabeling; § 13.1185 *Composition:* 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-90 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, the 721 Corporation, doing business as Bonwit Teller, New York, N.Y., Docket C-879, Feb. 11, 1965]

In the Matter of the 721 Corporation, a Corporation Doing Business as Bonwit Teller

Consent order requiring a New York City importer and retailer of wool products to cease violating the Wool Products Labeling Act by misbranding the fiber content of wool products by labeling sweaters as "60% mohair, 33% wool, 7% nylon", when said sweaters contained substantially different fibers and amounts than represented, failing to disclose on labels the percentage of the total fiber weight of wool and other fibers, and using the term "mohair" on labels to describe certain fibers that were not entitled to such designation.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent the 721 Corp., a corporation, doing business under the name of Bonwit Teller or any other name or names, and its officers, representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, or offering for sale, selling, transporting, distributing or delivering for shipment in commerce, wool sweaters or any other wool product, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939:

1. Which are falsely or deceptively stamped, tagged, labeled or otherwise identified as to the character or amount of the constituent fibers contained therein.

2. Unless each such product has securely affixed thereto, or placed thereon, a stamp, tag, label or other means of identification correctly showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

3. To which is affixed a label wherein the term "mohair" is used in lieu of the word "wool" in setting forth the required information on labels affixed to such wool products unless the fibers described as mohair are entitled to such designation and are present in at least the amount stated.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: February 11, 1965.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 65-3194; Filed, Mar. 29, 1965; 8:47 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release 34-7559]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Insider Trading; Exemption of Certain Acquisitions

On January 12, 1965, in Securities Exchange Act Release No. 7506 (30 F.R. 589), the Securities and Exchange Commission invited public comment on proposed amendments to Rule 16b-3 (17 CFR 240.16b-3). A number of helpful comments were received and the Commission, finding that the transactions exempted by the amendments are not comprehended within the purposes of section 16(b), has adopted the amendments to Rule 16b-3 with certain minor additions and deletions.

Rule 16b-3 was adopted pursuant to section 16(b) of the Act. Section 16(b) provides that profits realized by persons beneficially owning more than 10 percent of any class of equity security registered pursuant to section 12 of the Act, or by any director or officer of the issuer of such security, from the purchase and sale, or sale and purchase, of any equity security of the issuer, within a period of less than six months, inure to and are recoverable by or on behalf of the issuer. Rule 16b-3 provides an exemption from the provisions of section 16(b) for the acquisition of shares of stock acquired by an officer or director pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan meeting specified conditions. The Rule also exempts the acquisition of an option pursuant to a "qualified" or a "restricted" stock option plan, or a stock option acquired pursuant to an "employee stock purchase plan," but it does not exempt the acquisition of stock acquired upon the exercise of any option, warrant or right.

One of the conditions to this exemption is that the plan must have been approved by the holders of a majority of the securities of the issuer present, or represented, and entitled to vote at a meeting of shareholders, or by the written consent of the holders of a majority of the securities of the issuer entitled to vote.

Previously the rule required that such vote or written consent must have been solicited substantially in accordance with the rules and regulations in effect under section 14(a) of the Act at the time of such vote, whether or not such rules and regulations were applicable to the solicitation.

In order to extend the benefits of the exemption to plans approved by the vote or written consent of shareholders prior to registration of securities under section 12 of the Act, but which vote or written consent was not solicited substantially in accordance with the rules and regulations under section 14(a) because such rules were not then applicable, the rule as amended now requires only that such vote or written consent be obtained in accordance with the applicable laws of the State or other jurisdiction in which the issuer was incorporated. The rule further provides, however, that where such vote or written consent has not been solicited substantially in accordance with the rules and regulations under section 14(a) in effect at the time of such approval, that the issuer shall furnish in writing to its security holders of record entitled to vote on such plan substantially the same information regarding the plan that would be required by the rules and regulations under section 14 (a), if a vote were being taken with respect to such plan, at the time such information is furnished.

Such written information is required to be furnished on or prior to the date of the first annual meeting of security holders held subsequent to the later of (a) the first registration of an equity security under section 12 of the Act, or (b) the acquisition of an equity security for which exemption is claimed by an officer or director. The exemption provided by Rule 16b–3 thus is conditionally available until such information is sent to security holders or, if such information is not sent, until the annual meeting date specified by the rule.

In order to clarify to whom written information must be sent the amendment as proposed has been revised to make clear that such written information need only be mailed to the last known address of the security holders of record within thirty days prior to the date of mailing who would be entitled to vote on the plan, if a vote were then being solicited.

Four copies of the written information forwarded to security holders is also required by the amended rule to be filed with, or mailed for filing to, the Commission not later than the date on which it is first sent to the security holders.

It was noted in the comments received with respect to the proposed amendment to Rule 16b–3 that the exemption provided by the rule may be lost in certain instances if the provisions of paragraph (b) must be met prior to registration. Paragraph (b), in effect, requires as a condition to exemption under Rule 16b–3 that the selection of any director or officer to receive stock, or stock options, and the determination of the number of shares to be allocated pursuant to an employee plan, or covered by a stock option, be determined with respect to directors (if the plan does not set forth the maximum amounts or a formula based upon specified factors) by a disinterested board of directors or committee (as defined in the rule) and in the case of officers by the board of directors or committee of directors or a disinterested committee (as defined in the rule). A new subparagraph (3) has been added to paragraph (b) which provides that the provisions of such paragraph shall not apply with respect to any option granted or other equity security acquired prior to the date of the first registration of an equity security under Section 12 of the Act.

Commission action. Section 240.16b–3 of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 240.16b–3 Exemption from section 16(b) of acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans.

Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or a restricted stock option pursuant to a qualified or a restricted stock option plan, or of a stock option pursuant to an employee stock purchase plan, by a director or officer of the issuer of such stock or stock option shall be exempt from the operation of section 16(b) of the Act if the plan meets the following conditions:

(a) The plan has been approved, directly or indirectly, (1) by the affirmative votes of the holders of a majority of the securities of the issuer present, or represented, and entitled to vote at a meeting duly held in accordance with the applicable laws of the state or other jurisdiction in which the issuer was incorporated, or (2) by the written consent of the holders of a majority of the securities of the issuer entitled to vote: *Provided, however,* That if such vote or written consent was not solicited substantially in accordance with the rules and regulations, if any, in effect under section 14(a) of the Act at the time of such vote or written consent, the issuer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by the rules and regulations in effect under section 14(a) of the Act at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of (i) the first registration of an equity security under section 12 of the Act, or (ii) the acquisition of an equity security for which exemption is claimed. Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Four copies of such written information shall be filed with, or mailed for filing to, the Commission not later than the date on which it is first sent or given to security holders of the issuer. For the purposes of this paragraph, the term "issuer" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the issuer in connection with the succession.

(b) If the selection of any director or officer of the issuer to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plant, or the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by qualified, restricted or employee stock purchase plan stock options granted to any such director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as follows:

(1) With respect to the participation of directors:

(i) By the board of directors of the issuer, a majority of which board and a majority of the directors acting in the matter are disinterested persons;

(ii) By, or only in accordance with the recommendation of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

(iii) Otherwise in accordance with the plan, if the plan (*a*) specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted or employee stock purchase plan stock options granted to directors and the terms upon which, and the times at which or the periods within which, such stock may be acquired or such options may be acquired and exercised; or (*b*) sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the issuer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors.

(2) With respect to the participation of officers who are not directors:

(i) By the board of directors of the issuer or a committee of three or more directors; or

(ii) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons. For the purpose of this paragraph, a director or committee member shall be deemed to be a disinterested person only if such person is not at the time such discretion is exercised eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan or any other plan of the issuer or any of its affiliates entitling the participants therein to acquire stock or qualified, restricted or employee stock purchase plan stock options of the issuer or any of its affiliates.

(3) The provisions of this paragraph shall not apply with respect to any option granted, or other equity security acquired, prior to the date of the first registration of an equity security under section 12 of the Act.

(c) As to each participant or as to all participants the plan effectively limits the aggregate dollar amount or the aggregate number of shares of stock which may be allocated, or which may be subject to qualified, restricted, or employee stock purchase plan stock options granted, pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date; and may be determined either by fixed or maximum dollar amounts or fixed or maximum number of shares or by formulas based upon earnings of the issuer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

(d) Unless the contest otherwise requires, all terms used in this rule shall have the same meaning as in the Act or elsewhere in the general rules and regulations thereunder. In addition, the following definitions apply:

(1) The term "plan" includes any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.

(2) The definition of the terms "qualified stock option" and "employee stock purchase plan" that are set forth in sections 422 and 423 of the Internal Revenue Code of 1954, as amended, are to be applied to those terms where used in the rule. The term "restricted stock option" as defined in section 424(b) of the Internal Revenue Code of 1954, as amended, shall be applied to that term as used in this rule, provided however, that for the purposes of this rule an option which meets all of the conditions of that section other than the date of issuance shall be deemed to be a "restricted stock option."

(Secs. 16 and 23; 48 Stat. 896 and 901, as amended; 15 U.S.C. 78p and 78w)

The Commission finds that the provisions of subsection 4(c) of the Administrative Procedure Act regarding postponement of the effective date are inapplicable inasmuch as certain of the foregoing amendments grant or recognize exemptions or relieve restrictions and the other amendments do not relate to substantive rules and, therefore, that the rule may be made effective upon publication thereof on March 22, 1965. The foregoing action is taken pursuant to the Securities Exchange Act of 1934, as amended, particularly sections 16(b) and 23(a) thereof.

By the Commission, March 22, 1965.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 65-3198; Filed, Mar. 29, 1965; 8:48 a.m.]

[Release 35—15205 and I.A.—186]

PART 250—GENERAL RULES AND REGULATIONS UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Miscellaneous Amendments

The Securities and Exchange Commission has adopted an amendment to its general rules and regulations under the Public Utility Holding Company Act of 1935 (17 CFR Part 250) and a new rule under its general rules and regulations under the Investment Advisers Act of 1940 (17 CFR Part 275). The purpose of these changes is to include within the meaning of the terms "rule", "regulations" and "rules and regulations", all forms and instructions adopted under the particular act concerned. Also, § 275.01 under Part 275 of this chapter, as heretofore adopted and revised, is hereby redesignated § 275.0–1 and § 275.02 under Part 275 of the chapter, as heretofore adopted, is hereby redesignated § 275.0–2.

The Commission's action is designed to make it clear that the terms "rule", "regulation" and "rules and regulations", as used in the general rules and regulations under the above acts, include also all forms and instructions thereto which have been adopted under said acts. While the Commission has always taken the position that such forms and instructions are of the same force and effect as the rules and regulations which it has adopted, this action is being taken to codify such interpretation and to place the rules and regulations under said acts on the same footing as those adopted under other acts which the Commission administers. The text of the Commission's action is as follows:

I. Paragraph (d) of § 250.103 of this chapter is amended by adding a new sentence at the end thereof reading: "All forms and instructions thereto shall be deemed rules and regulations adopted by the Commission pursuant to the Act." As so amended, § 250.103(d) reads:

§ 250.103 References and definitions.

* * * * *

(d) The term "rule" includes "rule" and "regulation," as those words are used in the Act and refers to the rules prescribed by the Commission pursuant to the Act. All forms and instructions thereto shall be deemed rules and regulations adopted by the Commission pursuant to the Act.

* * * * *

II. Part 275 of Title 17 is amended by the addition of § 275.0–3 which reads as follows:

§ 275.0–3 References to rules and regulations.

The term "rules and regulations" refers to all rules and regulations adopted by the Commission pursuant to the Act, including the forms for registration and reports and the accompanying instructions thereto.

§ 275.0–1 [Redesignated]

III. Section 275.01 under Part 275 of this chapter, as heretofore adopted and revised, is hereby redesignated § 275.0–1.

§ 275.0–2 [Redesignated]

IV. Section 275.02 under Part 275 of this chapter, as heretofore adopted and revised, is hereby redesignated § 275.0–2.

The foregoing action is taken pursuant to the Public Utility Holding Company Act of 1935, particularly section 20(a) thereof, and the Investment Advisers Act of 1940, particularly section 211(a) thereof.

The Commission finds that the foregoing action involves a matter of interpretation so that notice and subsequent procedure pursuant to subsections 4 (a) and (b) of the Administrative Procedure Act are not required. The Commission also finds that the provisions of subsection 4(c) of the Administrative Procedure Act regarding postponement of the effective date are inapplicable inasmuch as the foregoing action is not of a substantive nature. Accordingly, the foregoing amendment is effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

MARCH 22, 1965.

[F.R. Doc. 65-3199; Filed, Mar. 29, 1965; 8:48 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER E—REGULATIONS UNDER NATURAL GAS ACT

[Docket No. R-271; Order 295]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 7 OF THE NATURAL GAS ACT AS AMENDED

Applications of Natural Gas Pipeline Companies To Abandon Facilities or Service; Exhibits

MARCH 24, 1965.

This order amends § 157.18 of the Commission's regulations under the Natural Gas Act to require the inclusion of a map showing the location of facilities to be abandoned as one of the exhibits in support of an application for authorization to abandon facilities or service pursuant to section 7(b) of the Natural Gas Act. Such maps are now required[1] in con-

[1] § 157.14(a)(6), regulations under the Natural Gas Act.

nection with a single application requesting both a certificate under section 7(c) and an abandonment authorization under section 7(b), but the lack of such a specific requirement in the abandonment rule, here being amended, has caused confusion. Some applicants include maps with their abandonment applications but others do not. This has been brought to our attention by several companies which have suggested that it would be advisable to require the inclusion of a map, thus assuring that all interested parties will know the exact location of the facilities that the applicant is proposing to abandon.

The Commission finds:

(1) Compliance with the notice provisions of section 4 of the Administrative Procedure Act is unnecessary since the amendment herein adopted is of a clarifying nature in that it no more than explicitly requires the filing of an exhibit which contains information now implicitly required to be filed as part of another exhibit.

(2) The amendment adopted herein is necessary and appropriate for the purposes of administration of the Natural Gas Act.

The Commission, acting pursuant to the authority granted by the Natural Gas Act, as amended, particularly sections 7(b) and 16 thereof (52 Stat. 824, 830; 15 U.S.C. 717f(b), 717o) orders:

(A) Section 157.18, Part 157, Subchapter E of Chapter I, Title 18 of the Code of Federal Regulations, is amended by adding a new paragraph (g) as follows:

§ 157.18 Application to abandon facilities or service; exhibits.

* * * * *

(g) *Exhibit Z—Location of facilities.* Unless shown on Exhibit V or elsewhere, a geographic map of suitable scale and detail showing, and appropriately differentiating between, all of the facilities proposed to be abandoned and the other existing facilities of applicant, the operation or capacity of which will be directly affected by the facilities to be abandoned. This map shall clearly show the relationship of the facilities to be abandoned to the applicant's overall system and shall include:

(1) Location, length and size of pipelines.

(2) Location and size (rated horsepower) of compressor stations.

(3) Location and designation of each point of connection of existing facilities with (i) main line industrial and other consumers, pipeline or distribution companies and municipalities, indicating towns and communities served at wholesale or retail and (ii) gas-producing and storage fields, or other sources of gas supply. Designate on the map those facilities and services proposed to be abandoned.

(Secs. 7(b), 16, 52 Stat. 824, 830; 15 U.S.C. 717f(b), 717o)

(B) The amendment prescribed herein shall become effective on May 1, 1965.

(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. 65-3201; Filed, Mar. 29, 1965; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RELATED PRODUCTS

Subpart B—Corn Flour and Related Products

SELF-RISING WHITE CORN MEAL; CONFIRMATION OF EFFECTIVE DATE OF ORDER AMENDING STANDARD TO LIST SODIUM ALUMINUM PHOSPHATE AS OPTIONAL INGREDIENT

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 72 Stat. 948; 21 U.S.C. 341, 371), and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.90), notice is given that no objections were filed to the order published in the FEDERAL REGISTER of January 23, 1965 (30 F.R. 746), that amended the identity standard for self-rising white corn meal to include sodium aluminum phosphate as an optional acid-reacting substance. The amendment promulgated by that order will become effective March 24, 1965.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: March 23, 1965.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

[F.R. Doc. 65-3206; Filed, Mar. 29, 1965; 8:48 a.m.]

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Order Staying Effective Date of Portions of Standards of Identity

In the matter of establishing definitions and standards for mozzarella cheese, scamorza cheese, part-skim mozzarella cheese, part-skim scamorza cheese:

The order of the Deputy Commissioner of Food and Drugs establishing definitions and standards of identity for mozzarella cheese, scamorza cheese, part-skim mozzarella cheese, part-skim scamorza cheese, low-moisture mozzarella cheese, low-moisture scamorza cheese, low-moisture part-skim mozzarella cheese, and low-moisture part-skim scamorza cheese, published in the FEDERAL REGISTER December 22, 1964 (29 F.R. 18121), is to become effective April 21, 1965. Judicial review pursuant to section 701(f)(1) of the Federal Food, Drug, and Cosmetic Act, is now being sought with respect to those portions of the order relating to low-moisture mozzarella cheese, low-moisture scamorza cheese, low-moisture part-skim mozzarella cheese, and low-moisture part-skim scamorza cheese. Representations have been made that adoption of those portions of the Order will cause irreparable injury to manufacturers of these cheese products and, on this basis, the Food and Drug Administration has been urged to stay the effective date of those portions of the standard until there is a final judgment in the proceedings for judicial review.

Therefore, it is ordered, That the effective date of the following portions of the regulations is postponed until there is a final judgment in the proceedings for judicial review:

a. Sec. 19.605 Low-moisture mozzarella cheese, low-moisture scamorza cheese; identity.

b. Sec. 19.606 Low-moisture part-skim mozzarella cheese, low-moisture part-skim scamorza cheese; identity.

Effective date. This order shall be effective on the date of signature.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

Dated: March 23, 1965.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

[F.R. Doc. 65-3207; Filed, Mar. 29, 1965; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

POLYSORBATE 80; POLYSORBATE 60 (POLYOXYETHYLENE (20) SORBITAN MONOSTEARATE)

In the matter of amending the food additive regulations for polysorbate 80 and polysorbate 60 (polyoxyethylene (20) sorbitan monostearate) to remove the container limitation that the additives can be used in shortenings and edible oils only when such products are sold in units not exceeding 6 pounds avoirdupois weight or 1 gallon fluid content:

No comments were received in response to the notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of January 30, 1965 (30 F.R. 998). Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409, 72 Stat. 1785; 21 U.S.C. 348) and under the authority delegated by the Secretary of Health, Education, and Welfare to the Commissioner of Food and Drugs (21 CFR 2.90), the proposed amendments are adopted without change. Accordingly, § 121.1009(c) is amended by changing the introduction to subparagraph (8) and § 121.1030 is amended by changing the introduction to subparagraph (8). As amended, the affected portions read as follows:

§ 121.1009 Polysorbate 80.

* * * * *

(c) * * *

(8) As an emulsifier, alone or in combination with polysorbate 60, in shortenings and edible oils intended for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings and in the frying of foods, as follows:

* * * * *

§ 121.1030 Polysorbate 60 (polyoxyethylene (20) sorbitan monostearate).

* * * * *

(c) * * *

(8) As an emulsifier, alone or in combination with polysorbate 80, in shortenings and edible oils intended for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings, and in the frying of foods, as follows:

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 409, 72 Stat. 1785; 21 U.S.C. 348)

Dated: March 23, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-3208; Filed, Mar. 29, 1965; 8:48 a.m.]

SUBCHAPTER C—DRUGS

PART 148w—CEPHALOSPORIN

Sodium Cephalothin

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 2.90), the regulation for the certification of sodium cephalothin is amended as follows:

Section 148w.1 is amended by changing paragraph (a)(4)(ii)(*a*)(*1*) to provide for an increase in the quantity of sample required to be submitted for certification testing and by changing paragraph (b)(3) to provide for an increase in the dose administered in the pyrogens test for sodium cephalothin. As amended, the affected portions read as follows:

§ 148w.1 Sodium cephalothin.

(a) * * * (4) * * * (ii) * * * (*a*) * * *

(*1*) For all tests except sterility: 10 packages, each containing equal portions of approximately 500 milligrams.

* * * * *

(b) * * *

(3) *Pyrogen.* Proceed as directed in § 141a.3 of this chapter, using as a test dose 1.0 milliliter per kilogram of a solution containing 50 milligrams of cephalothin per milliliter.

* * * * *

I find that the amendments included in this order, which provide for a more reliable test method for the pyrogen test and an adequate sample for testing the certifiable antibiotic drug sodium cephalothin are necessary in order to insure safety and efficacy of the subject drug in the interest of public health, as provided in section 507 of the Federal Food, Drug, and Cosmetic Act, and that the provisions of section 4(a) of the Administrative Procedure Act are not applicable in this instance.

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

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

Dated: March 23, 1965.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 65-3209; Filed, Mar. 29, 1965; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 101-38—MOTOR EQUIPMENT MANAGEMENT

Code Designation; Use Standards and Rotation Program for Government-Owned Vehicles

In Part 101-38:

Subpart 101-38 is amended as follows:

Subpart 101-38.3—Official Government Tags

In Subpart 101-38.3, § 101-38.304-1 is amended by the addition of the following agency code designation in alphabetical order:

§ 101-38.304-1 Code designations.

* * * * *

Economic Opportunity, Office of	JC

* * * * *

Subpart 101-38.10 is added to read as follows:

Subpart 101-38.10—Use and Rotation of Government-Owned Motor Vehicles

Sec.

AUTHORITY: The provisions of this Subpart 101-38.10 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101-38.10—Use and Rotation of Government-Owned Motor Vehicles

§ 101-38.1000 Scope of subpart.

This subpart prescribes use standards and rotation program for Government-owned motor vehicles.

§ 101-38.1001 Applicability.

This subpart is applicable to all Government-owned motor vehicles of a holding agency located in the United States, its Territories, or possessions.

§ 101-38.1002 Use standards for Government-owned motor vehicles.

To provide usage goals wherein Government-owned motor vehicles are used to the maximum extent feasible and only the minimum number of vehicles are retained in an agency's inventory to furnish necessary service, the following use standards are established.

(a) *Passenger-carrying vehicles.* The standard use objective for passenger-carrying vehicles is 3,000 miles per quarter or 12,000 miles per year.

(b) *Light trucks and general purpose vehicles, 4 x 2.* The standard use objective for light trucks and general purpose vehicles is as follows:

(1) Light trucks and general purpose vehicles, 1-ton and under (less than 12,500 GVW)—10,000 miles per year.

(2) Trucks and general purpose vehicles, 1½-ton through 2½-ton (12,500 to 16,999 GVW)—7,500 miles per year.

(c) *Heavy trucks and truck tractors 4 x 2.* The standard use objective for heavy trucks and truck tractors is as follows:

(1) Heavy trucks and general purpose vehicles, 3-ton and over (17,000 GVW and over)—7,500 miles per year.

(2) Truck tractors—10,000 miles per year.

(d) *All-wheel-drive vehicles.* The standard use objective for all-wheel-drive vehicles is 7,500 miles per year.

(e) *Other trucks and special purpose vehicles.* No standard use objective for other trucks and special purpose vehicles is established, but the holding agency shall study the use of such equipment and take necessary action to insure that the equipment is fully utilized or declared excess to the agency's need.

§ 101-38.1003 Rotation of Government-owned motor vehicles.

In order to attain the standard use objectives outlined in § 101-38.1002, Government-owned vehicles on high mileage assignments should be rotated with those on low mileage assignments. In specific cases where the continuous use of a particular vehicle is essential but its use does not meet objectives, the holding agency should require the using activity to furnish a written explanation of the need for excluding the vehicle from the rotation program requirements.

Subparts 101-38.11 through 101-38.48 are reserved.

Subparts 101–38.11—101–38.48 [Reserved]

Effective date. These regulations shall become effective June 30, 1965, but may be observed earlier.

Dated: March 23, 1965.

LAWSON B. KNOTT, Jr.,
Acting Administrator of General Services.

[F.R. Doc. 65-3217; Filed, Mar. 29, 1965; 8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6810]

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Subpart B—Authorizations To Execute Bonds and Consents on Behalf of Corporate Sureties

On December 24, 1964, a notice of proposed rule making to revise the regulations in Subpart B of 26 CFR Part 170 was published in the FEDERAL REGISTER (29 F.R. 18379). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice, and the regulations as published in the FEDERAL REGISTER are hereby adopted.

This Treasury decision shall become effective on the first day of the first month which begins not less than 30 days after the date of its publication in the FEDERAL REGISTER.

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: March 24, 1965.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

The purpose of this Treasury decision is to revise the regulations in Subpart B of 26 CFR Part 170 to change the requirements for the submission by surety companies of authorizations for agents and officers to execute bonds on their behalf. The provisions for submission of continuing authorizations are changed to provide for separate submission of authority with each bond and each consent to changes in the terms of a bond. Subpart B, 26 CFR Part 170, is revised to read as follows:

Sec.
170.21 Scope of subpart.
170.22 General.
170.23 Filing of powers of attorney.
170.24 Execution of powers of attorney.

AUTHORITY: The provisions of this Subpart B issued under sec. 7805, Internal Revenue Code; 68A Stat. 917; 26 U.S.C. 7805.

§ 170.21 Scope of subpart.

This subpart relates to the submission of powers of attorney given in support of bonds required or provided for by regulations prescribed in this part, and in Parts 197 to 245, inclusive, and in Part 252 of this chapter, authorizing agents and officers to execute bonds or to consent to changes in the terms of bonds on behalf of corporate sureties.

§ 170.22 General.

Notwithstanding any other provisions of the regulations in this part, or in Parts 197 to 245, inclusive, and in Part 252 of this chapter, powers of attorney authorizing agents or officers to execute bonds or to consent to changes in the terms of bonds on behalf of corporate sureties shall be submitted and passed on as provided in this subpart.

§ 170.23 Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The assistant regional commissioner, alcohol and tobacco tax, who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent. (61 Stat. 648; 6 U.S.C. 6, 7)

§ 170.24 Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity. (61 Stat. 648; 6 U.S.C. 6, 7)

[F.R. Doc. 65-3221; Filed, Mar. 29, 1965; 8:49 a.m.]

[T.D. 6811]

PART 296—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO MATERIALS, TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES

Subpart D—Authorizations To Execute Bonds and Extensions of Coverage of Bonds on Behalf of Corporate Sureties

On December 24, 1964, a notice of proposed rule making to revise the regulations in Subpart D of 26 CFR Part 296 was published in the FEDERAL REGISTER (29 F.R. 18379). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice, and the regulations as published in the FEDERAL REGISTER are hereby adopted.

This Treasury decision shall become effective on the first day of the first month which begins not less than 30 days after the date of its publication in the FEDERAL REGISTER.

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: March 24, 1965.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

The purpose of this Treasury decision is to revise the regulations in Subpart D of 26 CFR Part 296 to change the requirements for the submission by surety companies of authorizations for agents and officers to execute bonds on their behalf. The provisions for submission of continuing authorizations are changed to provide for separate submission of authority with each bond and each extension of coverage of bond. Subpart D, 26 CFR Part 296, is revised to read as follows:

Sec.
296.91 Scope of subpart.
296.92 General.
296.93 Filing of powers of attorney.
296.94 Execution of powers of attorney.

AUTHORITY: The provisions of this Subpart D issued under sec. 7805, Internal Revenue Code; 68A Stat. 917; 26 U.S.C. 7805.

§ 296.91 Scope of subpart.

This subpart relates to the submission of powers of attorney given in support of bonds required or provided for by regulations prescribed in this part, and in Parts 270, 280, 285, and 290 of this chapter, authorizing agents and officers to execute bonds or extensions of coverage of bonds on behalf of corporate sureties.

§ 296.92 General.

Notwithstanding any other provisions of the regulations in this part, or in Parts 270, 280, 285, and 290 of this chapter, powers of attorney authorizing agents or officers to execute bonds or extensions of coverage of bonds on behalf of corporate sureties shall be submitted and passed on as provided in this subpart.

§ 296.93 Filing of powers of attorney.

Each bond, and each extension of coverage of bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or extension of coverage of bond to so act on behalf of the surety. The assistant regional commissioner, alcohol and tobacco tax, who is authorized to approve the bond, may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or extension of coverage of bond. (61 Stat. 648; 6 U.S.C. 6, 7)

§ 296.94 Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by a certification of its validity. (61 Stat. 648; 6 U.S.C. 6, 7)

[F.R. Doc. 65-3222; Filed, Mar. 29, 1965; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Dividends Received Deduction for Certain Dividends Paid by Foreign Corporations

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C., 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 243, 245, and 861 of the Internal Revenue Code of 1954 to section 3 of the Act of September 14, 1960 (Public Law 86-779, 74 Stat. 998), and to conform the regulations under section 243 in part to section 214(a) of the Revenue Act of 1964 (78 Stat. 52), such regulations are amended as follows:

PARAGRAPH 1. Section 1.243 is amended by revising section 243 and the historical note to read as follows:

§ 1.243 Statutory provisions; dividends received by corporations.

SEC. 243. *Dividends received by corporations*—(a) *General rule.* In the case of a corporation, there shall be allowed as a deduction an amount equal to the following percentages of the amount received as dividends from a domestic corporation which is subject to taxation under this chapter:

(1) 85 percent, in the case of dividends other than dividends described in paragraph (2) or (3);

(2) 100 percent, in the case of dividends received by a small business investment company operating under the Small Business Investment Act of 1958; and

(3) 100 percent, in the case of qualifying dividends (as defined in subsection (b) (1)).

(b) *Qualifying dividends*—(1) *Definition.* For purposes of subsection (a)(3), the term "qualifying dividends" means dividends received by a corporation which, at the close of the day the dividends are received, is a member of the same affiliated group of corporations (as defined in paragraph (5)) as the corporation distributing the dividends, if—

(A) Such affiliated group has made an election under paragraph (2) which is effective for the taxable years of its members which include such day, and

(B) Such dividends are distributed out of earnings and profits of a taxable year of the distributing corporation ending after December 31, 1963—

(i) On each day of which the distributing corporation and the corporation receiving the dividends were members of such affiliated group, and

(ii) For which an election under section 1562 (relating to election of multiple surtax exemptions) is not effective.

(2) *Election.* An election under this paragraph shall be made for an affiliated group by the common parent corporation, and shall be made for any taxable year of the common parent corporation at such time and in such manner as the Secretary or his delegate by regulations prescribes. Such election may not be made for an affiliated group for any taxable year of the common parent corporation for which an election under section 1562 is effective. Each corporation which is a member of such group at any time during its taxable year which includes the last day of such taxable year of the common parent corporation must consent to such election at such time and in such manner as the Secretary or his delegate by regulations prescribes. An election under this paragraph shall be effective—

(A) For the taxable year of each member of such affiliated group which includes the last day of the taxable year of the common parent corporation with respect to which the election is made (except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year), and

(B) For the taxable year of each member of such affiliated group which ends after the last day of such taxable year of the common parent corporation but which does not include such date, unless the election is terminated under paragraph (4).

(3) *Effect of election.* If an election by an affiliated group is effective with respect to a taxable year of the common parent corporation, then under regulations prescribed by the Secretary or his delegate—

(A) No member of such affiliated group may consent to an election under section 1562 for such taxable year,

(B) The members of such affiliated group shall be treated as one taxpayer for purposes of making the elections under section 901(a) (relating to allowance of foreign tax credit) and section 904(b)(1) (relating to election of overall limitation), and

(C) The members of such affiliated group shall be limited to one—

(i) $100,000 minimum accumulated earnings credit under section 535(c) (2) or (3),

(ii) $100,000 limitation for exploration expenditures under section 615 (a) and (b),

(iii) $400,000 limitation for exploration expenditures under section 615(c)(1),

(iv) $25,000 limitation on small business deduction of life insurance companies under sections 804(a)(4) and 809(d)(10), and

(v) $100,000 exemption for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax.

(4) *Termination.* An election by an affiliated group under paragraph (2) shall terminate with respect to the taxable year of the common parent corporation and with respect to the taxable years of the members of such affiliated group which include the last day of such taxable year of the common parent corporation if—

(A) *Consent of members.* Such affiliated group files a termination of such election (at such time and in such manner as the Secretary or his delegate by regulations prescribes) with respect to such taxable year of the common parent corporation, and each corporation which is a member of such affiliated group at any time during its taxable year which includes the last day of such taxable year of the common parent corporation consents to such termination, or

(B) *Refusal by new member to consent.* During such taxable year of the common parent corporation such affiliated group includes a member which—

(i) Was not a member of such group during such common parent corporation's immediately preceding taxable year, and

(ii) Such member files a statement that it does not consent to the election at such time and in such manner as the Secretary or his delegate by regulations prescribes.

(5) *Definition of affiliated group.* For purposes of this subsection, the term "affiliated group" has the meaning assigned to it by section 1504(a), except that for such purposes sections 1504(b)(2) and 1504(c) shall not apply.

(6) *Special rules for insurance companies.* If an election under this subsection is effective for the taxable year of an insurance company subject to taxation under section 802 or 821—

(A) Part II of subchapter B of chapter 6 (relating to certain controlled corporations) shall be applied without regard to section 1563(a)(4) (relating to certain insurance companies) and section 1563(b)(2)(D) (relating to certain excluded members) with respect to such company and the other corporations which are members of the controlled group of corporations (as determined under section 1563 without regard to subsections (a)(4) and (b)(2)(D)) of which such company is a member, and

(B) For purposes of paragraph (1), a distribution by such company out of earnings and profits of a taxable year for which an election under this subsection was not effective, and for which such company was not a component member of a controlled group of corporations within the meaning of section 1563 solely by reason of section 1563(b)(2)(D), shall not be a qualifying dividend.

(c) *Special rules for certain distributions.* For purposes of subsection (a)—

(1) Any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.) shall not be treated as a dividend.

(2) A dividend received from a regulated investment company shall be subject to the limitations prescribed in section 854.

(3) Any dividend received from a real estate investment trust which, for the tax-

able year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following) shall not be treated as a dividend.

(4) Any dividend received which is described in section 244 (relating to dividends received on preferred stock of a public utility) shall not be treated as a dividend.

(d) *Certain dividends from foreign corporations.* For purposes of subsection (a) and for purposes of section 245, any dividend from a foreign corporation from earnings and profits accumulated by a domestic corporation during a period with respect to which such domestic corporation was subject to taxation under this chapter (or corresponding provisions of prior law) shall be treated as a dividend from a domestic corporation which is subject to taxation under this chapter.

[Sec. 243 as amended by sec. 57(b), Technical Amendments Act 1958 (72 Stat. 1645); secs. 3(a) and 10(g), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 998, 1009); sec. 214(a) Rev. Act 1964 (78 Stat. 52)]

PAR. 2. The following new section is inserted immediately after § 1.243-2:

§ 1.243-3 Certain dividends from foreign corporations.

(a) *In general.* (1) In determining the deduction provided in section 243(a), section 243(d) provides that a dividend received from a foreign corporation after December 31, 1959, shall be treated as a dividend from a domestic corporation which is subject to taxation under chapter 1 of the Code, but only to the extent that such dividend is out of earnings and profits accumulated by a domestic corporation during a period with respect to which such domestic corporation was subject to taxation under chapter 1 of the Code (or corresponding provisions of prior law). Thus, for example, if a domestic corporation accumulates earnings and profits during a period or periods with respect to which it is subject to taxation under chapter 1 of the Code (or corresponding provisions of prior law) and subsequently such domestic corporation reincorporates in a foreign country, any dividends paid out of such earnings and profits after such reincorporation are eligible for the deduction provided in section 243(a) (1) and (2).

(2) Section 243(d) and this section do not apply to dividends paid out of earnings and profits accumulated (i) by a corporation organized under the China Trade Act, 1922, (ii) by a domestic corporation during any period with respect to which such corporation was exempt from taxation under section 501 (relating to certain charitable, etc. organizations) or 521 (relating to farmers' cooperative associations), or (iii) by a domestic corporation during any period to which section 931 (relating to income from sources within possessions of the United States) applied.

(b) *Establishing separate earnings and profits accounts.* A foreign corporation shall, for purposes of section 243(d), maintain a separate account for earnings and profits to which it succeeds which were accumulated by a domestic corporation, and such foreign corporation shall treat such earnings and profits as having been accumulated during the accounting periods in which earned by such domestic corporation. Such foreign corporation shall also maintain such a separate account for the earnings and profits, or deficit in earnings and profits, accumulated by it or accumulated by any other corporations to the earnings and profits of which it succeeds.

(c) *Effect of dividends on earnings and profits accounts.* Dividends paid out of the accumulated earnings and profits (see section 316(a)(1)) of such foreign corporation shall be treated as having been paid out of the most recently accumulated earnings and profits of such corporation. A deficit in an earnings and profits account for any accounting period shall reduce the most recently accumulated earnings and profits in such account. If a dividend is paid out of earnings and profits of a foreign corporation which maintains two or more accounts (established under the provisions of paragraph (b) of this section) with respect to two or more accounting periods ending on the same day, then the portion of such dividend considered as paid out of each account shall be the same proportion of the total dividend as the amount of earnings and profits in that account bears to the sum of the earnings and profits in all such accounts. For purposes of the preceding sentence, the earnings and profits of a corporation for any accounting period shall not be considered to be greater than its accumulated earnings and profits.

(d) *Illustration.* The application of the principles of this section in the determination of the amount of the dividends received deduction may be illustrated by the following example:

Example. On December 31, 1960, corporation X, a calendar-year corporation organized in the United States on January 1, 1958, consolidated with corporation Y, a foreign corporation organized on January 1, 1958, which used an annual accounting period based on the calendar year, to form corporation Z, a foreign corporation not engaged in trade or business within the United States. Corporation Z is a wholly-owned subsidiary of corporation M, a domestic corporation. On January 1, 1961, corporation Z's accumulated earnings and profits of $31,000 are, under the provisions of paragraph (b) of this section, maintained in separate earnings and profits accounts containing the following amounts:

	Domestic corporation X	Foreign corporation Y
1958	($1,000)	$11,000
1959	10,000	9,000
1960	5,000	(3,000)

Corporation Z had earnings and profits of $10,000 in each of the years 1961, 1962, and 1963 and makes distributions with respect to its stock to corporation M for such years in the following amounts:

1961	$14,000
1962	23,000
1963	16,000

(1) For 1961, a deduction of $3,400 is allowable to M with respect to the $14,000 distribution from Z, computed as follows:

(i) Dividend from current year earnings and profits (1961)	$10,000
(ii) Dividend from accumulated earnings and profits of corporation X for 1960	4,000
(iii) Deduction: 85 percent of $4,000 (the amount distributed from the accumulated earnings and profits of corporation X)	$3,400

(2) For 1962, a deduction of $6,070 is allowable to corporation M with respect to the $23,000 distribution from corporation Z, computed as follows:

(i) Dividend from current year earnings and profits (1962)	$10,000
(ii) Dividend from accumulated earnings and profits of corporation X:	
1960	$1,000
1959: $9,000 (i.e., $10,000 − $1,000) / $15,000 (i.e., $9,000 + $9,000 − $3,000) × $12,000 (i.e., $23,000 − $11,000)	7,200
Total	8,200
(iii) Dividend from accumulated earnings and profits of corporation Y: 1959: $6,000 / $15,000 × $12,000	4,800
(iv) Deduction: 85 percent of $8,200 (the amount distributed from the accumulated earnings and profits of corporation X)	6,970

(3) For 1963, a deduction of $1,530 is allowable to M with respect to the $16,000 distribution from Z, computed as follows:

(i) Dividend from current year earnings and profits (1963)	$10,000
(ii) Dividend from accumulated earnings and profits of corporation X: 1959: 1959 earnings and profits remaining after 1962 distribution (i.e., $9,000 − $7,200)	1,2800
(iii) Dividend from accumulated earnings and profits of corporation Y:	
1959: 1959 earnings and profits remaining after 1962 distribution (i.e., $6,000 − $4,800)	1,200
1958	3,000
(iv) Deduction: 85 percent of $1,800 (the amount distributed from the accumulated earnings and profits of corporation X)	1,530

PAR. 3. Section 1.245-1 is amended by revising paragraph (a) to read as follows:

§ 1.245-1 Deduction for dividends received from certain foreign corporations.

(a) (1) A corporation is allowed a deduction under section 245 for dividends received from a foreign corporation (other than a foreign personal holding company as defined in section 552) which is subject to taxation under chapter 1 of the Code if, for an uninterrupted period of not less than 36 months ending with the close of the foreign corporation's taxable year in which the dividends are paid, such foreign corporation has been engaged in trade or business within the United States and has derived 50 percent or more of its gross income from sources within the United States. If the foreign corporation has been in existence less than 36 months as of the close of the taxable year in which the dividends are paid, then the applicable uninter-

rupted period to be taken into consideration in lieu of the uninterrupted period of 36 or more months is the entire period such corporation has been in existence as of the close of such taxable year. An uninterrupted period which satisfies the twofold requirement with respect to business activity and gross income may start at a date later than the date on which the foreign corporation first commenced an uninterrupted period of engaging in trade or business within the United States, but the applicable uninterrupted period is in any event the longest uninterrupted period which satisfies such twofold requirement.

(2) To the extent that a dividend received from a foreign corporation is treated as a dividend from a domestic corporation in accordance with section 243(d) and § 1.243–3, it shall not be treated as a dividend received from a foreign corporation for purposes of this section.

* * * * *

PAR. 4. Section 1.861 is amended by revising subparagraph (B) of, and by adding a subparagraph (C) to, subsection (a) (2) and by revising the historical note. These revised and added provisions read as follows:

§ 1.861 Statutory provisions, income from sources within the United States.

SEC. 861. *Income from sources within the United States*—(a) *Gross income from sources within the United States.* * * *

(2) *Dividends.* * * *

(B) From a foreign corporation unless less than 50 percent of the gross income of such foreign corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of this part; but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period derived from sources within the United States bears to its gross income from all sources; but dividends from a foreign corporation shall, for purposes of subpart A of part III (relating to foreign tax credit), be treated as income from sources without the United States to the extent exceeding the amount of the deduction allowable under section 245 in respect of such dividends, or

(C) From a foreign corporation to the extent that such amount is required by section 243(d) (relating to certain dividends from foreign corporations) to be treated as dividends from a domestic corporation which is subject to taxation under this chapter, and to such extent subparagraph (B) shall not apply to such amount.

* * * * *

[Sec. 861 as amended by sec. 3(b), Act of Sept. 14, 1960 (Pub. Law 86–779, 74 Stat. 998)]

PAR. 5. Paragraph (a) of § 1.861–3 is amended to read as follows:

§ 1.861–3 Dividends.

(a) *General*—(1) *Dividends included in gross income.* Gross income from sources within the United States includes a dividend (as defined by section 316 and the regulations thereunder) described in subparagraph (2), (3), or (4) of this paragraph.

(2) *Dividend from a domestic corporation.* A dividend described in this subparagraph is a dividend from a domestic corporation other than a domestic corporation entitled to the benefits of section 931, and other than a domestic corporation less than 20 percent of the gross income of which is shown to the satisfaction of the district director (or, if applicable, the Director of International Operations) to have been derived from sources within the United States, as determined under the provisions of sections 861 to 864, inclusive, and the regulations thereunder, for the 3-year period ending with the close of the taxable year of such corporation preceding the declaration of such dividend, or for such part of such period as the corporation has been in existence.

(3) *Dividend from a foreign corporation.* A dividend described in this subparagraph is a dividend from a foreign corporation (other than a dividend to which subparagraph (4) of this paragraph applies) unless less than 50 percent of such foreign corporation's gross income for the 3-year period ending with the close of its taxable year preceding the declaration of such dividend, or for such part of such period as it has been in existence, was derived from sources within the United States, as determined under the provisions of part I (section 861 and following), subchapter N, chapter 1 of the Code, and the regulations thereunder; but only in an amount which bears the same ratio to such dividend as the gross income of the corporation for such period derived from sources within the United States bears to its gross income from all sources. However, for purposes of sections 901 to 905, inclusive, and the regulations thereunder, relating to the foreign tax credit, a dividend described in this subparagraph from a foreign corporation shall be treated as income from sources without the United States to the extent exceeding the amount of the deduction allowable under section 245 in respect of such dividend.

(4) *Dividend from a foreign corporation succeeding to earnings of a domestic corporation.* A dividend described in this subparagraph is a dividend from a foreign corporation, if such dividend is received by a corporation after December 31, 1959, but only to the extent that such dividend is treated by such recipient corporation under the provisions of § 1.243–3 as a dividend from a domestic corporation subject to taxation under chapter 1 of the Code. To the extent that this subparagraph applies to a diivdend received from a foreign corporation, subparagraph (3) of this paragraph shall not apply to such dividend.

* * * * *

[F.R. Doc. 65–3223; Filed, Mar. 29, 1965; 8:49 a.m.]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 231, 251]

MANIFESTS

Notice of Proposed Rule Making

MARCH 24, 1965.

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), notice is hereby given of the proposed issuance of the following rules pertaining to manifests. In accordance with subsection (b) of said section 4, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, D.C., 20536, written data, views, or arguments, relative to these proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

1. Sections 231.1 and 231.2 are amended to read as follows:

§ 231.1 Arrival manifests for passengers.

(a) *Vessels.* The master or agent of every vessel arriving in the United States from a foreign place or from an outlying possession of the United States, except one arriving directly from Canada on a voyage originating in that country, must present a manifest of all passengers on board to the immigration officer at the first port of arrival. For such vessels as are given advance permission to use the procedure, the manifest shall be in the form of a separate arrival-departure card (Form I–94) prepared for and presented by each passenger. For all other vessels the manifest shall be submitted on a Form I–418, executed in accordance with the instructions on the reverse thereof, with a completely executed set of Forms I–94 prepared for and presented by each alien passenger except an immigrant, a Canadian citizen, or a British subject residing in Canada or Bermuda.

(b) *Aircraft.* The captain or agent of every aircraft arriving in the United States from a foreign place or from an outlying possession of the United States, except one arriving directly from Canada on a flight originating in that country, must present a manifest in the form of a separate arrival-departure card (Form I–94) prepared for and presented by each passenger on board to the immigration officer at the first port of arrival, except that an arrival-departure card is not required for an arriving, through-flight passenger at a United States port from which he will depart directly to a foreign place or an outlying possession of the United States on the same flight, provided the number of such through-flight passengers is noted on the Bureau of Customs Form 7507 or on the International Civil Aviation Organization's General Declaration and such passengers remain during the ground time in a

separate area under the direction and control of the Service.

(c) *Deferred inspection.* When inspection of an arriving passenger is deferred at the request of the carrier to another port of debarkation, the manifest relating to any such passenger shall be returned, together with a Form I–92 when the Form I–94 manifest procedure is used, for presentation by the captain, master, or agent at the port where inspection is to be conducted.

§ 231.2 Departure manifests for passengers.

(a) *Vessels.* The master or agent of every vessel departing from the United States for a foreign place or an outlying possession of the United States, except one departing directly to Canada on a voyage terminating in that country, must present a manifest of all passengers on board to the immigration officer at the port of departure. For such vessels as are given advance permission to use the procedure, the manifest shall be in the form of a separate arrival-departure card (Form I–94) for each passenger. For all other vessels, the manifest shall be submitted on a Form I–418, executed in accordance with the instructions on the reverse thereof, with a fully-executed Form I–94 for each alien passenger except an alien permanent resident of the United States, a Canadian citizen, or a British subject residing in Canada or Bermuda. For departing alien nonimmigrants the Form I–94 given the alien at the time of his last admission to the United States should be utilized. Any alien registration receipt card on Form I–151 surrendered pursuant to Part 264 of this chapter shall be attached to the manifest. On all vessels making regularly-scheduled voyages to and from the United States, presentation of the departure manifest may be deferred as follows: (1) On those vessels using the Form I–94 manifest, the Forms I–94 relating to departing nonimmigrant aliens shall be submitted to the immigration officer at the port of departure, together with the name of the vessel and the date and place of departure, within 48 hours; the remainder of the Forms I–94, together with the name of the vessel, the date and place of departure, the total number of departing passengers, and the number of Forms I–94 previously submitted, shall be presented to the immigration officer at the port of departure within the period not in excess of 30 days; (2) on those vessels using the Form I–418 manifest, the Forms I–94 relating to departing nonimmigrant aliens shall be submitted to the immigration officer at the port of departure, together with the name of the vessel and the date and place of departure within 48 hours; the Forms I–418, noted to show prior submission of the Forms I–94, shall be presented to the immigration officer at the port of departure within a period not in excess of 30 days.

(b) *Aircraft.* The captain or agent of every aircraft departing from the United States for a foreign place or an outlying possession of the United States, except one departing directly to Canada on a flight terminating in that country, must present a manifest of all passengers on board to the immigration officer at the port of departure prior to departure, except that aircraft departing on regularly scheduled flights from the United States may defer presentation for a period not in excess of 48 hours. The manifest shall be in the form of a Bureau of Customs Form 7507 or the International Civil Aviation Organization's General Declaration and a separate arrival-departure card (Form I–94) for each passenger, except a through-flight passenger for whom an arrival-departure card was not prepared upon arrival. An alien nonimmigrant departing on an aircraft proceeding directly to Canada on a flight terminating in that country should surrender any Form I–94 in his possession to the airline agent at the port of departure or to the Canadian immigration officer at the port of arrival in that country.

2. Sections 251.1, 251.3, and 251.4 are amended to read as follows:

§ 251.1 Arrival manifests and lists.

(a) *Vessels.* The master or agent of every vessel arriving in the United States from a foreign place or from an outlying possession of the United States shall present to the immigration officer at the port of first arrival a manifest of all crewmen on board on Form I–418 in accordance with the instructions contained thereon. A manifest shall not be required for crewmen aboard a vessel of United States, Canadian, or British registry engaged solely in traffic on the Great Lakes, or the St. Lawrence River, and connecting waterways herewith designated as a Great Lakes vessel, except crewmen of other than United States, Canadian, or British citizenship and, after submission of a manifest on the first voyage of a calendar year, a manifest shall not be required on subsequent arrivals unless there is employed on the vessel at the time of such arrival an alien crewman of other than United States, British, or Canadian citizenship who was not aboard and listed on the occasion of the submission of the last prior manifest.

(b) *Aircraft.* The captain or agent of every aircraft arriving in the United States from a foreign place or from an outlying possession of the United States, except an aircraft arriving in the United States directly from Canada on a flight originating in that country, shall present to the immigration officer at the port of first arrival a manifest on the Bureau of Customs Form 7507 or on the International Civil Aviation Organization's General Declaration of all the crewmen on board, including crewmen who are returning to the United States after taking an aircraft of the same line from the United States to a foreign place or crewmen who are entering the United States as passengers solely for the purpose of taking an aircraft of the same line from the United States to a foreign port. The surname, given name, and middle initial of each such crewman listed shall be shown.

(c) *Additional documents.* The master, captain, or agent shall prepare as a part of the manifest, when one is required for presentation to an immigration officer, a completely executed set of Forms I–95 for each alien crewman on board, except (1) an alien immigrant crewman in possession of a valid immigrant visa, reentry permit, or alien registration receipt card on Form I–151; (2) a Canadian or British citizen crewman serving on a vessel plying solely between Canada and the United States; or (3) a crewman seeking conditional landing privileges under section 252(a)(1) of the Act who is in possession of an unmutilated alien crewman landing permit and identification card (Form I–184) or an unmutilated conditional landing permit (Form I–95) with space for additional endorsements previously issued to him as a member of the crew of the same vessel or an aircraft of the same line on his last prior arrival in the United States, following which he departed from the United States as a member of the crew of the same vessel or an aircraft of the same line.

§ 251.3 Departure manifests and lists for vessels.

(a) *Form I–418, Crew List.* The master or agent of every vessel departing from the United States shall submit to the immigration officer at the port from which such vessel is to depart directly to some foreign place or outlying possession of the United States, except when a manifest is not required pursuant to § 251.1(a), a single Form I–418, Crew List, completed in accordance with the instructions contained herein. Every item in the heading of the Form I–418 must be completed and the following endorsement shall be placed on the first line of the form: "Arrival Crew List, Form I–418, filed at (show United States port of entry)." Submission of a Form I–418 which lacks that endorsement or which lacks other essential information shall be regarded as lack of compliance with section 251(c) of the Act.

(b) *Added crewmen.* Under a heading "Added Crewmen," list the names of all nonresident alien crewmen who were not members of the crew and manifested on Form I–418 as such on the occasion of the vessel's last arrival in the United States and attach for each name on the list the Form I–95 or Form I–94 given to the alien crewman when he last arrived in the United States. If that form is unavailable, a new Form I–95 shall be prepared and attached to the Form I–418.

(c) *Separated crewmen.* Under a heading "Separated Crewmen," list the names of all alien crewmen, other than alien permanent residents of the United States, who were listed on the arrival Form I–418, as members of the crew on the occasion of the vessel's last arrival in the United States but who for any reason are not departing with the vessel, and for each such separated crewman show his nationality, passport number, specific port and date of separation, and the reasons for failure to depart. The list required by paragraph (b) of this section and this paragraph may be incorporated in a single Form I–418, if space permits. The required lists need not be submitted for Canadian or British citizen crewmen of Great Lakes vessels.

(d) *No changes in crew.* When there are no added and separated crewmen as described in this section, the Form I–418 shall be endorsed with the notation "No changes in nonresident alien crew upon departure."

§ 251.4 **Departure manifests and lists for aircraft.**

(a) *Bureau of Customs Form 7507 or International Civil Aviation Organization's General Declaration.* The captain or agent of every aircraft departing from the United States for a foreign place or an outlying possession of the United States, except an aircraft departing from the United States directly to Canada on a flight terminating in that country, shall submit to the immigration officer at the port from which such aircraft is to depart on the Bureau of Customs Form 7507 or on the International Civil Aviation Organization's General Declaration a list of all crewmen on board, including crewmen who arrived in the United States as crewmen on an aircraft of the same line and who are departing as passengers. The surname, given name, and middle initial of each such crewman listed shall be shown.

(b) *Notification of changes in employment for aircraft.* The agent of the air transportation line shall immediately notify in writing the nearest immigration office of the termination of employment in the United States of each alien employee of the line furnishing the name, birthdate, birthplace, nationality, passport number, and other available information concerning such alien.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: March 24, 1965.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 65–3171; Filed, Mar. 29, 1965; 8:45 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 39]

[Docket No. 6255]

AIRWORTHINESS DIRECTIVE

Boeing Model 727 Series Aircraft, Notice of Withdrawal

The Federal Aviation Agency has had under consideration a proposed airworthiness directive requiring the inspection and replacement of fuel line shrouds in the section 48 compartment on Boeing 727 Series aircraft. This proposed directive was set forth in a notice of proposed rule making which was published in the FEDERAL REGISTER, October 31, 1964 (29 F.R. 14444).

Upon further consideration by the Agency and in the light of comments received in response to the notice of proposed rule making, it has now been determined that the problem of fuel line shroud deterioration resulting from installation damage and contact with leaking fuel does not presently exist to the extent originally believed. Therefore, the proposed airworthiness directive is not required at this time.

Withdrawal of this notice of proposed rule making constitutes only such action and does not preclude the Agency from issuing another notice in the future, or commit the Agency to any course of action in the future.

In consideration of the foregoing, the notice of proposed rule making published in the FEDERAL REGISTER on October 31, 1964 (29 F.R. 14444), is hereby withdrawn.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 72 Stat. 752, 775, 776; 49 U.S.C. 1354 (a), 1421, 1423)

Issued in Washington, D.C., on March 23, 1965.

C. W. WALKER,
Acting Director, Flight Standards Service.

[F.R. Doc. 65–3184; Filed, Mar. 29, 1965; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 64–WE–36]

CONTROL ZONES TRANSITION AREA

Proposed Alteration and Designations

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the controlled airspace in the Bellingham, Wash., terminal area.

The Bellingham control zone is presently designated as that airspace within a 3-mile radius of Bellingham Municipal Airport.

The FAA, having completed a comprehensive review of the terminal airspace structure requirements in the Bellingham, Wash., terminal area, including studies attendant to the implementation of the provisions of CAR Amendments 60–21/60–29, has under consideration the following airspace actions:

1. Redesignate the Bellingham control zone as that airspace within a 5-mile radius of Bellingham Municipal Airport (latitude 48°47'40" N., longitude 122°-32'10" W.); within 2 miles each side of Bellingham RR NW course, extending from the 5-mile radius zone to 8 miles NW of the RR and within 2 miles each side of the Bellingham VOR 169° radial, extending from the 5-mile radius zone to 1 mile S of the VOR.

2. Designate the Bellingham transition area as that airspace extending upward from 700 feet above the surface bounded on the E by longitude 122°15'-00" W., on the S by latitude 48°52'00" N., and on the W and N by the United States/Canadian border; and that airspace extending upward from 1,200 feet above the surface within 6 miles NE and 8 miles SW of the 138° and 318° bearings from the Bellingham RR, extending from latitude 48°52'00" N., to 9 miles SW of the RR.

3. Designate the Abbotsford, British Columbia, Canada, control zone as that airspace within a 5-mile radius of Abbotsford Airport (latitude 49°01'00" N., longitude 122°22'00" W.), excluding the portion outside the United States.

The proposed 5-mile radius zone is required to protect aircraft executing prescribed instrument approach and departure procedures at the Bellingham Airport. The proposed control zone extensions based on the radio range NW course and the 169° radial from the VOR are required to protect aircraft executing the AL–45–RNG and AL–45–VOR–1 instrument approach procedures at altitudes below 1,000 feet above the surface.

The 700-foot portion of the proposed transition area is required to protect instrument approach and departure procedures at the Bellingham Airport when aircraft are operated beyond the limits of the control zone and below the floor of the proposed 1,200-foot floor area.

The 1,200-foot portion of the proposed transition area is required to protect aircraft executing prescribed instrument holding, departure and approach procedures at altitudes of 1,500 feet or more above the surface.

The proposed designation of the portion of the Abbotsford, B.C., control zone within the United States would provide protection for aircraft operating at the Abbotsford Airport.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attn.: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on March 19, 1965.

NED K. ZARTMAN,
Acting Director, Western Region.

[F.R. Doc. 65–3185; Filed, Mar. 29, 1965; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 64–AL–19]

FEDERAL AIRWAYS AND REPORTING POINT

Proposed Designation

The Federal Aviation Agency is considering amendments to Part 71 of the

Federal Aviation Regulations that would extend VOR Federal airways Nos. 498 and 506 to Kotzebue, Alaska, and that would designate Kotzebue as a low altitude compulsory reporting point.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 632 Sixth Avenue, Anchorage, Alaska, 99501. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

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

The Kotzebue, Alaska VOR (latitude 66°53′ N., longitude 162°32′ W.) is scheduled to be commissioned on or about April 1, 1965. An extension of V–506 from Nome, Alaska direct to Kotzebue, and an extension of V–498 from Galena, Alaska, direct to Kotzebue, both based upon the VOR, are proposed herein to provide improved navigational guidance. In consonance with these proposals, it is proposed that Kotzebue, Alaska, be designated as a low altitude compulsory reporting point.

These amendments are proposed under sections 307(a) and 1110 (49 U.S.C. 1348 and 1510), and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on March 22, 1965.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65–3186; Filed, Mar. 29, 1965; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65–EA–15]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations which would designate a 700-foot transition area over Westerly State Airport, Westerly, R.I.

The controlled airspace in the Westerly terminal area is presently composed of the Providence, R.I., 1200-foot transition area (29 F.R. 17692), and a portion of the Groton, Conn., 700-foot transition area (29 F.R. 17666).

The 700-foot transition area would provide protection to aircraft executing prescribed instrument approach procedures down to 700 feet above ground level and instrument departure procedures to above 700 feet above ground level.

The floors of airways which traverse the transition area proposed herein would coincide with the floor of the transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn.: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a comprehensive review of the airspace requirements for the terminal area of Westerly, R.I., attendant to the implementation of the provisions of Civil Air Regulation amendments 60–21 and 60–29 (26 F.R. 570, 27 F.R. 4012), proposes the airspace actions hereinafter set forth:

Federal Aviation Regulations so as to designate a 700-foot Westerly, R.I., transition area described as follows:

WESTERLY, R.I.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°20′58″ N., 71°48′14″ W. of Westerly State Airport, Westerly, R.I.; within 5 miles each side of the Groton, Conn., VOR 084° radial extending from the 5-mile radius area to the VOR; within 2 miles each side of the Norwich, Conn., VORTAC 162° radial extending from 19 to 25 miles south of the VORTAC, excluding the portion coincident with the Groton, Conn., transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on March 12, 1965.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 65–3187; Filed, Mar. 29, 1965; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65–EA–17]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations which would designate an Aberdeen, Md., Control Zone and a 700-foot transition area over Phillips Army Airfield, Aberdeen, Md.

The controlled airspace presently in the Aberdeen, Md., terminal area is composed of portions of the Washington, D.C. (29 F.R. 17579), and Wilmington, Del. (29 F.R. 17580), control area extensions.

The proposed designation of the Aberdeen Control Zone would provide protection for aircraft executing prescribed instrument approach and departure procedures at Phillips AAF. The extension to the northeast would provide protection for aircraft executing the AL–555–ADF–1 procedure.

The proposed designation of the 700-foot transition area would provide protection for aircraft executing prescribed holding, arrival and departure procedures in the terminal area.

The floors of airways which traverse the transition area proposed herein would coincide with the floor of the transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn.: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, upon request of the U.S. Army, having completed a review of the airspace requirements for the terminal area of Aberdeen, Md., proposes the following airspace actions:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate an Aberdeen, Md., Control Zone:

ABERDEEN, MD.

Within a 5-mile radius of the center, 39°28'18" N., 76°10'13" W. of Phillips AAF and within 2 miles each side of the Aberdeen RBN 029° bearing extending from the 5-mile radius zone to 6 miles northeast of the RBN.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot Aberdeen, Md., transition area described as follows:

ABERDEEN, MD.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 39°28'18" N., 76°10'13" W. of Phillips AAF, Aberdeen, Md., and within 2 miles each side of the Aberdeen RBN 029° bearing extending from the 7-mile radius area to 8 miles northeast of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on March 12, 1965.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 65-3188; Filed, Mar. 29, 1965; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-EA-19]

TRANSITION AREAS

Proposed Designation and Alteration

The Federal Aviation Agency is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations which would alter the 1,200-foot DeLancey, N.Y., transition area (29 F.R. 17658), designate a 700-foot transition area over Cooperstown Airport, Cooperstown, N.Y., and over Sidney Municipal Airport, Sidney, N.Y.

The controlled airspace in the aforementioned terminal areas is presently composed of the Rome, N.Y., control area extension (29 F.R. 17575) and the DeLancey, N.Y., transition area.

The proposed 700-foot transition areas would protect aircraft executing prescribed instrument approach procedures down to 700 feet above ground level and departure procedures to above 700 feet above ground level and in conjunction with the 1,200-foot transition area provide protection to aircraft executing holding procedures in the terminal areas.

The floors of airways which traverse the transition areas proposed herein would coincide with the floors of the transition areas.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a comprehensive review of the airspace requirements for the terminal areas of Cooperstown and Sidney, N.Y., attendant to the implementation of the provisions of Civil Air Regulation amendments 60-21 and 60-29 (26 F.R. 570, 27 F.R. 4012), proposes the airspace actions hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the DeLancey, N.Y., transition area and insert in lieu thereof:

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at: 42°40'00" N., 75°30'00" W. to 42°10'00" N., 75°25'00" W. to 42°00'00" N., 75°26'30" W. to 42°00'00" N., 75°00'00" W. to 42°01'00" N., 74°30'00" W. to 43°00'00" N., 74°30'00" W. to point of beginning.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot Sidney, N.Y., transition area described as follows:

SIDNEY, N.Y.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°18'30" N., 75°24'45" W. of Sidney Airport, Sidney, N.Y.; within 2 miles each side of the Rockdale VOR 219° radial extending from the 5-mile radius to the VOR; within 2 miles each side of a bearing 048° from the Sidney radio beacon extending from the 5-mile radius to 8 miles northeast of the radio beacon.

3. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot Cooperstown, N.Y., transition area described as follows:

COOPERSTOWN, N.Y.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 42°42'45" N., 74°56'30" W. of Cooperstown Airport, Cooperstown, N.Y., effective from sunrise to sunset, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on March 12, 1965.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 65-3189; Filed, Mar. 29, 1965; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-EA-22]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations which would designate a part-time 700-foot transition area over Pitman Airport, Pitman, N.J.

The controlled airspace in the aforesaid terminal area is presently composed of a portion of the New York, N.Y., control area extension (29 F.R. 17572) and the Philadelphia, Pa., transition area (29 F.R. 17689).

The proposed transition area would provide protection to aircraft executing prescribed instrument arrival procedures down to 700 feet above ground level and departure procedures to above 700 feet above ground level.

The floors of airways which traverse the transition area proposed herein would coincide with the floor of the transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal

Aviation Agency officials may be made by contacting the Chief, Airspace Branch, Eastern Region.

Any data, or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Agency, having completed a comprehensive review of the airspace requirements for the terminal area of Pitman, N.J., attendant to the implementation of the provisions of Civil Air Regulation amendments 60-21 and 60-29 (26 F.R. 570, 27 F.R. 4012), proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot Pitman, N.J., transition area described as follows:

PITMAN, N.J.

That airspace extending upward from 700 feet above the surface within a 4-mile radius of the center, 39°45'00" N., 75°08'00" W. of Pitman Airport, Pitman, N.J., and within 2 miles each side of the Woodstown, N.J., VOR 047° radial extending from the 4-mile radius area to the VOR, excluding that portion within the Philadelphia, Pa., transition area, effective from sunrise to sunset, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Jamaica, N.Y., on March 12, 1965.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 65-3190; Filed, Mar. 29, 1965; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 63-SW-127]

CONTROL ZONES, TRANSITION AREA, AND CONTROL AREA EXTENSION

Proposed Alteration, Designation, and Revocation; Supplemental Notice

On February 2, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 1055) stating, in part, that the Federal Aviation Agency proposed to revoke the Fort Polk, La., transition area and alter the Fort Polk, La., and Alexandria, La. (Esler Field), control zones.

Subsequent to the publication of the notice, it was determined that IFR operations would be conducted at Fort Polk AAF during hours when the Fort Polk part-time control zone would not be effective, necessitating a 700-foot floor transition area at Fort Polk to provide the required protection below the proposed Alexandria, La., 1,200-foot floor transition area. This, in turn, will permit reductions to be made to the extensions to the proposed Fort Polk, La., control zone. It was also determined that a new final approach transition is to be established for the VOR approach procedure to Esler Field which will require an additional extension to the proposed Alexandria, La. (Esler Field), control zone. Therefore, it is proposed herein to redesignate rather than revoke the Fort Polk transition area, to redesignate the proposed Fort Polk, La., control zone, and to add an extension to the proposed Alexandria, La. (Esler Field), control zone, as hereinafter set forth.

Accordingly, the notice is hereby amended:

1. To redesignate, rather than revoke, the Fort Polk, La., transition area as that airspace extending upward from 700 feet above the surface within a 5-mile radius of Polk AAF (latitude 31°02'-40" N., longitude 93°11'25" W.); within 2 miles each side of the 160° bearing from the Polk AAF RBN, extending from the 5-miles radius area to 10 miles SE of the south fan marker; and within 2 miles each side of the 340° bearing from the Polk AAF RBN, extending from the 5-mile radius area to 8 miles NW of the N fan marker.

2. To redesignate the Fort Polk, La., control zone as that airspace within a 5-mile radius of Polk AAF (latitude 31°02'40" N., longitude 93°11'25" W.); within 2 miles each side of the 160° bearing from the Polk AAF RBN, extending from the 5-mile radius zone to 9 miles SE of the S fan marker; and within 2 miles each side of the 340° bearing from the Polk AAF RBN, extending from the 5-mile radius zone to 7 miles NW of the N fan marker. This control zone would be effective during the dates and times established in advance by publication of Special Notices in the Airman's Information Manual.

3. To add the following extension to the proposed Alexandria, La. (Esler Field), control zone:

Within 2 miles each side of the Esler Field VOR 358° radial, extending from the 5-mile radius zone to 6 miles N of the VOR.

In order to provide interested persons time to adequately evaluate this proposal, as modified herein, and an opportunity to submit such written data, views or arguments as they may desire, the date for filing such material is extended to 45 days after the publication of this supplemental notice in the FEDERAL REGISTER. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Agency, P.O. Box 1689, Fort Worth, Tex., 76101.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on March 19, 1965.

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

[F.R. Doc. 65-3191; Filed, Mar. 29, 1965; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3-p]

CHLORINATED PARAFFIN FROM ENGLAND

Determination of Sales at Not Less Than Fair Value

MARCH 22, 1965.

On February 6, 1965, there was published in the FEDERAL REGISTER a "Notice of Intent to Discontinue Investigation and to Make Determination That No Sales Exist Below Fair Value" because of price revisions with respect to chlorinated paraffin from England, manufactured by Imperial Chemical Industries Limited, England, and that such fact is considered to be evidence that there are not, and are not likely to be, sales below fair value.

No persuasive evidence or argument to the contrary having been presented within 30 days of the publication of the above-mentioned notice in the FEDERAL REGISTER, I hereby determine that because of price revisions, chlorinated paraffin from England, manufactured by Imperial Chemical Industries Limited, England, is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

This determination and the statement of the reason therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 65-3224; Filed, Mar. 29, 1965; 8:49 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

ROBERT STOLZ ET AL.

Notice of Intention To Return Vested Property

Pursuant to the Agreement entitled "Agreement Between the United States of America and the Republic of Austria Regarding the Return of Austrian Property, Rights, and Interests" which was signed at Washington on January 30, 1959, and ratified by the United States on March 4, 1964, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Robert Stolz, Elisabethstrasse 16, Vienna I, Austria; Claim No. 3925; $339.16 in the Treasury of the United States.

Franz Strauss, Zoeppritzstrasse 42, Garmisch-Partenkirchen, Germany; Claim No. 43918; $88,260.16 in the Treasury of the United States.

Thea Hardt, Reichenhallerstrasse 8/305, Altersheim, Wetterstein, Munich, Germany; Claim No. 44785; $120.34 in the Treasury of the United States.

Enni (Erna) Schoeller, Wattmanngasse 39, Vienna XIII, Austria; Claim No. 59146; $14,995.92 in the Treasury of the United States.

Rudolf Liebisch, Imbergstrasse 22, Salzburg, Austria; Claim No. 61500; $500.00 in the Treasury of the United States.

Hilde Schausberger, Lederergasse 35, Vienna VIII, Austria; Claim No. 62031; $1,196.25 in the Treasury of the United States.

Hellmuth Cramon, Prinzregentenplatz 13, Munich 8, Germany; Claim No. 62058; $12,000.00 in the Treasury of the United States.

Gustav Wagenmann, $1,532.92 in the Treasury of the United States; Elly, (Elisabeth) Wagenmann, $766.46 in the Treasury of the United States; Gerda Foerster-Streffleur, $766.46 in the Treasury of the United States; Dora Hogenauer, $766.46 in the Treasury of the United States; Ilse Schuetz, $766.45 in the Treasury of the United States; All of Linke Wienzeile 16, Vienna VI, Austria; Claim No. 66912.

Johanna Zwickner, Rainergasse 26-28, Vienna IV, Austria; Claim No. 66964; $568.87 in the Treasury of the United States.

Auguste Kogler, Fuegen 88, Zillertal, Tyrol, Austria; Claim No. 67007; $750.08 in the Treasury of the United States.

Helma Froeschel, Loewengasse 16/5, Vienna III, Austria; Claim No. 67010; $51,213.64 in the Treasury of the United States.

Maida Halbensteiner, Freybergstrasse 3, Geisenheim/Rheingau, Germany; Claim No. 67019; $11,054.34 in the Treasury of the United States.

Hedi Huttrer, Rimparersteig 1, Wuerzburg, Germany; Claim No. 67024; $516.35 in the Treasury of the United States.

Anna Mueller-Guttenbrunn, Leopoldsgraben 4, Klosterneuburg, Vienna, Austria; Claim No. 67022; $2,779.10 in the Treasury of the United States.

Executed at Washington, D.C., on March 24, 1965.

For the Attorney General.

[SEAL] ANTHONY L. MONDELLO,
Deputy Director, Office of Alien Property.

[F.R. Doc. 65-3172; Filed, Mar. 29, 1965; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM 080577; Survey Group 75]

WISCONSIN

Notice of Filing of Plat of Survey

MARCH 24, 1965.

An island in Wolf River, described below, was omitted from the original survey. The plat of survey of that island will be officially filed in the Eastern States Land Office, Bureau of Land Management, Washington, D.C., 20240, as of 10 a.m., on April 26, 1965.

FOURTH PRINCIPAL MERIDIAN, SHAWANO COUNTY, WIS.

T. 26 N., R. 16 E.,
Sec. 6, lot 6

Containing 0.61 acre.

The character of the island, and its timber and undergrowth, show that the island existed on May 29, 1848, the date when Wisconsin was admitted into the Union, and at all later dates. The island is therefore public land.

Subject to valid existing rights, the island will be open only to:

1. Selection rights of the State of Wisconsin,

2. Applications under the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741), as amended, by qualified applicants (individuals excluded).

The island will not be open to any other kind of application under the public land laws, including the mineral leasing and mining laws, until a further order is issued.

DORIS A. KOIVULA,
Manager, Land Office.

[F.R. Doc. 65-3210; Filed, Mar. 29, 1965; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 15353; Order No. E-21937]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of March 1965.

Agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to specific commodity rates, Docket 15353, Agreement C.A.B. 17666, R-98.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notice to the carriers and promulgated in IATA Memorandum TC1/Rates 2121, names an additional specific commodity rate as set forth below:

Item 9910—Furniture and furniture parts, 25 cents per kg., minimum weight, 1,000 kgs., Bogota to New York.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreement to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, It is ordered, That Agreement C.A.B. 17666, R–98, be approved, provided that such approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 65–3173; Filed, Mar. 29, 1965; 8:45 a.m.]

[Docket 15574]

UNITED-PACIFIC TRANSFER CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 20, 1965, at 10 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Herbert K. Bryan.

In order to facilitate the conduct of the conference, interested parties are instructed to submit to the Examiner and other parties on or before April 12, 1965: (1) Formal motions with respect to the proceedings; (2) proposed statements of issues; (3) proposed stipulations, if any; (4) requests for information; (5) statements of positions of parties; and (6) proposed procedural dates.

Dated at Washington, D.C., March 23, 1965.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 65–3174; Filed, Mar. 29, 1965; 8:45 a.m.]

[Docket 15981]

INSPIRATION HELICOPTERS, LTD., AND PEGASUS AIRLIFTS

Notice of Hearing

Application of Inspiration Helicopters, Limited, d/b/a Pegasus Airlifts for a foreign air carrier permit, issued pursuant to section 402 of the Federal Aviation Act of 1958, as amended, to perform operations of a casual, occasional or infrequent nature, in common carriage, from Canada into the United States.

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing on the above-entitled application is assigned to be held on April 7, 1965, at 10 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., March 24, 1965.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 65–3231; Filed, Mar. 29, 1965; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

LOUIS F. FRAZZA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months:

A. Deletions: No change.
B. Additions: No change.

This statement is made as of March 5, 1965.

LOUIS F. FRAZZA.

MARCH 5, 1965.

[F.R. Doc. 65–3193; Filed, Mar. 29, 1965; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15668, 15708; FCC 65M–345]

CHICAGOLAND TV CO. AND CHICAGO FEDERATION OF LABOR AND INDUSTRIAL UNION COUNCIL

Order Continuing Hearing

In re applications of Frederick B. Livingston and Thomas L. Davis, doing business as Chicagoland TV Co., Chicago, Ill., Docket No. 15668, File No. BPCT–3116; Chicago Federation of Labor and Industrial Union Council, Chicago, Ill., Docket No. 15708, File No. BPCT–3439; for construction permit for new television broadcast station (Chanel 38).

The Hearing Examiner has for consideration the informal request of Chicagoland for a continuance of the hearing date, together with Chicagoland's representation that all other parties have assented to a grant of the requested relief;

It is ordered, This 19th day of March 1965, that the hearing now scheduled to commence in the offices of the Commission in Washington, D.C., on April 20, 1965, is continued to April 27, 1965, commencing at 10 a.m.[1]

[1] The commencement of hearing in Chicago, Ill., on Apr. 6, 1965, remains unchanged.

Released: March 22, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 65–3232; Filed, Mar. 29, 1965; 8:49 a.m.]

[Docket Nos. 15593, 15594; FCC 65M–368]

ST. ALBANS-NITRO BROADCASTING CO., AND WCHS–AM–TV CORP.

Order Regarding Procedural Dates

In re applications of St. Albans-Nitro Broadcasting Co., St. Albans, W. Va., Docket No. 15593, File No. BPH–4146, WCHS–AM–TV Corp., Charleston, W. Va., Docket No. 15594, File No. BPH–4332; for construction permits.

Here under consideration is a letter request filed by counsel for WCHS on March 1, 1965, seeking to have various procedural steps in this proceeding continued; and

It appearing that the cause for the continuances lies in the fact that a rulemaking proceeding has been instituted by the Commission (Docket No. 15782), looking toward assignment of an additional channel in the same general area as that sought to be served by the above-captioned applicants; and

It further appearing that no opposition to the continuances requested has been filed and that the maximum time for such filing has long since elapsed;

Accordingly, it is ordered, This 23d day of March 1965, that the following changes in dates governing procedural steps shall be effected:

Preliminary exchange of Engineering showings extended from March 4, 1965, to May 5, 1965;

Engineering Conference extended from March 26, 1965, to May 26, 1965;

Engineering showings exchanged in final form extended from April 5, 1965, to June 5, 1965;

Further prehearing conference extended from April 7, 1965, to June 7, 1965;

Direct presentation of non-engineering showings exchange extended from May 7, 1965, to July 7, 1965; and

Hearing extended to July 15, 1965.[1]

Released: March 24, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 65–3233; Filed, Mar. 29, 1965; 8:49 a.m.]

[Docket Nos. 15886, 15887; FCC 65M–369]

WMEN, INC., AND TALLAHASSEE APPLIANCE CORP.

Order Scheduling Hearing

In re applications of WMEN, Inc., Tallahassee, Fla., Docket No. 15886, File No. BPH–4127; Tallahassee Appliance Corp., Tallahassee, Fla., Docket No. 15887, File No. BPH–4228; for construction permits.

[1] On the Examiner's own motion.

It is ordered, This 23d day of March 1965, that Walter W. Guenther shall serve as the presiding officer in the above-entitled proceeding; that the hearings therein shall commence at 10 a.m. on May 12, 1965; and that a prehearing conference shall be convened at 9 a.m. on April 23, 1965: *And it is further ordered*, That all proceedings shall be held in the Offices of the Commission, Washington, D.C.

Released: March 25, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-3234; Filed, Mar. 29, 1965; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-19854, RI60-339]

CONTINENTAL OIL CO.

Order Severing and Terminating Proceedings

MARCH 23, 1965.

By order issued March 2, 1965,[1] the Commission approved in Docket No. CI65-669 an application for abandonment of a sale of natural gas by Continental Oil Co. (Continental), under its FPC Gas Rate Schedule No. 144, to Tennessee Gas Transmission Co. (TGT), in the Odem Field, San Patricio County, Tex. Pending under said rate schedule were the above-docketed proceedings involving two proposed rate increases which had been filed by Continental and which had been suspended by order of the Commission. Consequently the order of March 2, 1965, provided that despite the authorization to abondon, Continental was not relieved of any refund obligations in said rate suspension proceedings.

By motion filed March 8, 1965, Continental requests that these proceedings be terminated. Continental states that both of the proposed increased rates were made effective by it, subject to refund, in 1960. However, it avers that no deliveries of gas have been made to TGT under the subject rate schedule since 1959. Consequently, no monies were charged or collected subject to refund, and good cause exists to sever and to terminate the proceedings in Docket Nos. G-19854 and RI60-339.

The Commission orders:

(A) The proceedings in Docket Nos. G-19854 and RI60-339 are hereby severed from the consolidated area proceedings in AR64-2.

(B) The proceedings in Docket Nos. G-19854 and RI60-339 be and the same are hereby terminated, and Continental is, therefore, relieved of any refund obligation in such proceedings.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-3202; Filed, Mar. 29, 1965; 8:48 a.m.]

[Docket No. RI65-565]

TEXACO, INC.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

MARCH 24, 1965.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A below.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however*, That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before May 12, 1965.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Docket Nos.
RI65-565	Texaco Inc., Post Office Box 52332, Houston, Tex., 77052.	213	2	Phillips Petroleum Co. (Texas Hugoton Field, Moore County, Tex.) (R.R. District No. 10).	$980	2-23-65	[1] 4-1-65	[2] 4-2-65	[3] [4] 8.0	[3] [5] 9.0	----------

[1] The stated effective date is the effective date requested by Respondent.
[2] The suspension period is limited to 1 day.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Includes 0.4466 cent per Mcf deduced by buyer for sour gas.
[6] Initial rate and settlement rate pursuant to Commission order issued Dec. 30, 1963, in Docket Nos. G-8969, *et al.*, (Texaco's companywide settlement).

Texaco Inc. (Texaco), proposes a periodic rate increase from 8.0 cents to a total rate of 9.0 cents per Mcf (subject to a deduction of 0.4466 cent per Mcf for sour gas) at 14.65 p.s.i.a. for a wellhead sale of non-pipeline quality gas to Phillips Petroleum Co. (Phillips), under its FPC Gas Rate Schedule No. 213 from acreage located in Moore County, Tex. Phillips gathers and resells the residue gas at the plant outlet. The area rate ceiling is considered to be applicable to the sale of gas by Phillips after gathering and processing. Accordingly, the proposed rate involved here, although not in excess of the applicable increased rate ceiling for pipeline quality gas as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR, Ch. I, Pt. 2, § 2.56), should be suspended for one day because the sale related thereto is considered to be for non-pipeline quality gas within the meaning of the policy statement.

[F.R. Doc. 65-3204; Filed, Mar. 29, 1965; 8:48 a.m.]

[1] C. H. Lyons, Sr., et al., Docket No. G-3863, et al.

[Docket No. G-2684 etc.]

SOUTHEASTERN PUBLIC SERVICE CO. ET AL.

Findings and Order After Statutory Hearing

MARCH 22, 1965.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificates, substituting respondent, making successor co-respondent, redesignating proceedings, accepting agreement and undertaking for filing, accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC Gas Rate Schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are either equal to or below the ceiling prices established by the Commission's Statement of Policy 61-1, as amended, or involve sales for which permanent certificates have been previously issued.

Sinclair Oil & Gas Co. (Operator), et al., Applicant in Docket No. G-14582, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Benedum-Trees Oil Co. (Operator), et al., FPC Gas Rate Schedule No. 10. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI64-155.[1] Prior increased rates were collected under said rate schedule subject to refund in Docket Nos. G-16669,[1] G-19821,[1] RI61-120,[1] RI62-126,[1] and RI63-113.[1] Benedum-Trees has filed for an increase in rate under said rate schedule which increase has been suspended until April 1, 1965, in Docket No. RI65-244. Sinclair has filed a motion to be made a respondent in all of the rate proceedings insofar as they pertain to sales by Sinclair as of October 1, 1964, the effective date of transfer of the properties. Concurrently with the motion Sinclair has submitted for filing an agreement and undertaking in all of the rate proceedings in which increased rates have been made effective subject to refund. The agreement and undertaking is applicable only to increased rates collected after October 1, 1964. Accordingly, Sinclair will be made co-respondent in the proceedings pending in Docket Nos. G-16669, G-19821, RI61-120, RI62-126, RI63-113, and RI64-155, and will be substituted as respondent in the proceeding pending in Docket No. RI65-244; said proceedings will be redesignated; and the agreement and undertaking will be accepted for filing.

After due notice, a notice of intervention by the Public Service Commission of the State of New York was filed on September 13, 1963, in Docket No. G-2684 and a notice of intervention by the Public Utilities Commission of the State of California was filed on August 21, 1964, in Docket No. CI65-42. Notices of withdrawal by said interveners were filed on February 23, 1965, in Docket No. G-2684 and on February 19, 1965, in Docket No. CI65-42. No other petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on March 19, 1965, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission, and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(4) The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G-2684, G-3894, G-13826, G-14582, G-16218, G-18996, G-19563, CI63-599, CI63-1476, CI64-159, CI64-700, CI64-1102, CI64-1115, CI64-1125, CI65-381, and CI65-389 should be amended as hereinafter ordered.

(6) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the tabulation herein and in the respective applications, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(7) The certificates of public convenience and necessity heretofore issued to the respective Applicants herein, relating to the several abandonments hereinafter permitted and approved should be terminated.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Sinclair Oil & Gas Co. (Operator), et al., should be made co-respondent in the proceedings pending in Docket Nos. G-16669, G-19821, RI61-120, RI62-126, RI63-113, and RI64-155, and substituted as respondent in the proceeding pending in Docket No. RI65-244; said proceedings should be redesignated accordingly; and the agreement and undertaking submitted by Sinclair in Docket Nos. G-16669, G-19821, RI61-120, RI62-126, RI63-113, and RI64-155 should be accepted for filing.

(9) The respective related rate schedules and supplements as designated or redesignated in the tabulation herein should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity be and the same are hereby issued, upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for

[1] Consolidated with Docket No. AR64-2, et al.

service to the particular customers involved imply approval of all of the terms of the respective contracts, particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificates issued herein in Docket Nos. CI61–5, CI61–267, CI61–392, CI61–514, CI61–1596, CI61–1703, CI62–457, and CI62–1247, are subject to the conditions set forth in Opinion No. 390 (29 FPC 1175), as amended, by Opinion No. 390–A (30 FPC 479).

(E) The certificate authorizations heretofore issued to the respective Applicants in Docket Nos. G–13826, G–16218, G–19563, CI64–700, CI64–1102, CI64–1115, and CI65–381 are hereby amended by adding thereto or deleting therefrom authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations, pursuant to the rate schedule supplements as indicated in the tabulation herein.

(F) The certificates heretofore issued in Docket Nos. G–3894 and G–18996 are hereby amended by deleting therefrom authorization granted herein in Docket Nos. CI65–711 and CI65–661.

(G) The certificate heretofore issued in Docket No. CI63–1476 is hereby amended to include the sale of natural gas from the additional acreage and such authorization is subject to the same conditions imposed upon the issuance of the original certificate issued by the order accompanying Opinion No. 446 (32 FPC ——).

(H) The certificates heretofore issued in Docket Nos. CI64–159 and CI65–389 are hereby amended to include the sales of natural gas from the additional acreage and such authorizations are subject to the conditions set forth in paragraphs (E), (F), and (G) of the order accompanying Opinion No. 350 (27 FPC 35).

(I) The certificate heretofore issued in Docket No. CI63–599 is hereby amended to reflect a total initial price of 13.3748 cents per Mcf in lieu of 13.0 cents per Mcf at 14.65 p.s.i.a.

(J) The certificate heretofore issued in Docket No. CI64–1125 is hereby amended to reflect a total initial price of 14.6728 cents per Mcf in lieu of 13.6728 cents per Mcf at 14.65 p.s.i.a.

(K) The certificates heretofore issued in Docket Nos. G–2684 and G–14582 are hereby amended by changing the certificate holders to the respective successors in interest as indicated in the tabulation herein.

(L) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described and as more fully described in the respective applications herein are hereby granted.

(M) In view of the abandonment authorization granted herein in Docket No. CI65–728, the certificate heretofore issued in Docket No. G–9209 is hereby terminated and such authorization does not relieve Applicant of any refund obligation in the rate suspension proceeding in Docket No. RI61–90.

(N) The certificates heretofore issued in Docket Nos. G–11121, G–11775, G–16278, CI61–1296, and CI63–570 are hereby terminated.

(O) Sinclair Oil & Gas Co. (Operator), et al., be and it is hereby made a corespondent in the proceedings pending in Docket Nos. G–16669, G–19821, RI60–120, RI62–126, RI63–113, and RI64–155; said proceedings are redesignated accordingly; [2] and the agreement and undertaking submitted by Sinclair in said dockets by Sinclair is accepted for filing.

(P) Sinclair Oil & Gas Co. (Operator), et al., be and is hereby substituted in lieu of Benedum-Trees Oil Co. (Operator), et al., as respondent in the proceeding pending in Docket No. RI65–244; and said proceeding is redesignated accordingly.[3]

(Q) Sinclair Oil & Gas Co. (Operator), et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by Sinclair in Docket Nos. G–16669, G–19821, RI61–120, RI62–126, RI63–113, and RI64–155 shall remain in full force and effect until discharged by the Commission.

(R) The respective related rate schedules and supplements as indicated in the tabulation herein, are hereby accepted for filing; further, the rate schedules relating to the successions herein are hereby redesignated and accepted, subject to the applicable Commission Regulations under the Natural Gas Act to be effective on the dates indicated in the tabulation herein.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G–2684 E 4–8–63	Southeastern Public Service Co. (Operator), et al. (successor to Anderson and Cooke, et al.).	Tennessee Gas Transmission Co., North Louise Field, Wharton County, Tex.	Anderson and Cooke, et al., FPC GRS No. 1.	3	
			Supplement Nos. 1–8	3	1–8
			Notice of succession (undated).		
			Assignment 11–1–62	3	9
			Effective date: 11–1–62		
G–13826 D 1–25–65	Socony Mobil Oil Co., Inc. (partial abandonment).	Northern Natural Gas Co., Parnell & Northrup Fields, Ochiltree County, Tex.	Notice of partial cancellation 1–22–65.[1] [2]	137	11
G–14582 E 12–22–64	Sinclair Oil & Gas Co. (Operator), et al. (successor to Benedum-Trees Oil Co., et al.).	Texas Eastern Transmission Corp., DeLate Charco Field, Brooks County, Tex.	Benedum-Trees Oil Co., et al., FPC GRS No. 10	335	
			Supplement Nos. 1–8	335	1–8
			Notice of succession 12–15–64.		
			Agreement 6–23–64 [3]	335	9
			Agreement 6–23–64 [4]	335	10
			Effective date: 10–1–64		
G–16218 D 1–21–65	Gulf Oil Corp. (Operator), et al.	Transwestern Pipeline Co., East Curtis Field, Woodward County, Okla.	Letter Agreement 11–23–64.[2] [3]	196	33
G–19563 C 1–28–65	Ambassador Oil Corp. (Operator), et al.	Kansas-Nebraska Natural Gas Co., Inc., Camrick Field, Texas County, Okla.	Letter agreement 11–5–64.	8	5
CI61–5 A 7–1–60	Harper Oil Co.[5]	El Paso Natural Gas Co., Ridgeway Field, Beaver County, Okla.	Contract 6–16–60	9	
CI61–267 A 8–22–60	Kingwood Oil Co.[5]	do	Contract 7–25–60	11	
CI61–392 A 9–12–60 [7]	Forest Oil Corp.[5]	El Paso Natural Gas Co., Clear Lake Field, Beaver County, Okla.	Conveyance 12–1–61	25	1–2
CI61–514 A 9–29–60	Colorado Oil & Gas Corp.[5]	do	Contract 9–9–60	48	
CI61–1596 A 5–3–61	W. C. McBride, Inc., et al.[5]	El Paso Natural Gas Co., Parsell Field, Roberts County, Tex.	Contract 4–20–61	16	
CI61–1703 A 5–29–61	N. Bruce & Curtis E. Calder, Jr., d.b.a. Horizon Oil & Gas Co.[5]	El Paso Natural Gas Co., Horizon No. 1–4–Dodson "A" Unit, Ochiltree County, Tex.	Contract 3–26–59	15	
			Assignment 11–29–60	15	1
CI62–457 A 10–30–61	Thomas E. Berry [6]	El Paso Natural Gas Co., Acreage in Beaver County, Okla.	Contract 3–26–59	6	
			Letter agreement 12–23–59.	6	1
			Letter agreement 9–23–60.	6	2
			Letter agreement 4–24–61.	6	3
			Assignment 5–25–61	6	4
			Supplemental agreement 7–28–61.	6	5
CI62–1247 A 4–23–62	Cabot Corp.[5]	El Paso Natural Gas Co., Laverne Field, Beaver County, Okla.	Contract 3–26–59	67	
			Assignment 11–14–61	67	1
			Assignment 11–14–61	67	2

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial Succession

See footnotes at end of table.

[2] Benedum-Trees Oil Co. (Operator), et al., and Sinclair Oil & Gas Co. (Operator), et al.
[3] Sinclair Oil & Gas Co. (Operator), et al.

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI63-599 1-11-65 [4]	Thomas C. Canan (Operator), et al. (successor to O. B. Kiel, Jr., et al.).	Trunkline Gas Co., Dunn Field Area, Jim Wells County, Tex.	(7)		
CI63-1476 C 1-22-65	W. C. Pickens [9]	Panhandle Eastern Pipe Line Co., Northeast Trail Field, Dewey County, Okla.	Amendment 12-16-64 [10]	2	3
CI64-159 C 1-25-65	Ashland Oil & Refining Co. [11]	Panhandle Eastern Pipe Line Co., West Valley Center, Dewey County, Okla.	Supplemental agreement 12-2-64. [12]	153	2
CI64-700 C 1-27-65	Ferrell L. Prior, d.b.a. Prior Oil Co.	Hope Natural Gas Co., Sheridan District, Calhoun County, W. Va.	Letter agreement 12-7-64. [13]	37	1
CI64-1102 C 1-28-65	Humble Oil & Refining Co.	Transwestern Pipeline Co., Mendota Field, Roberts County, Tex.	Letter agreement 12-24-64. [14]	346	6
CI64-1115 D 1-25-65	Socony Mobil Oil Co., Inc. (partial abandonment).	Northern Natural Gas Co., Hansford Field, Hutchinson County, Tex.	Notice of partial cancellation 1-22-65. [2] [15]	343	1
CI64-1125 1-12-65 [16]	Lab Oil Co. (Operator), et al.	United Gas Pipe Line Co., Paul White Field, Jim Wells County, Tex.	(16)		
CI65-42 A 7-20-64	Paul P. Scott Trust, et al. [18]	El Paso Natural Gas Co., Jalmat Field, Lea County, N. Mex.	Contract 7-10-64	4	
CI65-381 C 1-19-65	Union Texas Petroleum, a division of Allied Chemical Corp.	Northern Natural Gas Co., Rosston Field, Harper County, Okla.	Supplemental Agreement 11-13-64. [19]	78	1
CI65-389 C 1-21-65	Humble Oil & Refining Co. [20]	Panhandle Eastern Pipe Line Co., N. E. Trail Field, Dewey County, Okla.	Supplemental Agreement 12-15-64.	364	2
CI65-572 A 12-15-64	D. W. Stiles, et al. [21]	El Paso Natural Gas Co., Pictured Cliffs Field, San Juan County, N. Mex.	Contract 6-27-52 [22]	2	
			Letter Agreement 10-1-53.	2	1
			Supplemental Agreement 1-4-54.	2	2
			Letter Agreement 4-19-54.	2	1
			Letter Agreement 8-26-54.	2	3
			Letter Agreement 10-28-54.	2	4
			Supplemental Agreement 5-11-56. [17]	2	5
			Letter Agreement 7-5-60.	2	6
			Assignment 11-6-62 [2] [23]	2	7
			Effective date: 11-6-62	2	8
CI65-585 A 12-21-64 2-11-65	George T. Abell	El Paso Natural Gas Co., Red Hills Area, Lea County, N. Mex.	Contract 11-30-64	3	
			Amendatory Agreement 1-28-65. [24]	3	1
A CI65-661 (G-12906) F 1-8-65	Pan American Petroleum Corp., (successor to Westland Oil Development Corp.).	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	Contract 6-9-59 [25]	403	
			Assignment 9-3-64 [26]	403	2
			Effective date: 9-1-64		
CI65-707 (G-11775) B 1-15-65	Shell Oil Co.	Kansas-Nebraska Natural Gas Co., Inc., Big Sandy Field, Logan County, Colo.	Notice of cancellation 1-14-65. [2] [27]	150	3
A CI65-711 (G-3894) F 1-15-65	Crone Oil Co. (Operator), et al. [28]	El Paso Natural Gas Co., Spraberry Field, Midland County, Tex.	Contract 10-16-54	1	
			Assignment 7-26-55 [29]	1	1
			Assignment 10-24-55 [30]	1	2
			Assignment 12-16-55 [31]	1	3
			Assignment 9-30-60 [2] [32]	1	4
CI65-713 (CI61-1296) B 1-21-65	Humble Oil & Refining Co.	South Texas Natural Gas Gathering Co., Chihuahua Field, Hidalgo County, Tex.	Notice of cancellation 1-18-65. [2] [33]	271	2
CI65-714 A 1-19-65	Creslenn Oil Co., Inc.	Hope Natural Gas Co., Geary District, Roane County, W. Va.	Contract 11-27-64	10	
CI65-715 A 1-21-65	Stonestreet Lands Co., et al.	Hope Natural Gas Co., DeKalb District, Gilmer County, W. Va.	Contract 12-16-64 [34]	26	
CI65-716 A 1-21-65	Joseph S. Gruss, Agent for Adena Petroleum, Inc.	Hope Natural Gas Co., Union District, Ritchie County, W. Va.	Contract 12-7-64 [35]	7	
CI65-717 A 1-21-65	Homer Queen, Agent for Queen Gas Co.	Hope Natural Gas Co., Elk District, Harrison County, W. Va.	Contract 12-30-64 [36]	11	
CI65-720 (CI63-570) B 1-21-65	Smith Development Co. (Operator), et al.	Northern Natural Gas Co., Smith Perryton Field, Ochiltree County, Tex.	Notice of cancellation 1-19-65. [2] [37]	5	1
CI65-721 A 1-22-65	John J. August, et al.	El Paso Natural Gas Co., Rio Blanco Field, Rio Arriba County, N. Mex.	Contract 1-8-65	3	
CI65-725 A 1-25-65	Humble Oil & Refining Co.	Cities Service Gas Co., Waynoka Field, Woods County, Okla.	Contract 1-8-65 [38]	370	
CI65-726 A 1-25-65	Pan American Petroleum Corp.	Natural Gas Pipeline Co. of America, Mobeetie Field, Wheeler County, Tex.	Contract 10-15-64	404	
CI65-728 (G-9209) B 1-22-65	W. C. McBride, Inc., et al.	Kansas-Nebraska Natural Gas Co., Inc., Padroni Field, Logan County, Colo.	Cancellation agreement 2-27-64. [2] [39]	7	4
CI65-729 (G-11121) B 1-25-65	Columbian Fuel Corp.	New York State Natural Gas Corp., Reed Deemer Field, Jefferson County, Pa.	Notice of cancellation 1-21-65. [2] [40]	61	1
A CI65-730 (G-11987) F 1-22-65 2-24-65 [41]	Crone Oil Co. (Operator), et al. [28]	El Paso Natural Gas Co., Spraberry Field, Midland County, Tex.	Contract 9-6-62	2	
			Assignment 12-21-55 [30]	2	1
			Assignment 1-20-56 [30]	2	2
			Supplemental agreement 5-21-56.	2	3
			Assignment 9-30-60 [2] [42]	2	4
A CI65-731 (G-11987) F 1-22-65 2-24-65 [41]	do	El Paso Natural Gas Co., Spraberry Field, Midland County, Tex.	Contract 4-23-57 [31]	3	
			Assignment 6-26-57 [30]	3	1
			Assignment 7-30-57 [30]	3	2
			Supplemental agreement 8-30-57.	3	3
			Assignment 10-18-57 [30]	3	4
			Assignment 9-30-60 [2] [30]	3	5
CI65-732 (G-16278) B 1-21-65	Norman V. Kinsey, et al.	United Gas Pipe Line Co., Bryceland Area, Bienville Parish, La.	Notice of cancellation 1-20-65. [2] [43]	6	5
CI65-734 A 1-25-65	Continental Oil Co., (Operator), et al.	Mountain Fuel Supply Co., Canyon Creek Field, Sweetwater County, Wyo.	Contract 10-26-64 [44]	293	
CI65-737 A 1-27-65	Southland Drilling Co. (Operator), et al.	Texas Eastern Transmission Corp., Ocker Field, Aransas and Refugio Counties, Tex.	Contract 11-10-64	1	
CI65-738 A 1-27-65	Gulf Oil Corp.	Northern Natural Gas Co., Clementine Upper Morrow Field, Hansford County, Tex.	Contract 11-18-64 [45]	285	
CI65-740 A 1-27-65	Ira M. Jones, et al., Agent for 309 Oil & Gas Co.	Hope Natural Gas Co., Grant District, Ritchie County, W. Va.	Contract 12-17-64 [46]	1	
CI65-741 A 1-27-65	Roy G. Hildreth, Sr., et al., d.b.a. Roy G. Hildreth, Jr., et al.	Hope Natural Gas Co., Spencer District, Roane County, W. Va.	Contract 11-3-64 [47]	22	
CI65-746 A 1-28-65	B. W. Wiseman, Jr. (Operator), et al.	Northern Natural Gas Co., Southwest Ozona Field, Crockett County, Tex.	Contract 11-1-64 [48]	1	
CI65-748 A 1-28-65	Tenneco Oil Co.	Lone Star Gas Co., Sholem Alechem Field, Carter County, Okla.	Contract 10-20-64 [49]	174	

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI65-749..... A 1-29-65	Hondo Oil & Gas Co....	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	Contract 1-8-65 [2].....	4	.....
CI65-750..... A 1-29-65	Midwest Oil Corp.....	Arkansas Louisiana Gas Co., Wilburton Field, Latimer and Pittsburg Counties, Okla.	Contract 12-8-64 [3].....	33	.....
			Contract 3-15-62.....	33	1
			Supplemental agreement 3-6-63.[3]	33	2

[1] Deletes nonproducing leases (T-34168 and T-34169) surrendered by Applicant; filing includes letter agreement dated September 2, 1964 releasing acreage.
[2] Effective date: Date of this order.
[3] Agreement whereby Sinclair acquired Hiawatha Oil & Gas Co's, 19/24 interest in the involved properties.
[4] Agreement whereby Sinclair acquired Penn-Ohio Gas Co. 7/24 interest in the involved properties.
[5] Deletes acreage that is uneconomical for buyer to connect.
[6] Applicant has stated willingness to accept a permanent certificate under the same terms and conditions contained in Opinion No. 390, as amended by Opinion No. 390-A. (Rate schedule previously accepted for filing.)
[7] Original application filed by C. L. McMahon, Inc. (by order issued Aug. 24, 1962, in Docket No. G-3708, et al., Forst was substituted as Applicant in lieu of C. L. McMahon, Inc., in the pending certificate application and the outstanding temporary authorization).
[8] Amendment to the certificate filed to reflect price at a total initial rate of 13.3748 cents per Mcf in lieu of 13.0 cents Mcf; no related rate filing.
[9] Contract rate is 17.0 cents. Applicant has agreed to accept authorization for the additional acreage conditioned as was the original certificate issued in Opinion No. 446.
[10] Effective date: Date of initial delivery.
[11] Contract rate is 17.0 cents. Applicant has agreed to accept authorization for the additional acreage conditioned similarly to the certificates issued in Opinion No. 350.
[12] Deletes nonproducing lease (T-35571) surrendered by Applicant; filing includes letter agreement dated June 10, 1964, by which buyer releases such acreage.
[13] Amendment to the certificate to reflect the price at a total initial rate of 14.6728 cents per Mcf in lieu of 13.6728 cents per Mcf; no related rate filing.
[14] By letter filed Dec. 2, 1964, Applicant advised willingness to accept a permanent certificate conditioned at a total initial rate of 16.0 cents per Mcf at 14.65 p.s.i.a.
[15] D. W. Stiles, et al., propose to continue service previously rendered by M. J. Florance Trust. This service was commenced on Aug. 22, 1959.
[16] Between M. J. Florance and El Paso. On file as M. J. Florance Trust FPC GRS No. 1—certificate issued in Docket No. G-6998.
[17] The acreage dedicated by subject agreement was never included under M. J. Florance Trust's rate schedule, nor was the sale of gas therefrom authorized by this Commission.
[18] Assigns to D. W. Stiles, et al., only the acreage dedicated to the June 27, 1952 contract by the supplemental agreement dated May 11, 1956 (Supplement No. 6).
[19] Deletes indefinite pricing provisions from basic contract.
[20] The contract of June 9, 1959 was amended on Feb. 19, 1962, by the dedication of additional acreage. Said amendment has been designated as Supplement No. 1 to Pan American's FPC GRS No. 403, and a temporary certificate has been issued authorizing the sale of natural gas from the additional acreage by Pan American. The permanent certificate issued herein does not include authorization for sales from the additional acreage.
[21] Conveys to Applicant, as successor in interest, a part of the properties dedicated to the contract comprising Westland Oil Development Corp.'s FPC GRS No. 2.
[22] Source of gas depleted.
[23] Partial succession to the Atlantic Refining Co., FPC GRS No. 28.
[24] Partial assignment of acreage from the Atlantic Refining Co., to Roy Furr.
[25] Partial assignment of acreage from Roy Furr to Crone Oil Co.
[26] The sale involves only an average of 70 Mcf per day and it is alleged that the full amount is needed to furnish the requirements of local farmers for irrigation purposes.
[27] Production of gas no longer economically feasible.
[28] Partial succession to Socony Mobil Oil Co., FPC GRS No. 20.
[29] Applicant amended the application to reflect a total initial price of 10.096 cents per Mcf in lieu of 11.1056 cents per Mcf.
[30] Partial assignment of acreage from Socony to Roy Furr. This acreage has been deleted from Socony's FPC GRS No. 20 in Docket No. G-11957.
[31] Contract between Roy Furr and El Paso. Acreage previously dedicated to contract dated Sept. 6, 1952, between Socony and El Paso.
[32] Adopts basic contract, as amended (Supplement Nos. 1 and 2), between Sinclair Oil & Gas Co. (FPC GRS No. 151) and Arkansas Louisiana Gas Co.

[F.R. Doc. 65-3124; Filed, Mar. 29, 1965; 8:45 a.m.]

[Docket No. CP65-287]

SHENANDOAH GAS CO.

Notice of Application

MARCH 24, 1965.

Take notice that on March 16, 1965, Shenandoah Gas Co. (Applicant), Washington, D.C., and Winchester, Va., filed in Docket No. CP65-287 an application pursuant to sections 7(a) and 7(c) of the Natural Gas Act for an order of the Commission directing Atlantic Seaboard Corp. (Atlantic) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver natural gas to Applicant for resale and distribution in Strasburg, Va.; and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant seeks physical connection of its proposed lateral transmission facilities with Atlantic's existing 26-inch pipeline approximately 1.8 miles north of Strasburg, Va., and the sale and delivery of the third year maximum day requirements of Applicant for Strasburg of 97 Mcf at such connection.

The total estimated volumes of natural gas involved to meet Applicant's annual and peak day requirements for the initial 3-year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf).....	11,400	50,300	78,100
Peak day (Mcf).....	56	88	97

Applicant also requests a certificate of public convenience and necessity authorizing construction and operation of a metering and regulating station near the point of connection with Atlantic's line; and the construction and operation of a total of approximately 1.8 miles of 2-inch and 3-inch approach lateral.

Total estimated cost of Applicant's proposed construction, including lateral line and distribution system, is stated to be $92,800, and will be financed by means of open account advances by Washington Gas Light Co., parent company of Applicant.

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) and the regulations under the Natural Gas Act (157.10) on or before April 26, 1965.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, and the Commission on its own review of the matter finds that an order pursuant to section 7(a) and a grant of the certificate are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-3203; Filed, Mar. 29, 1965; 8:48 a.m.]

[Docket No. RI65-552 etc.]

AMERADA PETROLEUM CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

MARCH 19, 1965.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertain-

[1] Does not consolidate for hearing or dispose of the several matters herein.

ing thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before May 5, 1965.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI65-582	Amerada Petroleum Corp., Post Office Box 2040, Tulsa 2, Okla.	14	17	Trunkline Gas Co. (Mallard Bay Field, Cameron Parish, La.) (South Louisiana).	$27,679	2-19-65	[2] 3-22-65	8-22-65	[7] 15.75	[3] [4] [5] 23.5	
	Amerada Petroleum Corp.	9	9	Texas Gas Transmission Corp. (South Lewisburg Field, Acadia and St. Landry Parishes, La.) (South Louisiana).	10,240	3-1-65	[2] 4-1-65	9-1-65	[7] 15.75	[3] [4] [5] 20.625	
RI65-583	Amerada Petroleum Corp. (Operator), et al.	13	10	do	9,178	3-1-65	[2] 4-1-65	9-1-65	[7] 15.75	[3] [4] [5] 20.625	
	do	64	10	United Gas Pipe Line Co. (South Lewisburg Field, Acadia Parish, La.) (South Louisiana).	27,256	3-1-65	[2] 4-1-65	9-1-65	[7] 20.0	[4] [5] 22.75	

[2] The stated effective date is the 1st day after expiration of the required statutory notice.
[3] Favored-nation rate increase.
[4] Pressure base is 15.025 p.s.i.a.
[5] Includes tax reimbursement.
[6] Includes 0.2249 cent per Mcf charge for dehydration deducted by buyer for delivery of nondehydrated gas.
[7] Settlement rate in Amerada's general rate settlement approved by order issued Feb. 1, 1963, in Docket No. G-9385, et al.; moratorium period expired Nov. 1, 1964.
[8] Periodic rate increase.

Amerada Petroleum Corp. requests an effective date of February 17, 1965, for Supplement No. 17 to its FPC Gas Rate Schedule No. 14, and an effective date of February 24, 1965, for Supplement No. 9 to its FPC Gas Rate Schedule No. 9. Amerada Petroleum Corp. (Operator), et al., request an effective date of February 24, 1965, for Supplement No. 10 to their FPC Gas Rate Schedule No. 13, and an effective date of February 1, 1965, for Supplement No. 10 to their FPC Gas Rate Schedule No. 64. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

All of the proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

[F.R. Doc. 65-3121; Filed, Mar. 29, 1965; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-1758]

SECOND OHIO CAPITAL FUND, INC.

Notice of Application for Order of Exemption

MARCH 24, 1965.

Notice is hereby given that Second Ohio Capital Fund, Inc. ("Applicant"), 51 North High Street, Columbus, Ohio, 43215, an Ohio corporation, and an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from compliance with the provisions of section 14(a) of the Act. In substance, section 14(a) of the Act provides that no registered investment company shall make a public offering of securities of which it is the issuer unless it has a net worth of at least $100,000. All interested persons are referred to the application on file with the Commission for a full statement of the representations which are summarized below.

Applicant has filed a registration statement under the Securities Act of 1933 for 1,000,000 shares of common stock, $1 par value, to be offered to investors in exchange for securities of the character of those included in a list set forth in the prospectus. Applicant is intended as an investment vehicle for investors who wish to exchange securities they presently hold for shares of the Applicant in a simultaneous exchange on a tax-free basis. The minimum deposit to be accepted from any investor is to be securities having a market value of $10,000, and the exchange will not be consummated unless the aggregate market value of the deposited securities as at the effective date of the planned exchange is at least $5,000,000. In the event that such value is not then realized, the deposited securities will be returned to investors without charge to them. This registration statement has not yet become effective.

Notice is further given that any interested person may, not later than April 9, 1965, 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 shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon reqeust or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 65-3200; Filed, Mar. 29, 1965; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 25, 1965.

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. 39646—*Rosin sizing to Zee, La.* Filed by O. W. South, Jr., Agent (No. A4651), for interested rail carriers. Rates on rosin sizing, liquid, in tank carloads, from Bay Minetta, Ala., Pensacola and Telogia, Fla., Brunswick and West Savannah, Ga., to Zee, La.

Grounds for relief—Market competition.

Tariff—Supplement 8 to Southern Freight Association, Agent, tariff I.C.C. S-475.

FSA No. 39647—*Liquid caustic soda to Thomaston, Ga.* Filed by O. W. South, Jr., Agent (No. A4653), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, from Calvert, Ky., to Thomaston, Ga.

Grounds for relief—Market competition.

Tariff—Supplement 24 to Southern Freight Association, Agent, tariff I.C.C. S-484.

FSA No. 39648—*Grains and related products within southern territory.* Filed by O. W. South, Jr., Agent (No. A4652), for interested rail carriers. Rates on grain, sorghum grain, and soybeans, in carloads, between points in southern territory, also Virginia cities gateway points, on the one hand, and points on the CB&Q RR (Centralia, Cravat, Woodlawn, and Waltonville, Ill.), on the other.

Grounds for relief—Short-line distance formula and grouping.

Tariff—Supplement 17 to Southern Freight Association, Agent, tariff I.C.C. S-483.

By the Commission.

[SEAL] BERTHA F. ARMES, *Acting Secretary.*

[F.R. Doc. 65-3218; Filed, Mar. 29, 1965; 8:49 a.m.]

[Notice 21]

FINANCE APPLICATIONS

MARCH 25, 1965.

The following publications are governed by the Interstate Commerce Commission's general requirements governing notice of filing of applications under sections 20a except (12) and 214 of the Interstate Commerce Act. The Commission's order of May 20, 1964, providing for such publication of notice, was published in the FEDERAL REGISTER issue of July 31, 1964 (29 F.R. 11126) and became effective October 1, 1964.

All hearings and prehearing conferences, if any, will be called at 9:30 a.m., U.S. standard time unless otherwise specified.

F.D. No. 23516—By amended application filed March 19, 1965, Von Der Ahe Van Lines, Inc., seeks authority under section 214 of the Interstate Commerce Act, to issue a promissory note or notes in the amount of $1,500,000 instead of $2,000,000 as sought in the original application filed February 18, 1965, published in the FEDERAL REGISTER issue of February 26, 1965 (30 F.R. 2571). Applicant's attorney: Herbert Burstein, Zelby & Burstein, 160 Broadway, New York, N.Y., 10038. Protests must be filed no later than 15 days from date of publication in the FEDERAL REGISTER.

F.D. No. 23558—By application filed March 15, 1965, American Transit Corp., 615 North Ninth Street, St. Louis, Mo. 63101, seeks authority under section 214 of the Interstate Commerce Act, to issue up to, but not exceeding, 18,687 shares of $1 par value common stock to the holders of 6,229 shares of the present 6 percent cumulative convertible preferred stock, Series A, being all of said stock issued and outstanding. Applicant's attorney: G. M. Rebman, La Tourette & Rebman, Suite 1230 Boatman's Bank Building, St. Louis, Mo., 63102. Protests must be filed no later than 15 days from date of publication in the FEDERAL REGISTER.

F.D. No. 23560—By application filed March 22, 1965, the Pittsburgh & West Virginia Railway Co., Mansfield Avenue, Post Office Box 4440, Pittsburgh, Pa., 15205, seeks authority under section 20a of the Interstate Commerce Act to (1) increase the authorized shares of common stock to 1,510,000 by reduction of par value from $100 per share to $20 per share, and (2) to issue 1,510,000 shares of $20 par value common stock to effect a five-for-one stock split. Applicant's attorneys: Lewis B. Harder, chairman of the board, the Pittsburgh & West Virginia Railway Co., % International Mining Corp., 280 Park Avenue, New York, N.Y., 10017, and Louis B. Stein, secretary, treasurer and counsel, same address. Protests must be filed no later than 15 days from date of publication in the FEDERAL REGISTER.

F.D. No. 23561—By application filed March 22, 1965, Chicago, Milwaukee, St. Paul & Pacific Railroad Co., 888 Union Station, 516 West Jackson Boulevard, Chicago, Ill., 60606, seeks authority to pledge or repledge $5,500,000 principal amount of first mortgage 5½-percent bonds, Series B, due January 1, 1994, as collateral security for a short-term loan or loans. Applicant's attorney: Edwin O. Schiewe, vice president and general counsel, Room 888 Union Station Building, Chicago, Ill., 60606. Protests must be filed no later than 15 days from date of publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] BERTHA F. ARMES, *Acting Secretary.*

[F.R. Doc. 65-3219; Filed, Mar. 29, 1965; 8:49 a.m.]

[Notice 1146]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 25, 1965.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-66996. By order of March 24, 1965, the Transfer Board approved the transfer to Bernard J. Salvador, Jr., 43 Elm Court, Cohasset, Mass., of the Certificate of Registration in No. MC-99350 (Sub-No. 1), issued October 22, 1964, to Salvatore A. Imbrescia, doing business as Pan State Express Co., 220 Broadway Street, Revere, Mass., authorizing transportation in interstate or foreign commerce corresponding to the grant of authority in State Certificate No. 4932, issued April 19, 1954, as amended April 8, 1960, by the Massachusetts Department of Public Utilities.

No. MC-FC-67594. By order of March 17, 1965, the Transfer Board approved the transfer to Fleming-Babcock, Inc., Platte City, Mo., of the operating rights issued by the Commission August 5, 1955, under Permit No. MC-113740 (Sub-No. 2), to F. E. Fleming, Kansas City, Mo., authorizing the transportation, over irregular routes, of haydite (expanded, crushed shale), in bulk, from New Market, Mo., to points in Kansas within 50 miles of New Market. Carll V. Kretsinger, 510 Professional Building, Kansas City, Mo., attorney for applicants.

No. MC-FC-67597. By order of March 17, 1965, the Transfer Board approved the transfer to L. L. Smith Trucking, a corporation, Powell, Wyo., of the operating rights issued by the Commission February 18, 1958, under Certificate No. MC-105006, to Lewis L. Smith, doing business as L. L. Smith Trucking Co., Powell, Wyo., authorizing the transportation, over irregular routes, of machinery, materials, supplies, and equipment incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Montana and Wyoming located within 50 miles of Lovell, Wyo., including Lovell. Glenn R. Lewis, Powell, Wyo., Certified Public Accountant.

No. MC-FC-67623. By order of March 18, 1965, the Transfer Board approved the transfer to Bronx Bus Corp., Yonkers, N.Y., of the Certificate in No. MC-67340, issued April 1, 1955, to Resort Bus Lines, Inc., Yonkers, N.Y., authorizing the transportation of: Passengers and their baggage, in charter operations, from Yonkers, N.Y., to points in Connecticut, New Jersey, and Pennsylvania, and return. Samuel B. Zinder, 140 Cedar Street, New York, N.Y., 10006, attorney for applicants.

[SEAL] BERTHA F. ARMES, *Acting Secretary.*

[F.R. Doc. 65-3220; Filed, Mar. 29, 1965; 8:49 a.m.]

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