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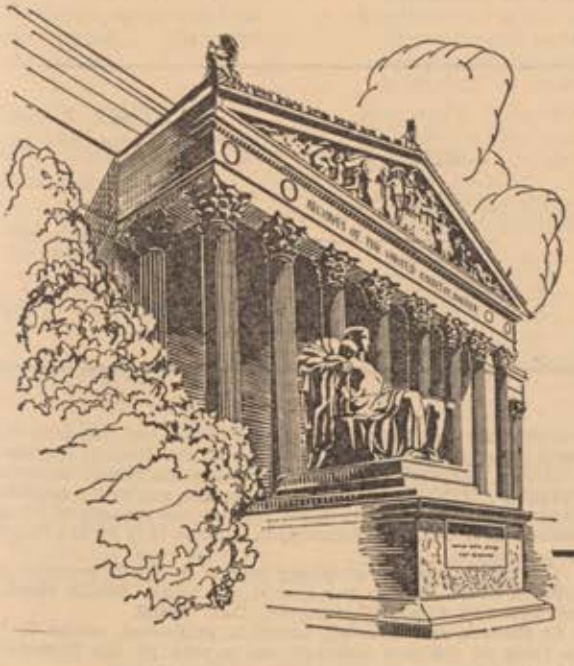

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[General Order 96, Rev.]

PART 255—PAYMENTS FROM CAPITAL RESERVE FUND

Correction

In F.R. Doc. 65-10002 appearing at page 12036 in the issue for Tuesday, September 21, 1965, the center heading preceding § 255.1 reading "Purpose or Reconstruction of Cargo Containers" should be changed to read "Purchase or Reconstruction of Cargo Containers".

Title 7—AGRICULTURE

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PART 81—INSPECTION OF POULTRY AND POULTRY PRODUCTS

Poultry Soups; Further Postponement of Effective Date

The effective date of the provisions of §§ 81.134 and 81.208 of the regulations under the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), as set forth in the amendments of the regulations published on July 7, 1964 (29 F.R. 8456), insofar as such provisions relate to soups (whether dehydrated, canned or otherwise prepared) containing poultry ingredients, is hereby postponed until December 1, 1965, pursuant to the authority of said Act. During such period of postponement, the provisions of § 81.208(a) and (b) of the regulations, as published August 15, 1962 (27 F.R. 8098, 7 CFR 81.208 (Supp. 1963)), shall be in effect with respect to such soups.

This action is necessary in order to afford equitable treatment to all poultry soup processors in view of the issuance of a preliminary injunction on behalf of one processor of dehydrated soups in an action which is pending in the U.S. District Court for the District of New Jersey. In order to accomplish its purpose, this action must be made effective on November 1, 1965, when a prior order (30 F.R. 12117) of postponement of effective date expires. Therefore, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found for good cause that notice of rule-making and other public procedure with respect to this action are impracticable and good cause is found for making it effective less than 30 days after publication hereof in the FEDERAL REGISTER.

(Sec. 14, 71 Stat. 447, 21 U.S.C. 463; 29 F.R. 16210, as amended; 30 F.R. 1260, as amended; 30 F.R. 2160)

This action shall become effective on November 1, 1965.

Done at Washington, D.C., this 26th day of October, 1965.

G. R. GRANGE,
Deputy Adminstrator,
Marketing Services.

[F.R. Doc. 65-11650; Filed, Oct. 28, 1965; 8:45 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 729—PEANUTS

Subpart—1966 National Marketing Quota, National Acreage Allotment, Apportionment of National Acreage Allotment to States, and Date of Marketing Quota Referendum

Sec.
729.1701 Basis and purpose.
729.1702 Proclamation of national marketing quota, normal yield per acre, and national acreage allotment for the crop of peanuts to be produced in 1966.
729.1703 Apportionment of the national acreage allotment to States.
729.1704 Marketing quota referendum date.

AUTHORITY: The provisions of this subpart issued under secs. 729.1701 to 729.1704 issued under secs. 358, 375, 55 Stat. 88, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1358, 1375.

§ 729.1701 Basis and purpose.

(a) Subsection 358(a) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), hereinafter referred to as the Act, provides that between July 1 and December 1 of each calendar year the Secretary of Agriculture shall proclaim a national marketing quota for the crop of peanuts to be produced in the next succeeding calendar year. The quota for such crop shall be a quantity of peanuts which will make available for marketing a supply equal to the average quantity of peanuts harvested for nuts during the immediately preceding 5 years, adjusted for current trends and prospective demand conditions. Subsection 358(a) further provides that the national marketing quota may not be less than a quantity of peanuts sufficient to provide a national acreage allotment of not less than 1,610,000 acres.

(b) Except for the 1,610,000 acres minimum, the national marketing quota for the 1966 crop would be 856,000 tons and the national acreage allotment, computed by dividing the national quota by the normal yield per acre, than adjusting for underharvesting, would be 1,149,600 acres. In order to obtain the minimum national acreage allotment of 1,610,000 acres, the national marketing quota must be set at 1,368,500 tons. Subsection 358(a) also provides that the national marketing quota shall be converted to a national acreage allotment by dividing such quota by the normal yield per acre for the United States.

(c) Subsection 358(c) of the Act provides that the national acreage allotment less the acreage to be allotted to new farms under subsection 358(f), shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made.

(d) Section 729.1702 of this proclamation establishes the national marketing quota, the normal yield per acre, and the national acreage allotment for the 1966 crop of peanuts. Section 729.1703 apportions the 1966 national acreage allotment among the several peanut-producing States. Section 729.1704 establishes November 23, 1965, as the date for a referendum for producers to determine whether marketing quotas will be in effect for the 1966, 1967, and 1968 crops of peanuts. The determinations contained herein are based on the latest available statistics of the Federal Government.

(e) Public notice of the proposed determination of the 1966 national marketing quota, the national acreage allotment, the apportionment of such allotment among the States, and proposed referendum date was given (30 F.R. 11694-11695) in accordance with the Administrative Procedure Act (5 U.S.C. 1001 et seq.). This proclamation is made after due consideration of recommendations and views submitted in response to such notice. In order that State allotments may be made available for the orderly determination of farm allotments for 1966 and that arrangements for holding the referendum may be in an orderly manner and as much advance notice as possible be given of the date of the referendum, it is essential that the provisions of this document be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest.

§ 729.1702 Proclamation of national marketing quota, normal yield per acre, and national acreage allotment for the crop of peanuts to be produced in 1966.

(a) *National marketing quota.* The amount of the national marketing quota for peanuts for the crop to be produced

in the calendar year 1966 is 1,368,500 tons.

(b) *Normal yield per acre.* The normal yield per acre of peanuts for the United States is 1,700 pounds.

(c) *National acreage allotment.* The national acreage allotment for the crop to be produced in the calendar year 1966 is 1,610,000 acres.

§ 729.1703 Apportionment of the national acreage allotment to States.

The national peanut acreage allotment proclaimed in § 729.1702 is hereby apportioned as follows:

State	1966 State acreage allotment
Alabama	217,601
Arizona	714
Arkansas	4,201
California	935
Florida	55,228
Georgia	527,921
Louisiana	1,954
Mississippi	7,525
Missouri	247
New Mexico	5,530
North Carolina	168,490
Oklahoma	138,443
South Carolina	13,874
Tennessee	3,604
Texas	356,851
Virginia	105,272
Total apportioned to States	1,608,390
Reserve for new farms	1,610
Total, United States	1,610,000

§ 729.1704 Marketing quota referendum date.

A referendum of the farmers who were engaged in the production of peanuts in the calendar year 1965 will be held on November 23, 1965, pursuant to the provisions of section 358 of the Act and the Regulations Governing the Holding of Referenda on Marketing Quotas, as amended (28 F.R. 13249, 29 F.R. 16184, 30 F.R. 2521, 2588, 6144), to determine whether said farmers are in favor of or opposed to peanut marketing quotas for the crops of peanuts to be produced in the calendar years 1966, 1967, and 1968. If two-thirds or more of the peanut farmers voting in the referendum favor marketing quotas, marketing quotas will be in effect for the 1966, 1967, and 1968 crops of peanuts. If more than one-third of the peanut farmers voting in such referendum oppose marketing quotas, marketing quotas will not be in effect for the 1966 crop of peanuts; however, farm acreage allotments for the 1966 crop of peanuts established pursuant to the provisions of the Act will be in effect and compliance with such acreage allotments will be a condition of eligibility for price support at 50 percent of the parity price for peanuts.

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

Signed at Washington, D.C., on October 26, 1965.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-11651; Filed, Oct. 28, 1965; 8:45 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

[Sugar Determination 863.17]

PART 863—SUGARCANE; FLORIDA

Fair and Reasonable Wage Rates

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and consideration of the evidence obtained at the public hearing held in Belle Glade, Fla., on May 14, 1965, the following determination is hereby issued:

§ 863.17 Fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in Florida.

(a) *Requirements.* A producer of sugarcane in Florida shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in production, cultivation, or harvesting work shall have been paid in accordance with the following:

(1) *Wage rates.* All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and the worker, whichever is higher but not less than the following:

(i) *For work performed on a time basis:*

	Rate per hour
(a) Tractor drivers and operators of mechanical harvesting or loading equipment	$1.45
(b) All other workers	1.25

(ii) *Workers between 14 and 16 years of age and handicapped workers when employed on a time basis.* For workers between 14 and 16 years of age (the act does not permit the employment of such workers for more than 8 hours per day without deduction from Sugar Act payments to the producer) and for workers certified by the Florida State Employment Service to be handicapped because of age or physical or mental deficiency or injury, and whose productive capacity is thereby impaired, the wage rate per hour shall be not less than 75 percent of the applicable hourly wage rate prescribed in subdivision (i) of this subparagraph.

(iii) *For work performed on a piecework basis.* The piecework rate for any operation shall be as agreed upon between the producer and the worker: *Provided,* That the hourly rate of earnings of each worker employed on piecework during each pay period (such pay period not to be in excess of two weeks) shall average for the time worked at piecework rates during such pay period not less than the applicable hourly rate prescribed in subdivisions (i) or (ii) of this subparagraph.

(2) *Compensable working time.* For work performed under subparagraph (1) of this paragraph, compensable working time includes all time which the worker spends in the performance of his duties except time taken out for meals during the workday. Compensable working time commences at the time the worker is required to start work and ends upon completion of work in the field. However, if the producer requires the operator of mechanical equipment, driver of animals or any other class of worker to report to a place other than the field, such as an assembly point or tractor shed located on the farm, the time spent in transit from such place to the field and from the field to such place is compensable working time. Any time spent in performing work directly related to the principal work performed by the workers, such as servicing equipment, is compensable working time. Time of the worker while being transported from a central recruiting point or labor camp to the farm is not compensable working time.

(3) *Equipment necessary to perform work assignment.* The producer shall furnish without cost to the worker any equipment required in the performance of any work assignment. However, the worker may be charged for the cost of such equipment in the event of its loss or destruction through negligence of the worker. Equipment includes, but is not limited to, hand and mechanical tools and special wearing apparel, such as boots and raincoats, required to discharge the work assignment.

(b) *Workers not covered.* The requirements of this section are not applicable to persons who voluntarily perform work without pay in the production, cultivation, or harvesting of sugarcane on the farm for a religious or eleemosynary institution or organization; inmates of a prison who work on a farm operated by the prison; truck drivers employed by a contractor engaged only in hauling sugarcane; members of a cooperative arrangement for exchange of labor; or to workers performing services which are indirectly connected with the production, cultivation, or harvesting of sugarcane, including but not limited to mechanics, welders, and other maintenance workers and repairmen.

(c) *Evidence of compliance.* Each producer subject to the provisions of this section shall keep and preserve, for a period of two years following the date on which his application for a Sugar Act payment is filed, such wage records as will fully demonstrate that each worker has been paid in full in accordance with the requirements of this section. The producer shall furnish upon request to the appropriate Agricultural Stabilization and Conservation County Committee such records and other evidence as may satisfy such committee that the requirements of this section have been met.

(d) *Subterfuge.* The producer shall not reduce the wage rates to workers below those determined in accordance with the requirements of this section through any subterfuge or device whatsoever.

(e) *Claim for unpaid wages.* Any person who believes he has not been paid in accordance with this determination may file a wage claim with the local county Agricultural Stabilization and Conservation Committee against the producer on whose farm the work was performed. Such claim must be filed within 2 years from the date the work with respect to which the claim is made was performed. Detailed instructions and wage claim forms are available at the local county ASCS office. Upon receipt of a wage claim the county office shall thereupon notify the producer against whom the claim is made concerning the representation made by the worker. The county ASC committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the State Agricultural Stabilization and Conservation Committee, 401 Southeast First Avenue, Gainesville, Fla., 32601, which shall likewise consider the facts and notify the producer and worker in writing of its recommendation for settlement of the claim. If the recommendation of the State ASC committee is not acceptable, either party may file an appeal with the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C., 20250. All such appeals shall be filed within 15 days after receipt of the recommended settlement from the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Deputy Administrator, State and County Operations, his decision shall be binding on all parties insofar as payments under the act are concerned. Appeals procedures are set forth and explained fully in Part 780, Chapter VII, CFR (29 F.R. 8200).

(f) *Failure to pay all wages in full.* Notwithstanding the provisions of this section requiring that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane be paid in full for all such work as one of the conditions to be met by a producer for payment under the act, if the producer has failed to meet this condition but has met all other conditions, a portion of such payment representing the remainder after deducting from the payment the amount of accrued unpaid wages, may be disbursed to producer(s), upon a determination by the county committee (1) that the producer has made a full disclosure to the county committee or its representative of any known failure to pay all workers on the farm wages in full as a condition for payment under the Sugar Act; and (2) that either (i) the failure to pay all workers their wages in full was caused by the financial inability of the producer; or (ii) the failure to pay all workers in full was caused by an inadvertent error or was not the fault of the producer or his agent, and the producer has used reasonable diligence to locate and to pay in full the wages due all such workers. If the county committee makes the determination as heretofore provided in this paragraph, such committee shall cause to be deducted from the payment for the farm the full amount of the unpaid wages which shall be paid promptly to each worker involved if he can be located, otherwise the amount due shall be held for his account, and the remainder of the payment for the farm, if any, shall be made to the producer. Except as provided above in this paragraph, the entire Sugar Act payment with respect to a farm shall be withheld from the producer, if upon investigation the county committee determines that all workers on the farm have not been paid in full the wages required to be paid for all work in the production, cultivation, or harvesting of sugarcane on the farm, until such time as evidence required by the county ASC committee has been furnished to the committee establishing that all workers employed on the farm have been paid in full the wages earned by them. If payment has been made to the producer prior to the county committee's determination that all workers on the farm have not been paid in full, the producer shall be placed on the debt register for the total payment made until the county committee determines that all workers on the farm have been paid in full: *Provided*, That if the county committee determines that the producer did not pay all workers in full because of inadvertent error that was not discovered until after he signed the application for payment, the producer shall be placed on the debt register only for the total amount of the unpaid wages.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in the production, cultivation, or harvesting of sugarcane in Florida as one of the conditions with which producers must comply to be eligible for payments under the act.

(b) *Requirements of the act and standards employed.* Section 301(c)(1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing, and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and by-products, income from sugarcane, and cost of production), and the differences in conditions among various sugar-producing areas.

(c) *Wage determination.* This determination differs from the prior determination in that the minimum time wage rates are increased 10 cents—to $1.45 per hour for tractor drivers and operators of mechanical harvesting and loading equipment, and to $1.25 per hour for all other workers. In addition, provision is made for the employment of handicapped workers and youths 14 to 16 years of age at reduced minimum wage rates. Other provisions of the determination, except for clarification and incorporation of interpretations formerly issued, remain unchanged.

At the public hearing held in Belle Glade, Fla., on May 14, 1965, interested persons were afforded the opportunity to testify with respect to whether the wage rates established for Florida sugarcane fieldworkers in the wage determination which became effective October 1, 1964, continue to be fair and reasonable under existing circumstances, or whether such determination should be amended.

Testimony was offered by producer-processors, independent and cooperative producers of sugarcane and representatives of workers. Representatives of established producers generally recommended no increase in wage rates; that provision be made for a lower hourly earnings guarantee for less productive workers employed on a piecework basis; and that a reduced hourly rate be provided for handicapped workers whose productive capacity is impaired. One such representative also recommended a reduced hourly wage rate for youths 16 and 17 years of age, and another recommended a wage of $1.00 per hour for scrappers and other low skilled workers. Representatives of new producers unanimously recommended a reduction of 20 cents per hour in wage rates—to 95 cents per hour for unskilled workers and $1.15 per hour for mechanical equipment operators. Producer witnesses based their recommendations on reduced ability to pay due to lower sugar prices, severe hurricane and freeze damage which affected the yield and quality of the 1964–65 crop, increased production costs, and the absence of any increase in individual worker efficiency. A witness representing the Florida Citizens Committee on Agricultural Labor, testifying on behalf of workers, recommended a minimum wage of not less than $1.25 per hour. The witness pointed out that such a wage would return to the full time agricultural worker an annual income of about $2,600 per year which represented the lower limits of estimates of an adequate annual income.

Consideration has been given to the testimony presented at the public hearing, to the standards generally considered in wage determinations, to the returns, costs, and profits of producing sugarcane obtained by survey for a recent crop and recast in terms of conditions likely to prevail for the 1965 crop, and to other pertinent factors. This

analysis indicates that the minimum rates established in this determination are fair and reasonable and are within the producer's ability to pay.

The production phase of the Florida sugar industry has undergone drastic changes in recent years. Almost 56,000 acres of 1961-crop sugarcane were harvested by 19 producers. The 1964 crop was harvested from about 220,000 acres of 182 producers. The increased production is largely on acreage which is more susceptible to freeze damage and is located at greater distances from the mills. Production costs have been greater for new producers because of higher land costs or rental, investments in planting the crop and in machinery and equipment, less efficient use of labor, and lower yields and quality of cane. The 1965 crop is expected to be harvested from about 183,000 acres, because of acreage restrictions, by about 185 producers.

Analysis of the conditions for the 1965 crop indicates that the overall average profit position of producers is relatively favorable. The wage increase provided in this determination, in terms of labor costs per ton of 1965-crop cane, will be less than two percent of expected gross producer returns. Expressed in terms of workers' earnings, the increase will mean about $200 more annual income.

Sugarcane in Florida has been hand cut for many years by large numbers of workers imported from the British West Indies. As acreage increased in recent years proportionately more such workers were recruited for the harvesting operation. The farm labor recruiting program of the federal government in 1965 has placed primary emphasis on the employment of domestic rather than foreign workers. The successful recruitment of a domestic agricultural work force will require improvements in wages and working conditions and the development of mechanization and production job techniques to reduce reliance on large numbers of workers for seasonal employment. Most large producers in Florida recently have reported increased emphasis on the development of mechanical harvesting equipment. Use of inexperienced domestic workers for sugarcane harvest and other operations will also have an undetermined impact on overall efficiency until such time as they learn and become accustomed to the work tasks.

Information available to the Department indicates that unskilled workers employed on a piecework basis as cane cutters earned an average of about $1.35 per hour during the 1964–65 crop harvest season as compared to $1.27 per hour a year earlier. Semi-skilled workers, usually employed on an hourly basis, were paid at wage rates ranging from $1.35 to $1.90 per hour during 1964–65. Average wage rates and earnings of sugarcane fieldworkers in recent years have been in excess of the wage rates specified in wage determinations.

Provision is made in this determination for the employment of youths 14 to 16 years of age (maximum employment is 8 hours per day) and handicapped workers at rates not less than 75 percent of the minimums for adult and able-bodied workers. Appropriate certifications should be obtained by producers of the age of youth workers from a school board or other recognized source, and for handicapped workers whose ability to work is impaired, from local offices of the Florida State Employment Service, prior to the employment of such persons at reduced rates. This will enable producers to meet the compliance requirements of this determination. A reduced rate for workers 16 and 17 years of age is not provided.

To provide a reasonable period of worker orientation in harvest work and to reduce the cost impact to producers during such period, this determination will become effective on December 1, 1965.

Although this determination is issued on a continuing basis, the Department will keep the wage situation under review and will conduct such investigations and hold such hearings as may be necessary.

Accordingly, I find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies sec. 301, 61 Stat. 929, as amended, 7 U.S.C. 1132)

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping requirements will be subject to approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date. This determination shall become effective on December 1, 1965, and shall remain in effect until amended, superseded, or terminated.

Signed at Washington, D.C., on October 26, 1965.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-11652; Filed, Oct. 28, 1965; 8:45 a.m.]

[Sugar Reg. 815.6, Amdt. 1]

PART 815—ALLOTMENT OF DIRECT-CONSUMPTION PORTION OF MAINLAND SUGAR QUOTA FOR PUERTO RICO

Calendar Year 1965

Basis and purpose. This amendment is issued under section 205(a) of the Sugar Act of 1948, as amended (hereinafter called the "Act") for the purpose of amending Sugar Regulation 815.6 (30 F.R. 212), which established allotments of the direct-consumption portion of the 1965 mainland quota for Puerto Rico.

This amendment of S.R. 815.6 is necessary to substitute final 1964 data on entries of direct-consumption sugar for estimates of such quantities, and to give effect to Sugar Regulation 811, Amdt. 5 (30 F.R. 12329) which established the direct-consumption portion of the 1965 mainland quota for Puerto Rico of 139,500 short tons, raw value, a quantity 1,500 tons greater than the quantity of 138,000 short tons, raw value, previously allotted.

The substitution of final data for estimates of 1964 direct-consumption entries in finding (7) results in the 1960–64 average annual marketings set forth below, which are used herein in determining the allotments:

Allottee	*Average annual marketings 1960–64 (short tons, raw value)*
Central Aguirre Sugar Co.	4,422
Central Roig Refining Co.	20,712
Central San Francisco	1,168
Puerto Rican American Sugar Refy., Inc	99,960
Western Sugar Refining Co.	24,453
Total	150,715

Findings heretofore made by the Secretary in the course of this proceeding (30 F.R. 212) provide that this order shall be revised without further notice or hearing for the purposes indicated above and such findings set forth the procedure for the revision of allotments.

Accordingly, allotments are herein established on the basis of and consistent with such findings.

Effective date. It is hereby determined and found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237) is impracticable and contrary to the public interest and, consequently, the amendment made herein shall become effective when filed for public inspection in the Office of the Federal Register.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act, and in accordance with paragraph (c) of § 815.6 of this chapter, it is hereby ordered that paragraph (a) of § 815.6 be amended to read as follows:

§ 815.1 Allotment of the direct-consumption portion of mainland sugar quota for Puerto Rico for the calendar year 1965.

(a) *Allotments.* The direct-consumption portion of the 1965 mainland sugar quota for Puerto Rico, amounting to 139,500 short tons, raw value, is hereby allotted as follows:

Allottee	*Direct-consumption allotment (short tons, raw value)*
Central Aguirre Sugar Co., a trust	4,592
Central Roig Refining Co.	19,134
Central San Francisco	1,248
Puerto Rican American Sugar Rfy., Inc	91,873
Western Sugar Refining Co.	22,628
Liquid sugar reserve for persons other than named above	25
Total	139,500

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies secs. 205, 209; 61 Stat. 926, 928; 7 U.S.C. 1115, 1119)

Done at Washington, D.C., this 27th day of October 1965.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 65-11686; Filed, Oct. 27, 1965; 1:02 p.m.]

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

[Milk Order No. 137]

PART 1135—MILK IN COLORADO SPRINGS-PUEBLO MARKETING AREA

PART 1137—MILK IN EASTERN COLORADO MARKETING AREA

Order Amending and Consolidating Orders

This order amends and consolidates under Part 1137 the order provisions of Parts 1135 (Colorado Springs-Pueblo) and 1137 (Eastern Colorado), combines the marketing areas defined under these two orders and redefines the new area as the Eastern Colorado marketing area. Because of the merger of the orders into Part 1137, Part 1135 is no longer appropriate, and therefore, is revoked and reserved for future reassignment to other programs.

Order Regulating the Handling of Milk in the Eastern Colorado Marketing Area

DEFINITIONS

AUTHORITY: The provisions of this Part 1137 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1137.0 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 Eastern Colorado marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, four cents per hundredweight or such amount not to exceed four cents per hundredweight as the Secretary may prescribe, with respect to:

(i) Producer milk (including that classified pursuant to § 1137.43(b) but excluding, in the case of a cooperative association which is a handler pursuant to § 1137.9(d), milk which was received at the pool plant of another handler) and such handler's own production;

(ii) Other source milk allocated to Class I pursuant to § 1137.46(a) (4) and (8) and the corresponding steps of §1137.46(b); and

(iii) 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 Sec. 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 hereby 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 orders regulating the handling of milk in the Colorado Springs-Pueblo and Eastern Colorado marketing areas shall be amended and consolidated into one order and the handling of milk in the consolidated marketing area, redefined as the Eastern Colorado marketing area, shall be in conformity to and in compliance with the terms and conditions of Part 1137, as amended, and as hereby further

amended. Part 1135 is hereby revoked and Part 1137 is hereby amended as follows:

DEFINITIONS

§ 1137.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1137.2 Department.

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

§ 1137.3 Secretary.

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

§ 1137.4 Person.

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

§ 1137.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(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

(c) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1137.6 Eastern Colorado marketing area.

"Eastern Colorado marketing area" hereinafter called the "marketing area" means all the territory within the perimetric boundaries of the counties listed below, including all territory (municipal, State, or Federal) installations, institutions and other establishments:

COLORADO COUNTIES

Adams.	Kit Carson.
Arapahoe.	Las Animas.
Boulder.	Larimer.
Cheyenne.	Lincoln.
Clear Creek.	Logan.
Crowley.	Morgan.
Custer.	Otero.
Denver.	Park.
Douglas.	Phillips.
Elbert.	Pueblo.
El Paso.	Sedgwick.
Gilpin.	Teller.
Huerfano.	Washington.
Jefferson.	Weld.
Kiowa.	Yuma.

KANSAS COUNTIES

Cheyenne.	Sherman.
Logan.	Wallace.

§ 1137.7 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section except the plant of a producer-handler or the plant of a handler exempt pursuant to § 1137.61.

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which (1) an amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as fluid milk products on routes, and (2) 10 percent or more of such receipts, or 12,000 pounds per day, whichever is less, are disposed of on routes in the marketing area; and

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved to distributing pool plant(s). Any supply plant which has qualified as a pool plant in each of the months of September through February (under either this part or under Part 1135 of this chapter, regulating the handling of milk in Colorado Springs-Pueblo marketing area) shall be a pool plant in each of the following months of March through August unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month.

§ 1137.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant and from which Grade A fluid milk products are moved during the month to a pool plant qualified pursuant to § 1137.7.

§ 1137.9 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) A cooperative association with respect to the milk of its member producers which is diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(d) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery 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 operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for all such milk. Such milk shall be deemed to have been received by such cooperative association at the location of the pool plant to which delivered; or

(e) A producer-handler, or any person who operates an other order plant described in § 1137.61.

§ 1137.10 Producer.

"Producer" means any person (other than a producer-handler as defined in any Federal order including this part) who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant within the limits set forth in paragraphs (a) and (b) of this section. The term shall not include such person with respect to milk diverted to a pool plant from an other order plant if the operator of both the transferor plant and the transferee plant have requested Class III classification in the reports of receipts and utilization filed with their respective market administrators:

(a) A cooperative association may divert for its account the milk of any member-producer from whom at least three deliveries of milk are received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of its member producer milk received at distributing pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative according to a method approved by the market administrator.

(b) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, from whom at least three deliveries of milk are received during the month at his distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk.

(c) For the purposes of the requirements of § 1137.7, milk diverted for the account of the operator of a distributing pool plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a) of this section, shall be included in the receipts of the pool plant from which diverted.

(d) For purposes of location adjustments pursuant to §§ 1137.52 and 1137.81, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

§ 1137.11 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a milk processing plant which distributes fluid milk products on routes in the marketing area and who receives no fluid milk products during the month from dairy farmers or any other source except by transfer from a pool plant. Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products (excluding transfers from pool plants) and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1137.12 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer. This definition shall not include milk diverted to an other order plant if such milk is fully subject to the pricing and pooling provisions of the other order.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1137.70:

(1) Received directly from such producer; 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 provided in § 1137.10;

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

(1) For which the cooperative association is the handler pursuant to § 1137.9(c), subject to the limitations and conditions provided in § 1137.10; and

(2) For which the cooperative association is the handler pursuant to § 1137.9(d).

§ 1137.13 Other source milk.

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

(a) Receipts during the month in the form of fluid milk products from any source except (1) producer milk; (2) fluid milk products received from other pool plants; and (3) receipts from a cooperative association pursuant to § 1137.9(d); and

(b) Products (except Class II products, received from pool plants) other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month, and any disappearance of nonfluid milk products not otherwise accounted for pursuant to § 1137.33.

§ 1137.14 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, concentrated milk, reconstituted milk or skim milk, fortified milk or skim milk (including "diet" foods), sweet cream, sour cream and sour cream mixtures disposed of under a Grade A label, half and half, or any mixture in fluid form of milk or skim milk and cream (except ice cream mix, frozen dessert mix, aerated cream, frozen cream, plastic cream, eggnog, and sterilized products packaged in hermetically sealed containers).

§ 1137.15 Route.

"Route" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product, other than a delivery to a pool plant or a nonpool plant.

MARKET ADMINISTRATOR

§ 1137.20 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.

§ 1137.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1137.22 Duties.

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

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties; in an amount and with surety thereon satisfactory to the Secretary;

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

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

(d) Pay out of the funds received by § 1137.88, the cost of his bond and those of his employees, his own compensation, and all other expenses (except those incurred under § 1137.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

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

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

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 1137.30 and 1137.31; or (2) payments pursuant to §§ 1137.80 through 1137.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address, the prices determined for each month as follows:

(1) On or before the sixth day of each month, the Class I price and Class I butterfat differential for the month, computed pursuant to §§ 1137.51(a) and 1137.53(a), respectively;

(2) On or before the sixth day of each month, the Class II and Class III prices and the Class II and Class III butterfat differentials for the preceding month computed pursuant to §§ 1137.51 (b) and

(c) and 1137.53 (b) and (c), respectively; and

(3) On or before the 12th day of each month, the uniform price for producer milk computed pursuant to §1137.71, and the butterfat differential computed pursuant to § 1137.82, for the preceding month;

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(k) Prepare and make available for the benefit of producers, consumers, and handlers, such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this part and which do not reveal confidential information:

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1137.46(a)(9) and the corresponding step of § 1137.46(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 § 1137.46 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

§ 1137.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month the following handlers shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler who operates a pool plant(s) shall report for each such plant:

(1) The receipts of milk and the pounds of butterfat contained therein:

(i) From producers, including that diverted pursuant to § 1137.10(b); and

(ii) From cooperative association handlers pursuant to § 1137.9(d);

(2) The quantities of skim milk and butterfat contained in (or used in the production of) fluid milk products received from other pool plants;

(3) The quantities of skim milk and butterfat contained in receipts of other source milk;

(4) The pounds of skim milk and butterfat contained in all fluid milk products on hand both in bulk and in packages at the beginning and at the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(6) In the case of diversions to nonpool plants, the following additional information;

(i) The name of the plant to which diverted;

(ii) The name of the individual dairy farmers so diverted;

(iii) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted;

(iv) The number of days milk of the dairy farmer was received at a pool plant of the diverting order; and

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

(b) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1137.9 (c) or (d) as follows:

(1) Receipts of skim milk and butterfat from producers;

(2) Utilization of skim milk and butterfat diverted to nonpool plants;

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler; and

(4) In the case of diversions to nonpool plants, the following additional information:

(i) The name of the plant to which diverted;

(ii) The name of the individual dairy farmers so diverted;

(iii) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted;

(iv) The number of days milk of the dairy farmer was received at a pool plant of the diverting order; and

(c) Each handler operating a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes.

§ 1137.31 Payroll reports.

On or before the 23d day of each month the following handlers shall report as follows to the market administrator:

(a) Each handler who operates a pool plant(s) shall submit to the market administrator his payroll for receipts of milk at each of his pool plants during the preceding month which shall show:

(1) The name and the days of delivery of each producer from whom milk was received during the month with the address of any producer for whom such information was not furnished previously;

(2) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer, identifying separately those producers for which a cooperative association is authorized to collect payments pursuant to § 1137.80(b);

(3) The amount of payment to each producer, to each cooperative association on behalf of its producer members and to each cooperative association handler; and

(4) The nature and amount of any deductions or charges involved in such payments.

(b) Each handler who operates a partially regulated distributing plant and elects to make payments pursuant to § 1137.62(a) shall report as required in paragraph (a) of this section except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers; and

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to § 1137.9 (c) and (d) the name and the number of days of delivery, with the address of any producers not previously reported, the total pounds of milk and the average butterfat content thereof which was received from each producer.

§ 1137.32 Other reports.

Each producer-handler, each handler required to report pursuant to § 1137.61 and each handler making payments pursuant to § 1137.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1137.33 Records and facilities.

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

(a) The receipts and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions, and the disbursement of money so deducted.

§ 1137.34 Retention of records.

All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which

such books and records pertain: *Provided*, That if within such 3-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 notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1137.40 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1137.30 shall be classified by the market administrator pursuant to the provisions of §§ 1137.41 through 1137.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk 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 the water originally associated with such solids.

§ 1137.41 Classes of utilization.

Subject to the conditions set forth in §§ 1137.42 through 1137.46, the classes of utilization shall be as follows:

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

(1) Disposed of in the form of a fluid milk product except:

(i) Any products fortified with added nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of milk, skim milk, or cream of the same butterfat content; and

(ii) As classified pursuant to paragraph (c) (2), (3) and (5) of this section;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; or

(3) Not specifically accounted for as Class II or Class III.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce cottage cheese except as classified pursuant to paragraph (c) (2) and (3) of this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

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

(2) In fluid milk products or cottage cheese disposed of in bulk form for livestock feed;

(3) In fluid milk products or cottage cheese which are dumped after prior notification to and opportunity for verification by the market administrator;

(4) Contained in any fortified fluid milk product in excess of the pounds classified as Class I milk pursuant to paragraph (a)(1)(i) of this section;

(5) Disposed of in fluid milk products in 2-gallon containers or larger (other than those designed for use as fluid milk dispensers or in fluid milk dispensing machines) to any commercial food processing establishment, which does not dispose of fluid milk products for fluid consumption, or which does not use fluid milk products in any other type of food prepared for consumption on the premises;

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

(7) In shrinkage at each pool plant allocated pursuant to § 1137.42(b)(1), not to exceed the following:

(i) Two percent of receipts of producer milk described in § 1137.12(a); plus

(ii) 1.5 percent of receipts from a cooperative association in its capacity as a handler pursuant to § 1137.9(d), except that if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be two percent; plus

(iii) 1.5 percent of receipts in bulk tank lots from other pool plants; plus

(iv) 1.5 percent of receipts of fluid milk products in bulk tank lots from an other order plant, exclusive of the quantity for which Class III utilization was requested by the operator of such plant and the handler; plus

(v) 1.5 percent of receipts of fluid milk products in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class III utilization was requested by the handler; less

(vi) 1.5 percent of disposition in bulk tank lots to other milk plants either by transfers or diversions;

(8) In shrinkage allocated pursuant to § 1137.42(b)(2); and

(9) In shrinkage resulting from milk for which a cooperative association is the handler pursuant to § 1137.9 (c) or (d) not being delivered to pool plants and nonpool plants, but not in excess of one-half percent of such receipts, exclusive of those for which farm weights and tests are used as the basis of receipt at the plant to which delivered.

§ 1137.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each of his pool plants as follows:

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

(b) If the pool plant 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 § 1137.41(c)(7); and

(2) Skim milk and butterfat in other source milk in the form of fluid milk products exclusive of that specified in § 1137.41(c)(7).

§ 1137.43 Responsibility of handlers and reclassification of milk.

(a) Except as provided in paragraphs (b) and (c) of this section, all skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) For the purposes of §§ 1137.41 through 1137.46, 1137.50 through 1137.54, and 1137.70 through 1137.72, milk delivered by a cooperative association in its capacity as a handler pursuant to § 1137.9(d) and milk delivered in bulk to a pool plant from a pool plant operated by a cooperative association shall be classified and allocated as producer milk according to the use or disposition by the receiving handler and the value thereof at class prices shall be included in the receiving handler's net pool obligations pursuant to § 1137.70;

(c) In the case of milk received from producers by a cooperative association handler pursuant to § 1137.9(d), the cooperative association shall be responsible for proving that skim milk and butterfat in such milk which was not received at a pool plant should be classified other than as Class I and the operator of a pool plant receiving skim milk and butterfat from a cooperative association handler pursuant to § 1137.9(d) shall be responsible for proving that such skim milk and butterfat shall be classified other than as Class I; and

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

§ 1137.44 Transfers.

Skim milk and butterfat disposed of in the form of a fluid milk product (or a Class II product moved between pool plants) by a handler, including a handler pursuant to § 1137.9(c), either by transfers or diversions, shall be classified as follows:

(a) At the utilization indicated by the operator of both plants, otherwise as Class I milk, if transferred from a pool plant to another pool plant except as provided in § 1137.43(b), subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1137.46(a)(9) and the corresponding step of § 1137.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1137.46(a)(4) and the corresponding step of § 1137.46(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 § 1137.46(a)(8) or (9) and the corresponding steps of § 1137.46(b), the skim milk and butterfat so transferred shall be classified so as to assign to producer milk the

greatest possible Class I utilization at both plants.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph, except that cream so transferred may be classified as Class III if the handler claims classification of such cream in Class III in his report pursuant to § 1137.30, the handler tags the container of such cream as for manufacturing purposes, and the handler gives the market administrator sufficient notice to allow him to verify the shipment:

(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 § 1137.30 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 or diverted 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 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;

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk to the extent of such uses at the plant and then as Class III milk; and

(v) If any skim milk or butterfat is transferred to a second plant under this paragraph, the same conditions of audit, classification and allocation shall apply;

(d) If transferred or diverted 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 or diverted in bulk form, classification shall be in Class I if allocated as a fluid milk product under the other order to Class I, in Class II if allocated to Class II under an order which provides three classes and in Class III if allocated to Class III under the other order or if allocated to Class II under an order which provides only two classes (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 or diversions in bulk form shall be classified as Class III to the extent of the Class III 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 only 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 another class shall be classified as Class III; 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 § 1137.41.

§ 1137.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors, the reports of receipts and utilization submitted pursuant to § 1137.30 and shall compute the skim milk and butterfat in each class at all pool plants of such handler and the pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1137.9 (c) and (d) and was not received at a pool plant. Producer milk for which a cooperative association is the responsible handler pursuant to § 1137.9 (c) or (d) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purpose of allocation pursuant to § 1137.46 and computation of obligation pursuant to § 1137.70.

§ 1137.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1137.45, the market administrator shall determine each month the classification of milk received from producers by each cooperative association handler pursuant to § 1137.9 (c) and (d) which was not received at a pool plant and the classification of milk received from producers, from a pool plant operated by a cooperative association and from cooperative association handlers pursuant to § 1137.9(d) at a pool plant(s) for each handler as follows:

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

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1137.41(c)(7);

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

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

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

(3) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

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

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

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

(5) Subtract, in sequence beginning with Class III in the order specified below, from the pounds of skim milk remaining in Class III and Class II;

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class III utilization, but not in excess of the pounds of skim milk remaining in Class III and Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I by 1.25; and

(b) Subtract from the result the sum of the pounds of skim milk in producer

milk, in receipts from pool plants of other handlers and in receipts in bulk from other order plants;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers or diversions to such plant, but not in excess of the pounds of skim milk remaining in Class III (and Class II), if Class III utilization was requested by the transferee handler and the operator of the transferor plant requests the lowest class utilization under the other order;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of bulk fluid milk products (and, for the first month the order is effective the pounds of fluid milk products in packaged form) on hand at the beginning of the month;

(7) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (5) (i) or (ii) of this paragraph (For purposes of this subtraction at a pool plant(s) operated by a cooperative association, skim milk in fluid milk products transferred to the pool plant of another handler shall be added to the remaining pounds of skim milk in each class prorata to the market average utilization announced pursuant to § 1137.22(1));

(9) Subtract, beginning with Class III, from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (5)(iii) of this paragraph pursuant to the following procedure:

(i) Such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class III and Class II milk combined;

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1137.22(1); or

(b) The pounds of skim milk remaining in each class at the pool plant(s) of the handler (For purposes of such computation at a pool plant(s) of a cooperative association, the pounds remaining shall include any remainder of the quantity added pursuant to subparagraph (8) of this paragraph);

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers according to the classification assigned pursuant to § 1137.44(a); and

(11) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in milk received from producers, from pool plants operated by cooperative associations, and from cooperative associations pursuant to § 1137.9(d), subtract such excess from the remaining pounds of skim milk in series beginning with Class III. 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

§ 1137.50 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, adjusted to a 3.5 percent 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 Department for the month. The basic formula price shall be rounded to the nearest full cent.

§ 1137.51 Class prices.

Subject to the provisions of §§ 1137.52 and 1137.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk.* The Class I price shall be the basic formula for the preceding month plus $2.10, plus or minus a supply-demand adjustment calculated for each month as follows:

(1) For each month calculate a utilization ratio as follows:

(i) Calculate a utilization ratio for the 12-month period ending with the second preceding month by dividing the total receipts of producer milk by the total gross volume of Class I milk (excluding interhandler transfers and any intermarket transfers that would result in the same milk being accounted for the second time as Class I milk) under this part and under Part 1134 of this chapter regulating the handling of milk in the Western Colorado marketing area, and multiply by 100;

(ii) Add or subtract, respectively, any amount by which the percentage computed pursuant to subdivision (i) of this subparagraph is greater or less than a comparable utilization percentage calculated using the 12-month period ending with the fourth preceding month; and

(iii) The resultant figure rounded to the nearest whole percentage shall be known as the utilization ratio.

(2) For each percentage by which the utilization ratio calculated for the month pursuant to subparagraph (1) of this paragraph exceeds 136, subtract from, or for each percentage by which it is less than 130, add to, the Class I price, 2 cents: *Provided*, That any additions or subtractions shall be limited to 50 cents per hundredweight.

(b) *Class II milk.* The Class II price shall be the basic formula price for the month plus 15 cents; and

(c) *Class III milk.* The Class III price shall be the basic formula price for the month.

§ 1137.52 Location adjustment to handlers.

(a) For milk received from producers and from cooperative association handlers pursuant to § 1137.9(d) at a pool plant, or diverted to a nonpool plant, located more than 50 miles by shortest highway distance as measured by the market administrator, from the plant to the nearest County Courthouse located in Denver, Colo.; Pueblo, Colo.; or Colorado Springs, Colo., and classified 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 § 1137.51(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 75 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1137.9(d), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1137.53 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1137.51 shall be increased or decreased, respectively, for each one-tenth of 1 percent of butterfat by the appropriate rate, rounded in each case to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Multiply the butter price specified in § 1137.50 for the preceding month by 1.30 and divide the result by 10;

(b) *Class II milk.* Multiply the butter price specified in § 1137.50 by 1.20 and divide the result by 10; and

(c) *Class III milk.* Multiply the butter price specified in § 1137.50 by 1.20 and divide the result by 10.

§ 1137.54 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

§ 1137.60 Producer-handler.

Sections 1137.40 through 1137.46, 1137.50 through 1137.54, 1137.70 through 1137.72, and 1137.80 through 1137.88, shall not apply to a producer-handler.

§ 1137.61 Exempt plants.

The provisions of this part shall not apply with respect to the operation of any plant specified in paragraph (a), (b), or (c) of this section except that the operator shall, with respect to total receipts of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A plant meeting the requirements of § 1137.7(a) which also meets the pooling requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk was disposed of during the month on routes in such other Federal order marketing area than was disposed of on routes in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A plant meeting the requirements of § 1137.7(a) which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which, the Secretary determines, a greater quantity of Class I milk is disposed of during the month on routes in this marketing area than is so disposed of in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(c) Any distributing plant from which less than an average of 300 pounds of Class I milk per day is disposed of on routes in the marketing area during the month.

§ 1137.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1137.30 and 1137.31(d) 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 §1137.70 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 III (or Class II) milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1137.70(e) and a credit in the amount specified in § 1137.84(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 §§ 1137.30 and 1137.31(d) 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 § 1137.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification 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 in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price).

DETERMINATION OF UNIFORM PRICE

§ 1137.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler and of each coopertive association handler pursuant to § 1137.9 (c) and (d) 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 § 1137.46(c), by the applicable class prices (adjusted pursuant to §§ 1137.52 and 1137.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1137.46(a)(11) and the corresponding step of § 1137.46(b), by the applicable class prices;

(c) Add the amounts computed under subparagraphs (1), (2), and (3) of this paragraph:

(1) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.46(a)(6) and the corresponding step of § 1137.46(b), for the current month;

(2) Multiply the difference between the appropriate Class III price for the preceding month and the appropriate Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II milk pursuant to § 1137.46(a)(6) and the corresponding step of § 1137.46(b), for the current month, or the hundredweight of skim milk and butterfat remaining in Class III milk after the calculation pursuant to § 1137.46(a)(9) and the corresponding step of § 1137.46(b), for the preceding month, less the hundredweight used in the computation pursuant to subparagraph (1) of this paragraph, whichever is less; and

(3) Multiply the difference between the appropriate Class I price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.46(a)(3) and the corresponding step of § 1137.46(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount.

(d) Add an amount equal to the difference between the value at the Class I price applicable to the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1137.46(a)(4) and the corresponding step of § 1137.46(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 weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to

§ 1137.46(a)(8) and the corresponding step of § 1137.46(b).

§ 1137.71 Computation of uniform price.

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

(a) Combine into one total the values computed pursuant to § 1137.70 for all handlers who filed the reports prescribed by § 1137.30 for the month and who made the payments pursuant to §§ 1137.80 and 1137.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1137.81;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1137.82 and multiplying the result by the total hundredweight of such milk;

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

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1137.70(e); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location adjustment is applicable.

§ 1137.72 Notification of handlers.

On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the total thereof;

(b) The uniform price computed pursuant to § 1137.71 and the producer location and butterfat differentials computed pursuant to §§ 1137.81 and 1137.82; and

(c) The amount to be paid by such handler pursuant to §§ 1137.84, 1137.86, 1137.87, and 1137.88 and the amount due such handler pursuant to § 1137.85.

PAYMENTS

§ 1137.80 Payment to producers.

Except as provided in paragraphs (b) and (c) of this section, each handler except a cooperative association shall make payment as specified in paragraph (a) of this section to each producer from whom milk is received:

(a)(1) On or before the last day of the month, to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received during the first 15 days of the month at the Class III price for the preceding month;

(2) On or before the 16th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1137.71, subject to the butterfat differential computed pursuant to § 1137.82 and location adjustment computed pursuant to § 1137.81, plus or minus adjustments for errors made in previous payments to such producers and less:

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

(ii) Marketing service deductions pursuant to § 1137.87; and

(iii) Proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1137.85 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(b)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective 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 cooperative association; and

(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 cooperative 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) For milk received from a pool plant operated by a cooperative association or by bulk tank delivery pursuant to § 1137.9(d), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price, adjusted by the applicable differentials pursuant to §§ 1137.81 and 1137.82, less payment made pursuant to subparagraph (1) of this paragraph.

(d) In making the payments to producers pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

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

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1137.81 Location differentials to producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from pool plants operated by cooperative associations, and from cooperative association handlers pursuant to § 1137.9(d) may be reduced by the amount of the location differential applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of such nonpool plant, each at the rates set forth in § 1137.52; and

(b) For purposes of computations pursuant to §§ 1137.84 and 1137.85 the uniform price shall be adjusted at the rates set forth in § 1137.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1137.82 Butterfat differential to producers.

The applicable uniform price to be paid producers pursuant to § 1137.80 shall be increased or decreased for each one-tenth of 1 percent which the butterfat content of milk is above or below 3.5 percent, respectively, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a), (b), and (c) of § 1137.53, weighted by the pounds of butterfat in producer milk in each class and the result rounded to the nearest tenth of a cent.

§ 1137.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1137.62, 1137.84, and 1137.86 and out of which he shall make all payments pursuant to §§ 1137.85 and 1137.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1137.84 Payments to the producer-settlement fund.

On or before the 14th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The sum of:

(1) The net pool obligation computed pursuant to § 1137.70 for such handler; and

(2) In the case of a cooperative association which is a handler the minimum amounts due from other handlers pursuant to § 1137.80(c).

(b) The sum of:

(1) The value of milk received by such handler from producers at the uniform price adjusted by applicable differentials pursuant to §§ 1137.81 and 1137.82;

(2) The amount to be paid to cooperative associations pursuant to § 1137.80 (c); and

(3) 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 III price) with respect to other source milk for which a value is computed pursuant to § 1137.70(e).

§ 1137.85 Payments out of the producer-settlement fund.

On or before the 15th day after the end of each month the market administrator shall pay to each handler the amount (for each pool plant, if applicable), if any, by which the amount computed pursuant to § 1137.84(b) exceeds the amount computed pursuant to § 1137.84(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1137.86 Adjustment of accounts.

(a) Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer, a cooperative association, or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

(b) Any unpaid obligation of a handler pursuant to § 1137.84 or paragraph (a) of this section relative to payments to the producer-settlement fund shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 1137.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1137.80, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

§ 1137.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that classified pursuant to § 1137.43(b) but excluding, in the case of a cooperative association which is a handler pursuant to § 1137.9(d), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1137.46(a) (4) and (8) and the corresponding steps of § 1137.46(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.

§ 1137.89 Termination of obligation.

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 2 years after the last day of the month during which the market administrator received the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section a handler's 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 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or offset by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1137.90 Effective time.

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

§ 1137.91 Suspension or termination.

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

§ 1137.92 Continuing obligations.

If upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any persons (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1137.93 Liquidation.

(a) Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(b) If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1137.100 Agents.

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

§ 1137.101 Separability of provisions.

If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provisions, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

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

Effective date. December 1, 1965.

Signed at Washington, D.C., on October 26, 1965.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 65–11653; Filed, Oct. 28, 1965; 8:45 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1965-Crop Supp. to Cotton Loan Program Regs. Amdt. 1]

PART 1427—COTTON

Subpart—1965-Crop Supplement to Cotton Loan Program Regulations

PREMIUMS AND DISCOUNTS FOR MICRONAIRE READINGS

In order to provide loan rates for upland cotton which more accurately reflect relative values of cotton having various micronaire readings, the 1965 Crop Supplement to Cotton Loan Program Regulations (30 F.R. 8451) is hereby amended by adding § 1427.1504 to read as follows:

§ 1427.1504 Premiums and discounts for micronaire readings on 1965-crop upland cotton.

In the case of each loan on upland cotton disbursed after October 31, 1965, the class card covering each bale must show the micronaire reading for the bale, as determined by the board of cotton examiners, and the applicable premium or discount for such micronaire reading shown in the following schedule shall be used in computing the loan rate for the bale, except that if the class card for such bale was issued prior to November 1, 1965, and does not show the micronaire reading, the loan rate for such bale shall be determined without regard to the micronaire premiums and discounts shown in the following schedule.

The premium or discount for each micronaire reading shall be as follows:

Micronaire reading	*Points per pound*
5.5 and above	Discount of 50.
5.2 through 5.4	Discount of 15.
4.9 through 5.1	Even.
3.6 through 4.8	Premium of 14.
3.3 through 3.5	Even.
3.0 through 3.2	Discount of 60.
2.7 through 2.9	Discount of 165.

(Cotton which has a micronaire reading of 2.6 or less is "wasty," and the loan rate for such cotton is reduced as provided in § 1427.1359 of this subpart.)

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 103, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1444, 1421)

Effective date. This amendment shall become effective upon filing with the FEDERAL REGISTER for publication.

Signed at Washington, D.C., on October 27, 1965.

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

[F.R. Doc. 65–11693; Filed, Oct. 28, 1965; 8:49 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Treasury Department

Section 213.3105 of Schedule A is amended to include certain staff assistant positions established by the Bureau of Customs to aid it in carrying out the provisions of Reorganization Plan No. 1 of 1965. The positions may be filled only by persons with at least one year of current service as a Presidential appointee in the Bureau but no such person may be employed in one of these positions for more than 3 years. Effective on publication in the FEDERAL REGISTER, subparagraph (8) is added to paragraph (b) of § 213.3105 as set out below.

§ 213.3105 Treasury Department.

* * * * * *

(b) *Bureau of Customs.* * * *

(8) Staff assistant positions established to aid in the reorganization of the Bureau of Customs under Reorganization Plan No. 1 of 1965, when filled by persons with 1 year or more of current service as a Presidential appointee in a key position in the Bureau. No person may be employed under this paragraph in excess of 3 years.

* * * * * *

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 65–11649; Filed, Oct. 28, 1965; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 65–EA–83]

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

Alteration of Control Zone

The Federal Aviation Agency is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to change the period of effectiveness of the Johnstown, Pa., part-time control zone. The present description indicates the zone is effective from 0700 to 2100 e.s.t., daily. Allegheny Airlines which is responsible for weather observations indicates a reference to "local time" is preferable so as to avoid rule making each time there is a change from eastern standard time to daylight saving time. It is also considered appropriate to reduce the effective time of the control zone on Saturday to coincide with the weather taking by Allegheny Airlines.

Since this amendment is minor in nature, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In view of the foregoing, the proposed regulation is hereby adopted effective immediately as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Johnstown, Pa., control zone the words, "effective from 0700 to 2100 hours e.s.t., daily" and insert in lieu thereof, "effective from 0800 to 2200 hours Sunday through Friday and 0800 to 1700 hours Saturday, all times local".

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

Issued in Jamaica, N.Y., on October 18, 1965.

OSCAR BAKKE,
Director, Eastern Region.

[F.R. Doc. 65-11603; Filed, Oct. 28, 1965; 8:45 a.m.]

[Airspace Docket No. 65-SO-81]

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 alter the Columbia, S.C., control zone.

An extension to the Columbia, S.C., control zone is presently designated "* * * within 2 miles each side of the Columbia VORTAC 329° radial * * *."

Because of a change in the airport configuration, it is necessary to redesignate this extension on the Columbia VORTAC 327° radial.

Since this change is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (29 F.R. 17581) the Columbia, S.C., control zone (29 F.R. 16969) is amended to read:

COLUMBIA, S.C.

Within a 5-mile radius of the Columbia Airport (latitude 33°56'26" N., longitude 81°07'13" W.); within 2 miles each side of the Columbia VORTAC 327° radial extending from the 5-mile radius zone to one mile NW of the VORTAC and within 2 miles each side of the Columbia ILS localizer W course extending from the 5-mile radius zone to one-half mile east of the OM.

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

Issued in East Point, Ga., on October 20, 1965.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 65-11604; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 65-SO-18]

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

Alteration of Control Area and Reporting Points

On August 12, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 10054) stating that the Federal Aviation Agency proposed to amend Part 71 of the Federal Aviation Regulations by redesignating Control 1152, Azalea LF Intersection and the Smelt Intersection.

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 est, January 6, 1966, as hereinafter set forth.

1. In § 71.163 (29 F.R. 17552) Control 1152 is amended to read as follows:

Control 1152 That airspace east of Charleston, S.C., bounded by a line beginning at:

Latitude 33°02'00" N., longitude 80°03'35" W., thence to latitude 32°54'35" N., longitude 79°40'00" W., thence to latitude 32°50'35" N., longitude 79°23'00" W., thence to latitude 32°36'15" N., longitude 78°26'35" W., thence to latitude 32°13'25" N., longitude 77°00'00" W., thence to latitude 31°43'15" N., longitude 77°00'00" W., thence to latitude 32°35'55" N., longitude 79°16'45" W., thence to latitude 32°49'40" N., longitude 80°03'50" W., thence to latitude 32°52'25" N., longitude 80°03'45" W., thence to latitude 32°53'45" N., longitude 80°07'15" W., thence to the point of beginning, excluding the portion below 2,000 feet MSL outside the United States.

2. In § 71.209 (29 F.R. 17721), the following LF intersections are amended to read:

a. Azalea INT: INT 188° bearing Wilmington (Carolina Beach), N.C., RBN, 110° bearing Charleston, S.C., RBN.

b. Smelt INT: INT 110° bearing Charleston, S.C., RBN, W boundary New York Oceanic control area at latitude 31°58' N., longitude 77°00' W.

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

Issued in Washington, D.C., on October 21, 1965.

JAMES L. LAMPL,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-11605; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 65-EA-34]

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

Alteration and Designation of Control Zones, Designation of Transition Areas

On page 8637 of the FEDERAL REGISTER for July 8, 1965, the Federal Aviation Agency published proposed regulations which would alter the Martinsburg, W. Va., control zone (29 F.R. 17614); designate a part-time control zone for Hagerstown Airport, Hagerstown, Md.; designate a 700-foot floor transition area over Hagerstown Airport, Hagerstown, Md., Martinsburg Airport, Martinsburg, W. Va., Winchester Airport, Winchester, Va.; designate a 1,200-foot floor Martinsburg, W. Va., transition area.

Interested parties were given 45 days after publication in which to submit written data or views. Mr. W. W. Rinn, Airport Manager of the Hagerstown Airport, Hagerstown, Md., objected to the designation of the part-time Hagerstown, Md., control zone because of potential confusion and the lack of suitable authority or agency to give proper attention to weather observations. It is felt that in view of the dissemination of the control zone designation in appropriate sectional and en route charts, confusion should be non-existent. Weather observations will be taken by Allegheny Airlines personnel and while not employees of this agency or the Weather Bureau, nevertheless, they will be just as well qualified with a requirement to follow the same procedures and criteria as any government employee.

Fairchild Hiller Corp. of Hagerstown, Md., raised a question as to the safety aspect of having a part-time control zone. They felt that the lack of contact between the airport and the controlling facility, Dulles approach control, did not contribute to safety; however, aircraft prior to using the part-time control zone are required by regulations to obtain their clearances into and out of the control zone in instrument weather. It is also intended to delete in Item 2 the reference to establishing dates and times in the Notices to Airmen.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., January 6, 1966, except as follows:

1. Under Item 2, description of the control zone, insert a period after the word "daily" and delete all thereafter.

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

Issued in Jamaica, N.Y., on October 18, 1965.

OSCAR BAKKE,
Director, Eastern Region.

1. Amend § 71.171 of the Federal Aviation Regulations by deleting the description of the Martinsburg, W. Va., control zone and insert in lieu thereof:

MARTINSBURG, W. VA.

Within a 5-mile radius of the center, 39°24'05" N., 77°59'00" W., of Martinsburg Airport, Martinsburg, W. Va.

2. Amend § 71.171 of the Federal Aviation Regulations by designating a Hagerstown, Md., control zone described as follows:

HAGERSTOWN, MD.

Within a 5-mile radius of the center, 39°42'30" N., 77°43'45" W., of Hagerstown Airport, Hagerstown, Md.; and within 2 miles

each side of the Hagerstown VOR 084° and 239° radials extending from the 5-mile radius zone to 5.5 miles SW of the VOR. This control zone is effective from 1000 to 1800 hours local time, daily.

3. Amend § 71.181 of the Federal Aviation Regulations by designating a 700-foot floor Hagerstown, Md., transition area described as follows:

HAGERSTOWN, MD.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 39°42'30" N., 77°43'45" W., of Hagerstown Airport, Hagerstown, Md.; and within 2 miles each side of the Hagerstown VOR 239° radial extending from the 7-mile radius area to 8 miles SW of the VOR.

4. Amend § 71.181 of the Federal Aviation Regulations by designating a 700- and 1,200-foot floor Martinsburg, W. Va., transition area described as follows:

MARTINSBURG, W. VA.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 39°24'05" N., 77°59'00" W., of Martinsburg Airport, Martinsburg, W. Va.

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at: 39°50'00" N., 77°47'00" W., to 39°50'00" N., 77°30'00" W., to 39°16'00" N., 77°30'00" W., to 39°05'26" N., 78°12'02" W., to 38°51'15" N., 78°12'21" W., to 38°43'00" N., 78°12'00" W., to 38°43'00" N., 78°58'00" W., to 39°18'00" N., 78°58'00" W., to 39°19'00" N., 78°50'00" W., to 39°24'00" N., 78°50'00" W., to 39°25'00" N., 78°58'00" W., to 39°30'00" N., 78°58'00" W., to 39°30'00" N., 78°30'00" W., to the point of beginning.

5. Amend § 71.181 of the Federal Aviation Regulations by designating a 700-foot floor Winchester, Va., transition area described as follows:

WINCHESTER, VA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 39°08'30" N., 78°08'30" W., of Winchester Airport, Winchester, Va.

[F.R. Doc. 65-11606; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 65-EA-26]

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

Alterations of Federal Airways and Designation of Federal Airway

On May 18, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 6735) stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would alter segments of VOR Federal airways Nos. 20, 143, 156, 157, 222, 258, and designate VOR Federal airway 308 from Moorefield, W. Va., to Nottingham, Md.

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

The Air Transport Association of America objected to the proposal, in part, by stating that there is no need for realigning V-258 to form a common intersection with V-37 and V-140. Additionally, the ATA recommended that V-258 be realigned between Roanoke, Va., and Beckley, W. Va., via direct radials. It was indicated that Piedmont Airlines would be required to fly additional mileage via the proposed V-258 alignment. The distance increase between Beckley and Roanoke via the V-258 realignment, as proposed, is approximately 2 nautical miles. It has been determined that the benefits to the airspace system and the greater airspace utilization intended by the proposals can be realized by intermediate and long-haul operations if VOR Federal airways Nos. 37, 140, and 258, converge at a common intersection. The common intersection will assist Air Traffic Control in determining more precisely when crossing traffic has cleared V-258.

Piedmont Airlines currently is authorized to operate IFR between Roanoke and Beckley via direct radials. Because of a three-center boundary problem in the Bluefield-Pulaski-Roanoke area, the Indianapolis and Atlanta Centers have delegated the airspace at 7,000 feet MSL and below to the Washington Center. This area was redelegated to Roanoke Tower. Piedmont Airlines could continue to operate between Roanoke and Bluefield, direct, in airspace delegated to Roanoke Tower without the designation of an airway between these points. It has been determined that the increased distance resulting from the realignment of V-258 is offset by the benefits to be derived as stated herein.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effected 0001, e.s.t., January 6, 1966, as hereinafter set forth:

Section 71.123 (29 F.R. 17509, 30 F.R. 1112, 2762, 6385, 7312, 7744, 8157, 8264) is amended as follows:

1. In V-20 ", including an N alternate via INT of South Boston 042° and Flat Rock, Va., 234° radials, and Flat Rock" is deleted.

2. In V-143 everything after "Lynchburg, Va.;" is deleted and "to Montebello, Va." is substituted therefor.

3. V-156 is amended to read as follows:

V-156 From Elkins, W. Va.; Gordonsville, Va.; Richmond, Va.; Harcum, Va.; to Cape Charles, Va.

4. In V-157 everything between "Richmond, Va.;" and "Baltimore, Md.;" is deleted and "Washington, D.C. (6 miles wide from INT of Brooke, Va., 132° and Washington 189° radials to Washington);" is substituted therefor.

5. In V-222 everything after "Lynchburg, Va.;" is deleted and "to Gordonsville, Va.," is substituted therefor.

6. V-258 is amended to read as follows:

V-258 From Charleston, W. Va.; Beckley, W. Va.; INT Beckley 125° and Roanoke, Va., 288° radials; Roanoke; INT Roanoke 145° and Danville, Va., 320° radials; to Danville.

7. V-308 is added as follows:

V-308 From INT Linden, Va., 273° and Casanova, Va., 284° radials; Casanova; INT Casanova 076° and Nottingham, Md., 271° radials; to Nottingham.

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

Issued in Washington, D.C., on October 21, 1965.

JAMES L. LAMPL,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-11607; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 65-WA-56]

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

Designation of Reporting Points

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Harrison, Ark., VOR, the Hot Springs, Ark., VOR, and the Dogwood, Mo., VOR, as domestic low altitude reporting points. The facilities are at the intersection of two or more airways, and without these reporting points the distance between the present reporting points would be approximately 175 miles.

Since this amendment is minor in nature and 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 January 6, 1966, as hereinafter set forth:

Section 71.203 (29 F.R. 17711) is amended by adding the following domestic low altitude reporting points:

1. Harrison, Ark.
2. Hot Springs, Ark.
3. Dogwood, Mo.

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

Issued in Washington, D.C., on October 21, 1965.

JAMES L. LAMPL,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-11608; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 64-EA-72]

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

Alteration of Transition Area

On page 6577 of the FEDERAL REGISTER for May 12, 1965, the Federal Aviation Agency published the final rule in the subject docket. However, in the description, one set of coordinates was inadvertently left out. The purpose of this rule is to amend § 71.181 of Part 71 to correct the Lima, Ohio, transition area.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In view of the foregoing, the amendment is hereby adopted effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by inserting

in the Lima, Ohio, transition area description the coordinates "40°51'00" N., 84°00'00" W.", following the coordinates "40°51'00" N., 84°30'00" W.".

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

Issued in Jamaica, N.Y. on October 18, 1965.

WAYNE HENDERSHOT,
Deputy Director, Eastern Region.

[F.R. Doc. 65-11609; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 65-CE-101]

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

Designation of Transition Area

On August 21, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 10911) stating that the Federal Aviation Agency proposed to designate controlled airspace in the vicinity of Storm Lake, Iowa.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. The one comment received was favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 6, 1966, as hereinafter set forth.

In § 71.181 (29 F.R. 17643) the following transition area is added:

STORM LAKE, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Storm Lake, Iowa, Municipal Airport (latitude 42°35'45" N., longitude 95°14'35" W.), and within 8 miles NE and 5 miles SW of the 142° and 322° bearings from the Storm Lake RBN, extending from 3 miles NW to 12 miles SE of the RBN.

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

Issued in Kansas City, Mo., on October 15, 1965.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 65-11610; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 65-CE-107]

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

Designation of Transition Area

On August 21, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 10911) stating that the Federal Aviation Agency proposed to designate controlled airspace in the vicinity of Estherville, Iowa.

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., January 6, 1966, as hereinafter set forth.

In § 71.181 (29 F.R. 17643) the following transition area is added:

ESTHERVILLE, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Estherville, Iowa, Municipal Airport (latitude 43°24'30" N., longitude 94°44'50" W.) and within 2 miles each side of the 175° bearing from Estherville Municipal Airport, extending from the 5-mile radius area to 8 miles S of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles W and 8 miles E of the 175° bearing from Estherville Municipal Airport, extending from the airport to 12 miles S of the airport.

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

Issued in Kansas City, Mo., on October 15, 1965.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 65-11611; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 65-WA-30]

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

Designation of Transition Area Extension

On July 23, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 9220) stating that the Federal Aviation Agency proposed to alter the Wilmington, N.C., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective January 6, 1966, as hereinafter set forth:

In § 71.81 the Wilmington, N.C., transition area (30 F.R. 7372, 8779) is amended as follows: "to point of beginning." is deleted and "to the point of beginning, and within 5 miles each side of the Wilmington, N.C., localizer SE course, extending from the LOM to 12 miles SE of the LOM." is substituted therefor.

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

Issued in Washington, D.C., on October 21, 1965.

JAMES L. LAMPL,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 65-11612; Filed, Oct. 28, 1965; 8:46 a.m.]

[Airspace Docket No. 65-WE-51]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On July 8, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 8638) stating that the Federal Aviation Agency proposed to alter Restricted Area R-6408 at Indian Creek, Utah.

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

The boundaries described in the notice of proposed rule making contained an error; however, the pictorial presentation indicated the correct boundaries and these are shown in the final rule.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 6, 1966, as hereinafter set forth.

In § 73.64 (29 F.R. 17768), the present boundaries to R-6408 Indian Creek, Utah, are deleted and the following new boundaries are substituted therefore:

Boundaries. Beginning at latitude 37°-59'00" N., longitude 109°23'00" W.; to latitude 37°57'00" N., longitude 109°25'00" W.; to latitude 37°58'00" N., longitude 109°40'-00" W.; to latitude 38°02'00" N., longitude 109°54'00" W.; to latitude 38°21'00" N., longitude 109°54'00" W.; to latitude 38°23'-00" N., longitude 109°52'00" W.; to latitude 38°22'00" N., longitude 109°38'00" W.; to latitude 38°21'00" N., longitude 109°31'00" W.; to latitude 38°16'00" N., longitude, 109°-24'00" W.; to latitude 38°06'00" N., longitude 109°22'00" W.; to the point of beginning.

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

Issued in Washington, D.C., on October 21, 1965.

CLIFFORD P. BURTON,
Acting Director, Air Traffic Service.

[F.R. Doc. 65-11613; Filed, Oct. 28, 1965; 8:46 a.m.]

[Docket No. 6992; Amdt. No. SFAR 10-1]

SFAR 10—MECHANICAL WORK PERFORMED ON UNITED STATES REGISTERED AIRCRAFT BY CERTAIN CANADIAN MECHANICS

Extension of Expiration Date

This amendment extends for six months the expiration date of Special Federal Aviation Regulation 10 which expires on November 1, 1965. The SFAR authorizes certain certificated Canadian mechanics to perform mechanical work, in Canada, on aircraft of United States Registry.

The Federal Aviation Agency has simultaneously with this amendment issued a notice of proposed rule making (Notice 65-32 [1]) proposing to amend Part 43 of the Federal Aviation Regulations to incorporate the authorization presently contained in SFAR 10. The purpose of this amendment is to temporarily extend the effectiveness of SFAR 10 to allow adequate time for the Agency to evaluate any comments received in response to Notice 65-32. Since this amendment merely extends for a 6-month period the authorization presently contained in SFAR 10 and imposes no additional burden on any person, I

[1] See F.R. Doc. 65-11688, in Proposed Rule Making Section, infra.

find that the notice and public procedure provisions of the Administrative Procedure Act need not be complied with and this amendment may be made effective on less than 30 days notice.

In consideration of the foregoing, the last sentence of SFAR 10 is hereby amended, effective immediately, by striking out the words "November 1, 1965" and inserting in place thereof the words "May 1, 1966".

(Secs. 101(7), 313(a), 601, 605, and 610, Federal Aviation Act of 1958; 49 U.S.C. 1301(7), 1354(a), 1421, 1425, and 1430)

Issued in Washington, D.C., on October 26, 1965.

D. D. THOMAS,
Deputy Administrator.

[F.R. Doc. 65-11687; Filed, Oct. 28, 1965; 8:49 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER F—POLICY STATEMENTS

[Reg. No. PS-29]

PART 399—STATEMENTS OF GENERAL POLICY

Passing Off of Foreign Carrier Affiliates and System Relationships of Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of October 1965.

In PSDR-11, dated May 11, 1965, 30 F.R. 6650, the Board proposed to issue a policy statement setting forth minimum safeguards to prevent the public from being misled as to the relationship between an affiliated[1] air carrier and foreign air carrier. The safeguards would protect against "passing off" by the affiliated carriers, i.e., against creation of the impression that the affiliated carriers were part of a unified system rather than independent entities or creation of a misleading impression as to which of the affiliated carriers would perform particular transportation. Activities resulting in passing off violate the prohibition in section 411 of the Federal Aviation Act against unfair and deceptive practices and unfair methods of competition.

Pan American World Airways filed the only comments on the proposal in PSDR-11. Pan American does not object to the proposed minimum safeguards. However, Pan American does contend that the Board's proposal would make the safeguards applicable to a geographical area which is unduly broad but to a class of carriers which is unduly narrow. We have carefully considered these objections, but for the reasons set forth below we have concluded that it would not be in the public interest to adopt the modifications proposed by Pan American. We have further determined that it would be in the public interest to adopt the policy statement as originally proposed.[2]

In regard to the geographical area of the policy statement's applicability, Pan American proposes that the statement be applicable only to activities in the United States, rather than, as proposed by the Board, to activities anywhere in the world. Pan American contends that to apply the safeguards to activities in foreign countries would be inconsistent with Board precedent and unsound as a matter of policy.

Contrary to Pan American's suggestion, there is Board precedent for controlling passing off outside the United States. It is true that in the cases cited by Pan American the Board has tended to limit its restrictions to activities in the United States.[3] However, the restrictions were so limited because the Board believed that in the context of the particular relationships, passing off was most likely to occur within the United States. There have been other cases in which the Board has perceived a threat of passing off outside of the United States and in these cases the Board has imposed restrictions on activities in foreign countries.[4]

The first policy consideration raised by Pan American is that in some areas of the world local customs or facilities make it impractical for affiliated carriers to achieve the degree of separation of activities which can be achieved in the United States. Pan American further states that there are countries in which a general agency relationship between Pan American and a foreign carrier is of greater value to Pan American than to the foreign carrier and that in these countries the foreign carrier would often prefer termination of the agency relationship to compliance with the safeguards of PSDR-11. Finally, Pan American alleges that in some countries the national carrier acts as agent for a number of foreign carriers. In these countries the result of the policy statement may be to impose restrictions on Pan American which are not imposed on foreign carriers competing with Pan American.

The matters raised by Pan American do not persuade the Board that it would be in the public interest to limit the policy statement to activities within the United States. Pan American's allegations are generalized and are not supported by specific illustrations. We find no reason to believe that the special circumstances described by Pan American are widespread, and in any event the existence of these circumstances would not necessarily warrant an exception to the safeguards of the policy statement. An exception would only be warranted when consistent with our responsibilities under section 411 of the Act to protect competing carriers and the traveling public. In view of this, and of the benefits to be attained from having the policy statement govern activities outside of the United States,[5] we believe the policy statement should be applicable on a world-wide basis, subject to the right of affected persons to prove that an exception is warranted by special conditions in a foreign country.[6]

Pan American further proposes that the coverage of the policy statement not be limited to an affiliated air carrier and foreign air carrier, but that the statement govern all carriers, or at least all affiliated carriers. We are not adopting this proposal because we are not convinced that there are significant passing-off problems involving carriers not covered by the policy statement. The only allegation by Pan American which indicates a need to extend the policy statement is an allegation that groups of affiliated foreign air carriers are now engaged in activities resulting in passing off. We will not act on the basis of this allegation since it is not supported by documentation or specific illustrations.[7] Moreover, the detailed standards of the policy statement were developed on the basis of the Board's experience with passing-off activities by an affiliated air carrier and foreign air carrier. These detailed standards are not necessarily appropriate for groups of affiliated foreign air carriers.

We wish to caution that our refusal to extend the coverage of the policy statement should not be taken as an indication that carriers not covered by the statement are free to pass off by means of activities prohibited therein. If such activities are engaged in, the Board may find, on the basis of an adjudicatory proceeding, that the activities have a tendency to pass off and thereby violate section 411 of the Act.

Accordingly, in consideration of the foregoing, the Board hereby amends Part 399, Statements of General Policy (14 CFR Part 399), effective November 29, 1965, as follows:

By adding to Subpart G a new § 399.82 to read:

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[1] For purposes of the policy statement, "affiliation" was defined to include various control and agency relationships.

[2] Certain clarifying changes, identified below, have been made in response to the comments of Pan American.

[3] See, e.g., Havana-New York Air Carrier Permit Case, 14 CAB 399 (1951); 16 CAB 371 (1952); Compania Dominicana, Cap-Haitien and Port-Au-Prince-Service 19 CAB 823 (1955); Order E-16117, Dec. 2, 1960, and orders cited therein.

[4] Even in these cases not all the restrictions were so limited. See Pan American Acquisition of LACSA, 35 CAB 343, 349, (1962) (condition "g") Pan American-Compania Mexicana Agreements, 31 CAB 960, 965 (1960) (condition "c").

[5] As noted in PSDR-11, when the policy statement governs carrier activities, it will ordinarily be unnecessary to consider passing-off problems in sections 401, 402, 408, 409, and 412 proceedings. Additionally, the policy statement will guide carriers in their relationships and enable them to avoid arrangements likely to result in passing off.

[6] A provision recognizing this exception has been added to the proposed policy statement.

[7] Pan American asks that it be given an opportunity to submit specific data before the Board rejects its proposed modifications. This would be inconsistent with orderly rule making procedure which requires that comments include data supporting controversial allegations.

§ 399.82 Passing off of carrier identity by affiliation between carriers.

(a) *Applicability.* This policy shall apply to proceedings in which the Board, in exercising its regulatory powers with respect to air carriers and foreign air carriers, is required to determine whether carriers have engaged in unfair or deceptive practices, or unfair methods of competition. The standards herein shall not be construed to supersede any action previously taken by the Board in a particular proceeding dealing with the subject matter of this statement, but to the extent not inconsistent therewith shall provide standards which supplement, or implement such specific Board action. The limitation of this policy statement to certain affiliated carriers should not be construed as an indication that the Board will permit other carriers to pass off by means of activities which are inconsistent with the minimum safeguards set forth in paragraph (c) of this section. In such cases the Board may determine in an adjudicatory proceeding that the activities engaged in have a tendency to pass off and constitute an unfair or deceptive practice or an unfair method of competition.

(b) *Definition.* For the purpose of this statement, the term "affiliation," as between an air carrier and a foreign air carrier, shall mean that one of the carriers directly or indirectly has one of the following relationships to the other:

(1) Owns or controls 10 percent or more of the securities of the other, with or without an accompanying power to vote;

(2) Is in control of the other within the meaning of section 408 of the Act;

(3) Has any of the interlocking relationships described in section 409 of the Act;

(4) Is jointly controlled with the other carrier, directly or indirectly by a third person;

(5) Provides general agency services for the other carrier.

For the purpose of this statement, "general agency services" shall mean services performed under an agreement between an air carrier and a foreign air carrier which provides for the general representation of one by the other in a specified area or point, in relation to services such as the following: solicitation and sale of passenger, express, and cargo transportation; airport transportation and hotel accommodations; local advertising and publicity, local sales offices; passenger services; local government representation; purchase, lease or other acquisition of equipment; or aircraft and transit services, aircraft inspection, aircraft dispatch.

(c) *Minimum safeguards.* The minimum safeguards which the Board will consider as adequate to foreclose passing off by affiliated carriers are as follows:

(1) An air carrier and any affiliated foreign air carrier shall not engage in joint public relations activities at points served by both carriers which tend to pass off the services of one carrier as the services of the other carrier or as part of a unified system of which each is a part;

(2) Where one affiliated carrier provides general agency services for the other carrier, at points served by both carriers, it shall specifically identify all flights of the other carrier as flights of that carrier without reference to any relationship to the carrier performing the agency services;

(3) All forms of display (including aircraft insignia), scheduled publications, advertising, or printed matter employed by affiliated carriers shall not state or imply that the services of either carrier are performed in common with the other carrier or as part of a single system. In cases where it is necessary to indicate that any agency service is performed by one affiliated carrier for the other, the references to the carrier performing the agency should be sufficiently subordinated to the name of the other carrier as to emphasize the limited role of the agent;

(4) Telephone facilities at points served by both carriers should preserve the identity of the individual carriers;

(5) Where joint traffic or sales facilities are maintained by affiliated carriers, the separate identity of each carrier should be maintained by reasonably comparable use of display advertising, desk-space, personnel uniforms, and other facilities and activities;

(6) Where one carrier sells time payment tickets for travel over the other carrier (except interline travel), the application form should identify the carrier performing the transportation;

(7) The respective personnel of the affiliated carriers shall preserve the individual identity of the respective carriers in all public dealings.

(d) *Unfair and deceptive practice.* It is the policy of the Board to regard any joint activity of an affiliated air carrier and a foreign air carrier as an unfair or deceptive practice or unfair method of competition where such joint activity does not satisfy the minimum safeguards enumerated in the preceding subsection.

(e) *Exceptions.* Exceptions to a safeguard set forth in paragraph (c) of this section may be recognized for activities in a foreign country if the Board finds that special circumstances pertaining to the country render the safeguard inappropriate. Exceptions on other grounds may be recognized pursuant to § 399.4.

(Secs. 204(a) and 411 of the Federal Aviation Act of 1958, 72 Stat. 743, 769; 49 U.S.C. 1324, 1381)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 65-11636; Filed, Oct. 28, 1965; 8:48 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[10th Gen. Rev. of Export Regs., Amdt. 6]

PART 379—EXPORT CLEARANCE AND DESTINATION CONTROL

Miscellaneous Amendments

1. Section 379.1 *General export clearance requirements,* paragraph (b)(2) *Shipments under a general license* is amended by changing the figure "$50" in subdivision (i) to read "$100".

2. Section 379.3 *Presentation of Shipper's Export Declaration,* paragraph (c)(2) *When mailing* is amended by changing the figure "$50" in subdivision (i) to read "$100".

(Sec 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487; E.O. 11038, 27 F.R. 7003)

RAUER H. MEYER, *Director, Office of Export Control.*

[F.R. Doc. 65-11629; Filed, Oct. 28, 1965; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

South Branch of Shrewsbury River, N.J.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.215 is hereby amended by adding a new paragraph (j)(3) to govern the operation of the Monmouth County bridge across South Branch of Shrewsbury River, N.J., effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.Y.; bridges.

* * * * *

(j) * * *

(3) Shrewsbury River (South Branch), N.J. (i) Monmouth County bridge between the Boroughs of Rumson and Sea Bright. From May 15 to September 30, inclusive, of each year, on Saturdays, Sundays, Memorial Day, Independence Day, and Labor Day, between the hours of 11 a.m., e.d.s.t., and 7 p.m.,

e.d.s.t., openings of the draw shall be made only if necessary, every half-hour on the hour and half-hour.

(ii) The draw shall not be opened for a sailboat unless it is propelled by auxiliary power or is towed by a powered vessel.

(Regs., Oct. 14, 1965, 1507-32 (South Branch of Shrewsbury River, N.J.)-ENGCW-ON; sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 65-11601; Filed, Oct. 28, 1965; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 14307]

PART 73—RADIO BROADCAST SERVICES

Skywave Transmission on Class I-B Clear Channels; Correction and Reissuance of Amendment

The report and order adopted in the above-captioned proceeding on September 29, 1965 (FCC-870), and the Appendix thereto containing the changes in the rules, are corrected to read as set forth in F.R. Document 65-11654.[1] The correction is in substance as follows: (1) Former Figures 1 and 6 of § 73.190 of the rules, which were deleted in the report and order mentioned, are being retained in that section, with those numbers, for use in connection with certain applications tendered on or before September 29, 1965; and (2) former Figures 1a and 6a of that section, which were renumbered in the report and order mentioned, will continue to be designated Figure 1a and Figure 6a, respectively.

Released: October 25, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-11637; Filed, Oct. 28, 1965; 8:49 a.m.]

[Docket No. 14307; FCC 65-870 (Corrected)]

PART 73—RADIO BROADCAST SERVICES

Skywave Transmission on Class I-B Clear Channels

1. On October 16, 1961, the Commission released a notice of proposed rule making in the above-captioned matter. Time for filing comments and reply comments expired on November 13, 1961, and November 27, 1961, respectively.

2. Comments supporting adoption of the proposed rule amendments were filed by L. B. Wilson, Inc., licensee of Station WCKY, Cincinnati, Ohio, and KSTP, Inc., licensee of Station KSTP, St. Paul, Minn. No reply comments or oppositions were filed.

3. The rule changes which are under consideration would make applicable to stations on Class I-B clear channels those curves entitled "Skywave Signals for 10 percent and 50 percent of the Time" and "Angles of Departure vs. Transmission Range" (Figures 1a and 6a of § 73.190) which were adopted [1] for use in Class I-A clear channels, and would conform the text of the appropriate sections of the rules to reflect proper usage of these curves.

4. As noted above, the rule amendments identical to those proposed in this proceeding have, by prior Commission action, been adopted and made applicable to Class I-A clear channels. In view of the meager record in this proceeding, the foregoing circumstance constitutes the dominant consideration upon which the Commission's decision turns. Accordingly, we find that the public interest will be served by adoption of the proposed rule amendments. Such action will provide for greater uniformity of domestic and international standards relating to standard broadcast stations; will eliminate the dual standards presently applicable to the clear channels; will serve to provide for more realistic depictions of service and interference; will appreciably simplify the computation process relative to evaluating service and interference; and will, as regards future assignments on Class I-B channels, result in more complete protection to existing service.

5. As was specified in the notice of proposed rule making in this proceeding, the rule amendments adopted herein will not require modification of any standard broadcast facility authorized prior to the effective date of amendment.[2] Likewise, all applications now pending before the Commission will be considered in accordance with the old standards.

6. Authority for adoption of the rule amendments herein is contained in sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended.

7. *Accordingly, it is ordered,* That effective November 29, 1965, the Commission's rules are amended as set forth below.

8. *It is hereby ordered,* That this proceeding is terminated.

Adopted: September 29, 1965.

Released: October 25, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[1] Infra.

[1] Report and order in the Clear Channel proceeding, Docket No. 6741, released Sept. 14, 1961, FCC 61-1106.

[2] Existing facilities on these channels thus need not be modified. However, in any determination involving the signals of such stations e.g., for the purpose of RSS calculations involving an existing station and applications filed subsequent to the adoption of this rule, the new curves will be used. Similarly, the secondary service of I-B stations will be evaluated on the basis of the new curves.

1. In § 73.182, paragraphs (s) and (t) are amended to read as follows:

§ 73.182 Engineering standards of allocation.

* * * * *

(s) The existence or absence of objectionable groundwave interference from stations on the same or adjacent channels shall be determined by actual measurements made according to the method described in § 73.186, or, in the absence of such measurements, by reference to the propagation curves of § 73.184. The existence or absence of objectionable interference due to skywave propagation shall be determined by reference to the appropriate propagation curves in Figure 1a or Figure 2 of § 73.190.

NOTE: In the case of applications tendered on or before September 29, 1965, for new or changed facilities on the clear channels listed in § 73.25(b), Figure 1 of § 73.190 shall be used instead of Figure 1a.

(t) In computing the fifty percent and ten percent skywave field intensity values of a station on a I-A or I-B clear channel, use shall be made of the appropriate curve set forth in Figure 1a of § 73.190, entitled "Skywave Signals for 10 percent and 50 percent of the time." In computing the 10 percent skywave field intensity values of a station on any other channel, use shall be made of the appropriate curve set forth in Figure 2 of § 73.190, entitled "10 percent Skywave Signal Range." (In the case of Class IV stations on local channels, simplifying assumptions may be made. See note to paragraph (a)(4) of this section.) The pertinent vertical angle shall be determined by use of Figure 6a of § 73.190, entitled "Angles of Departure vs. Transmission Range", for stations on all channels.

NOTE: In the case of applications tendered on or before September 29, 1965, for new or changed facilities on the clear channels listed in § 73.25(b), Figure 1 of § 73.190, entitled "Average Skywave Field Intensity," shall be used instead of Figure 1a, and Figure 6 of § 73.190, entitled "Variation with Distance of Two Important Parameters in the Theory of Skywave Propagation," shall be used instead of Figure 6a.

2. Section 73.185 is amended to read as follows:

§ 73.185 Computation of interfering signal from a directional antenna.

(a) In case of an antenna directional in the horizontal plane, the groundwave interference shall be computed from the calculated horizontal pattern by determining the vectors toward the service area of the station to be protected and applying these values to the groundwave curves set out in § 73.183.

(b) For signals from stations operating on clear channels, skywave interference shall be determined from Figures 1a and 6a of § 73.190.

(c) For signals from stations operating on regional and local channels, skywave interference is determined from Figures 2 and 6a of § 73.190. (Certain simplifying assumptions may be made in the case of Class IV stations on local channels. See note to § 73.182(a)(4).)

(d) Figure 6a of § 73.190, entitled "Angles of Departure vs. Transmission Range" is to be used in determining the angles in the vertical pattern of the antenna of an interfering station to be considered as pertinent to transmission by one reflection. To provide for variation in the pertinent vertical angle due to variations of ionosphere height and ionosphere scattering, the curves 4 and 5 indicate the upper and lower angles within which the radiated field is to be considered. The maximum value of field intensity occurring between these angles shall be used to determine the multiplying factor to apply to the 10 percent skywave field intensity value read from Figure 1a or Figure 2 of § 73.190. The multiplying factor is found by dividing the maximum radiation between the pertinent angles by 100 mv/m. (Curves 2 and 3 are considered to represent the variation due to the variation of the effective height of the E-layer while Curves 4 and 5 extend the range of pertinent angles to include a factor which allows for scattering. The dotted lines are included for information only.)

(e) Example of the use of skywave curves for stations operating on clear channels: Assume a Class II station with which interference may be expected is located at a distance of 450 miles from a proposed Class II station. The critical angles of radiation as determined from Figure 6a of § 73.190 are 9.6° and 16.3°. If the vertical pattern of the antenna of the proposed station, in the direction of the other station, is such that between the angles of 9.6° and 16.3° above the horizon the maximum radiation is 160 mv/m at 1 mile, the value of the 10 percent field, as read from Figure 1a of § 73.190, is multiplied by 1.6 to determine the interfering field intensity at the location in question.

(f) For stations operating on regional and local channels, interfering skywave field intensities shall be determined in accordance with the procedure specified in (d) of this section and illustrated in (e) of this section, except that Figure 2 of § 73.190 is used in place of Figure 1a of § 73.190. In using Figure 2 of § 73.190, one additional parameter must be considered, i.e., the variation of received field with the latitude of the path.

(g) Figure 2 of § 73.190, "10 percent Skywave Signal Range Chart," shows the signal as a function of the latitude of the transmission path, which is defined as the geographic latitude of the midpoint between the transmitter and receiver. When using Figure 2 of § 73.190, latitude 35° should be used in case the mid-point of the path lies below 35° North and latitude 50° should be used in case the mid-point of the path lies above 50° North.

(h) In the case of non-directional vertical antennas, the vertical distribution of relative fields for several heights, assuming sinusoidal distribution of current along the antenna, is shown in Figure 5 of § 73.190. In the case of directional antennas the vertical pattern in the great circle direction toward the point of reception in question must first be calculated. In cases where the radiation in the vertical plan, in the pertinent azimuth, contains a large lobe at a higher angle than the pertinent angle for one reflection, the method of calculating interference will not be restricted to that just described, but each such case will be considered on the basis of the best knowledge available.

(i) Example of the use of skywave curves for stations operating on regional and local channels: It is desired to determine the amount of interference to a Class III station at Portland, Oregon, caused by another Class III station at Los Angeles, California. The Los Angeles station is radiating a signal of 560 mv/m at one mile, in the horizontal plane, in the great circle direction of Portland, using a 0.5 wavelength antenna. The distance is 825 miles. From Figure 6a of § 73.190, the upper and lower pertinent angles are 7° and 3.5° and, from Figure 5 of § 73.190, the maximum radiation within these angles is 99 percent of the horizontal radiation or 554 mv/m at one mile. The midpoint latitude of the transmission path is 39.8° N and, from Figure 2 of § 73.190, the 10 percent skywave field at 825 miles is 0.050 mv/m for 100 mv/m radiated. Multiplying by 554/100 to adjust this value to the actual radiation gives 0.277 mv/m as to the interfering signal intensity. At 20 to 1 ratio, the limitation to the Portland station is to the 5.5 mv/m contour.

(j) When the distance is large, more than one reflection may be involved and due consideration must be given each appropriate vector in the vertical pattern, as well as the constants of the earth where reflection takes place between the transmitting station and the service area to which interference may be caused.

NOTE: In applying the provisions of this section to applications tendered on or before September 29, 1965, for new or changed facilities on the clear channels listed in § 73.25 (b), Figure 1 of § 73.190, entitled "Average Skywave Field Intensity," shall be used instead of Figure 1a, and Figure 6 of § 73.190, entitled "Variation with Distance of Two Important Parameters in the Theory of Skywave Propagation" shall be used instead of Figure 6a. In determining skywave interference from an antenna with a vertical pattern different from that on which Figure 1 of § 73.190 is predicated, it is necessary to compare the appropriate vectors in the vertical plane. The skywave curves shown in Figure 1 of § 73.190 are based on antenna systems having height of 0.311 wavelength (112°) and producing a vertical pattern as shown in Figure 5 of § 73.190. A non-directional antenna system, as well as a directfonal antenna system having vertical patterns other than essentially the same as shown, must be converted to the pattern of a 0.311 wavelength antenna having the same field intensity at the critical angle as does the pattern of the antenna involved.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

[F.R. Doc. 65-11654; Filed, Oct. 28, 1965; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-58]

PART 7—LIST OF FORMS, PART II, INTERSTATE COMMERCE ACT

Form for Designation of Agent for Service of Process by Motor Carriers and Brokers

At a session of the Interstate Commerce Commission, Insurance Board, held at its Office in Washington, D.C., on the 19th day of October A.D. 1965.

The matter of revision of Form BMC 3, Designation of Agent for Service of Process, required to be filed by motor carriers and brokers subject to Part II of the Act, being under consideration; and

It appearing, that Form BMC 3 should be revised to implement the rules and regulations governing designation of process agents by motor carriers and brokers prescribed pursuant to the order of the Commission, Insurance Board, entered 1st day of October 1965, and published in the FEDERAL REGISTER on October 14, 1965 (30 F.R. 13061), to be effective January 1, 1966;

It is ordered, That 49 CFR 7.3 be deleted in its entirety and that the following section be substituted in lieu thereof:

§ 7.3 BOC-3 Designation of Agent for Service of Process.

Section 221(c) of the Interstate Commerce Act. This form is required to be filed by all motor carriers and brokers prior to issuance of operating authority.

It is further ordered, That Form BMC 3 (49 CFR 7.3) Designation of Agent for Service of Process, which was adopted and prescribed pursuant to the minute of the Commission dated October 8, 1935, and revised in 1956 and 1961, be, and it is hereby, revised in accordance with the specimen of such form, now entitled BOC-3, which is attached hereto and made a part hereof,[1] and it is hereby adopted and prescribed for use by motor carriers and brokers subject to part II of the Act.

It is further ordered, That the Form BMC 3 (49 CFR 7.3) prescribed and adopted October 8, 1935, as revised in 1956 and 1961, be, and it is hereby, canceled.

(Secs. 204(a), and 221(c), 49 Stat. 546, 563, as amended; 49 U.S.C. 304, 321)

It is further ordered, That this order shall be effective January 1, 1966, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general

[1] Filed as part of the original document.

public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of Federal Register.

By the Commission, Insurance Board.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 65-11630; Filed, Oct. 28, 1965; 8:48 a.m.]

[No. 32153]

PART 10—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

Other Passenger-train

Order. At a session of the Interstate Commerce Commission, division 2, held at its office in Washington, D.C., on the 7th day of October A.D. 1965.

The Commission having under consideration a notice of proposed rule making published in the FEDERAL REGISTER on December 25, 1964 (29 F.R. 18437), which proposed amendment of the Uniform System of Accounts for Railroad Companies to provide for revenues received by railroad companies as direct grants or aid for providing passenger commuter or other passenger service, and due consideration having been given to the responses pursuant to said notice and all other aspects of this matter;

It is ordered, That operating revenue account 108, Other Passenger-train, under this part and title be and it is hereby amended by adding to the list of items thereunder, the following new item:

108 Other Passenger-train.

* * * * *

(d) Revenues receivable from States, cities, and other governmental agencies as direct grants or aid for providing passenger commuter or other passenger-train service. The amounts recorded in this account shall not include aid in the form of abatement or forgiveness of taxes, assumption by local governments of station maintenance costs, and other similar special indirect benefits, contributed by governmental agencies.

It is further ordered, That this amendment shall become effective on January 1, 1966, on and after which date all railroad companies subject to its provisions shall comply therewith; and,

It is further ordered, That service be made on all carriers by railroad which are affected hereby and that notice of this order be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing the order with the Director, Office of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12; interpret or apply sec. 20, 24 Stat. 386, as amended 49 U.S.C. 20.)

By the Commission, division 2.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 65-11631; Filed, Oct. 28, 1965; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Buffalo Lake National Wildlife Refuge, Tex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

TEXAS

BUFFALO LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Buffalo Lake National Wildlife Refuge, Tex., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 2,358 acres, are delineated on maps available at refuge headquarters, Umbarger, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex., 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) The open season for sport fishing on the refuge extends from March 1, 1966, through October 31, 1966, inclusive, on all waters of the Buffalo Lake National Wildlife Refuge; from January 1 through February 28, 1966, inclusive, and November 1 through December 31, 1966, inclusive, on all waters lying north of a diagonal line extending across the lake from the northwest corner of section 116 to the southeast corner of section 117. Also, the east shore line, for bank fishing only, from the above-mentioned diagonal line on the east shore to the Tierra Blanca Creek at the west refuge boundary except that said shore line will be closed to fishing during the waterfowl hunting season in that part of Texas.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1966.

ROBERT C. BROWN, *Refuge Manager, Buffalo Lake National Wildlife Refuge, Umbarger, Texas.*

OCTOBER 18, 1965.

[F.R. Doc. 65-11621; Filed, Oct. 28, 1965; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 8, 25]

ENTRY OF IMPORTED MERCHANDISE; PRODUCTION OF MISSING DOCUMENTS

Notice of Proposed Rule Making

It is proposed to reduce the period allowed for the production of customs invoices not filed at the time of entry to a maximum period of 3 months and to reduce the period allowed for the production of other customs documents not filed at the time of entry to a period of 3 months with authority to the collectors to grant one extension of 3 months, a maximum period of 6 months.

Accordingly, notice is hereby given that under authority of section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), and section 251 of the Revised Statutes (19 U.S.C. 66), it is proposed to amend the pertinent sections of the regulations as set forth in tentative form below:

§ 8.9 Entry without required invoice.

* * * * *

(c) Such person or his agent gives a bond on customs Form 7551 or 7553, or other appropriate form, for the production of the required invoice within 3 months from the date of entry of the merchandise.[13]

§ 8.15 Special Customs invoices required; exceptions.

* * * * *

(b) For all imported merchandise for which a special customs invoice is not required under paragraph (a) of this section and which is not provided for in paragraph (c) of this section, a commercial invoice prepared in the manner customary for commercial transactions involving articles such as are offered for entry and containing any special data required by § 8.13(h) shall be produced at the time of entry or within 3 months thereafter (see sec. 8.9). In lieu of a required commercial invoice, the collector in his discretion may accept a copy thereof made otherwise than by a photostatic process and bearing a declaration of the foreign seller or shipper, or of the importer, that it is a true copy, or a photostatic copy of the required invoice without such a declaration.

* * * * *

§ 25.16 Bonds and stipulations for production of missing documents; card memorandum; time for production of documents.

* * * * *

(c) Except when another period is fixed by law, including the regulations in this chapter, any document for the production of which a bond or stipulation is given shall be delivered to the collector of customs within 3 months from the date of the transaction in connection with which the bond or stipulation was given, or within any extension of such time which may be granted pursuant to § 25.18(a). If the period ends on a Saturday, Sunday, or holiday, delivery on the next business day shall be accepted as timely.

§ 25.18 Extensions of periods for compliance with requirements of bonds and stipulations.

(a) If a document (other than an invoice) referred to in § 25.16(c) is not produced within 3 months from the date of the transaction in connection with which the bond or stipulation was given, the collector, upon written application of the importer, in his discretion, may extend the period for 3 months but in no case to exceed 6 months from the date of such transaction.

* * * * *

This notice is published pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003). Prior to final action on the proposal, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Customs, Washington, D.C., and received within a period of 30 days from the date of the publication of this notice in the FEDERAL REGISTER. No hearings will be held.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: October 21, 1965.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 65-11646; Filed, Oct. 28, 1965; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 37]

[Docket No. 6797; Notice No. 65-16A]

[Technical Standard Order—C50b]

AIRCRAFT AUDIO AND INTERPHONE AMPLIFIERS

Extension of Comment Period

On July 27, 1965, the Federal Aviation Agency issued Notice 65-16 (30 F.R. 9319) soliciting public comment on a proposed revision to Technical Standard Order (TSO)—C50a that would add new environmental test procedures, protect against spurious radio frequency energy emission, and provide new design and applicability criteria for aircraft audio and interphone amplifiers. The closing date for receipt of comments was November 5, 1965.

It has subsequently been determined that the proposed standard for TSO-C50b was not readily available on the date the Notice was published in the FEDERAL REGISTER. For this reason, the specified comment date does not afford interested persons sufficient time within which to submit their comments.

Therefore, pursuant to the authority delegated to me by the Administrator (14 CFR 11.45), the time within which comments on proposed TSO-C50b (Notice 65-16) will be received is extended to January 5, 1966.

Interested persons are invited to participate in the proposed rule making in accordance with all other provisions of Notice 65-16.

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

C. W. WALKER,
Acting Director, Flight Standards Service.

[F.R. Doc. 65-11614; Filed, Oct. 28, 1965; 8:47 a.m.]

[14 CFR Part 39]

[Docket No. 6230]

AIRWORTHINESS DIRECTIVES

Marvel-Schebler Models MA-3, MA-3A, MA-3SPA, MA-4SPA, MA-4-5, MA-4-5AA, and MA-6 Carburetors

Amendment 39-11 (29 F.R. 16317), AD 64-27-2, as amended by Amendments 39-37 (30 F.R. 2134) and 39-91 (30 F.R. 8034) requires inspection, parts replacement, installation of the positive retraction float valve assembly, and safetying of the bowl screws by the use of safety wire on Marvel-Schebler Models MA-3, MA-3A, MA-3SPA, MA-4SPA, MA-4-5, MA-4-5AA, and MA-6 carburetors. Subsequent to the issuance of Amendment 39-91, the Agency has determined that the compliance time required in the AD should be shortened to ensure that all affected carburetors are reworked to preclude a possibility of further malfunctions. Therefore it is proposed to amend Part 39 of the Federal Aviation Regulations by further amending Amendment 39-11, as amended, to shorten the compliance time of the AD.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before November 29, 1965, will be considered by

the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations, by further amending Amendment 39–11 (29 F.R. 16317), AD 64–27–2, as amended by Amendments 39–37 (30 F.R. 2134) and 39–91 (30 F.R. 8034) as follows:

The compliance statement is amended to read as follows:

Compliance required at the next periodic inspection or when the carburetor is removed or disassembled, whichever occurs first after the effective date of this amendment.

Issued in Washington, D.C., on October 20, 1965.

G. S. MOORE,
Director, Flight Standards Service.

[F.R. Doc. 65–11643; Filed, Oct. 28, 1965; 8:49 a.m.]

[14 CFR Part 39]

[Docket No. 6989]

AIRWORTHINESS DIRECTIVES

Boeing Models 707 and 720 Series Airplanes

The Federal Aviation Agency is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Boeing Models 707 and 720 Series airplanes equipped with fan engines and strut mounted P_{t2} probes. There have been failures of the latches on the turbocompressor dipstick access door which results in the aft edge of the door becoming unfaired in flight and causes erroneous readings of the engine pressure ratio system on the subject airplanes. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require installation of an additional rotary latch on the aft edge of the turbocompressor dipstick access door on Boeing Model 707 and 720 Series airplanes equipped with fan engines and strut mounted P_{t2} probes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before November 29, 1965, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BOEING. Applies to Models 707 and 720 Series airplanes equipped with fan engines and strut mounted P_{t2} probes.

Compliance required within the next 1,800 hours' time in service after the effective date of this AD unless already accomplished.

There have been numerous instances of the aft edges of the turbocompressor dipstick access door, which is in front of the strut mounted P_{t2} probe, becoming unfaired in flight and causing erroneous readings of the EPR (engine pressure ratio) system. To prevent erroneous readings of the EPR system, install an additional rotary latch on the aft edge of the access door in accordance with Boeing Service Bulletin No. 2143 or later FAA-approved revisions or FAA equivalent approved by the Chief, Aircraft Engineering Division, Western Region.

(Boeing Service Bulletin No. 2143 covers this subject.)

Issued in Washington, D.C., on October 20, 1965.

G. S. MOORE,
Director, Flight Standards Service.

[F.R. Doc. 65–11644; Filed, Oct. 28, 1965; 8:49 a.m.]

[14 CFR Part 43]

[Special Federal Aviation Reg. 10]

[Docket No. 6992; Notice No. 65–32]

MECHANICAL WORK PERFORMED ON U.S. REGISTERED AIRCRAFT BY CERTAIN CANADIAN MECHANICS

Notice of Proposed Rule Making

The Federal Aviation Agency is considering amending Part 43 of the Federal Aviation Regulations to include therein the provisions of present Special Federal Aviation Regulation 10 (formerly Special Civil Air Regulation 377D).

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Docket Section, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before January 3, 1966, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Docket Section for examination by interested persons.

In 1951, pursuant to a reciprocal arrangement with the Canadian Government, the Civil Aeronautics Board adopted Special Civil Air Regulation No. 377, to allow maintenance to be performed on U.S. registered aircraft by Canadian mechanics even though they did not hold U.S. mechanic certificates. In addition, in the case of major repairs and alterations the Special Regulation provided for the return to service of the aircraft if the repair or alteration was examined, inspected, and approved by a Canadian Department of Transport Inspector of Aircraft.

Since work operations conducted under this regulation have been satisfactory, the regulation has been renewed, for limited periods, continuously since 1951. The last renewal, SFAR–10, terminates on November 1, 1965. During this period, the Canadian mechanics high standards of workmanship in assuring continued airworthiness of U.S. registered aircraft compare favorably with the standards in force in the United States. Moreover, the reciprocal arrangement has provided owners of U.S. registered aircraft operating in Canada with needed maintenance services. Thus, it appears that safety would be best served if those U.S. aircraft owners could continue to avail themselves of these services on a permanent basis.

Since Canadian terminology in their regulation implementing the arrangement varies somewhat from U.S. terminology, the Canadian terminology is inserted in parentheses where there is a variance in terms. For example, the U.S. term "mechanic" is followed by the Canadian term "engineer."

The Agency therefore proposes to amend FAR Part 43 to continue the authorization presently in SFAR–10. Since SFAR–10 would expire on November 1, 1965, that date is being extended for 6 months by a separate amendment issued simultaneously with this notice,[1] to provide adequate time for evaluation of any comments received in response to this proposal.

In consideration of the foregoing, it is proposed to amend Part 43 of Chapter I of Title 14 of the Code of Federal Regulations by inserting the following new section after § 43.15:

§ 43.17 Mechanical work performed on U.S. registered aircraft by certain Canadian mechanics (engineers).

(a) A person holding a valid mechanic certificate of competence (engineer license) and appropriate ratings issued by the Canadian Government is not considered to be an airman, within the meaning of section 101(7) of the Federal Aviation Act of 1958, with respect to the maintenance or preventive maintenance conducted in Canada in connection with aircraft of U.S. registry. Such a mechanic (engineer) may, notwithstanding any other section of the Federal Aviation Regulations, perform maintenance, preventive maintenance, and alterations in connection with aircraft of U.S. registry in Canada, if the operation is listed and certified to by him in a manner and on a form prescribed by the Administrator and is performed in conformance with this Part.

[1] See F.R. Doc. 65–11687, Title 14, Chapter I, in Rules and Regulations Section, *supra*.

(b) An aircraft, aircraft engine, or propeller on which a major repair or major alteration has been performed under this section may not be flown in air commerce until it has been examined, inspected, and approved by a Canadian Department of Transport Airworthiness Inspector. The approval must be indicated in a manner and on a form prescribed by the Administrator.

This amendment is proposed under the authority of section 101(7), 313(a), 601, 605, and 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1301(7), 1354(a), 1421, 1425, and 1430).

Issued in Washington, D.C., on October 26, 1965.

C. W. WALKER,
Director,
Flight Standards Service.

[F.R. Doc. 65-11668; Filed, Oct. 28, 1965; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-CE-127]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations which would designate controlled airspace at East St. Louis, Ill.

The Bi-State Parks Airport, East St. Louis, Ill., has commissioned an "MH" radio facility on their airport. A public-use instrument approach procedure has been developed utilizing this NAVAID facility which will become effective concurrently with the designation of the proposed controlled airspace.

The Federal Aviation Agency, having completed a comprehensive review of the terminal airspace structural requirements in the East St. Louis, Ill., terminal area, proposes the following airspace action:

Designate the East St. Louis, Ill., transition area as that airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bi-State Parks Airport (latitude 38°34'21" N., longitude 90°09'28" W.), and within 8 miles SW and 5 miles NE of the 132° bearing from the Bi-State Parks Airport extending from the airport to 12 miles SE, excluding that portion which overlies the Belleville, Ill., transition area.

The proposed transition area will provide protection for departing aircraft during climb from 700 to 1,200 feet above the surface. It will also provide protection for aircraft executing the prescribed instrument approach procedure during descent from 1,500 to 700 feet above the surface.

The floors of the airways which would traverse the transition area proposed herein would automatically coincide with the floor of the transition area.

Specific details of the new instrument approach procedure that would be required may be examined by contacting the Chief, Airspace Branch, Air Traffic Division, Central Region, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110. 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.

The public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Agency, 4825 Troost Avenue, Kansas City, Mo., 64110.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on October 6, 1965.

DONALD S. KING,
Acting Director, Central Region.

[F.R. Doc. 65-11615; Filed, Oct. 28, 1965; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 16255, RM-848; FCC 65-953]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS TALLAHASSEE, FLA.

Notice of Proposed Rule Making

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has under consideration a petition for rule making seeking an additional FM assignment in order to avoid a comparative hearing on competing applications, filed on September 3, 1965, by WMEN, Inc. WMEN, Inc. seeks the addition of Channel 281 to Tallahassee, Fla., as follows:

City	Channel No.	
	Present	Proposed
Tallahassee, Fla.	235, 255	235, 255, 281

3. Tallahassee, Fla., has a population of 48,174. It has two unlimited time AM stations, one of which is a Class IV, and two daytime-only stations. A station is in operation on FM Channel 255 and two applications have been filed for the remaining assignment, Channel 235. These applications, BPH-4127 and 4228, have been designated for comparative hearing and given Docket Numbers 15886 and 15887. One of the applicants is the petitioner WMEN, Inc., licensee of Station WMEN(AM) and the other is Tallahassee Appliance Corp. WMEN urges that the proposed addition of a third assignment to Tallahassee would avoid a costly and time consuming hearing, that there is a need and demand for the proposed assignment, and that the growth of the community and its position as the state capital renders more significant its importance to the surrounding area.

4. We are of the view that the petitioner's proposal should be considered in a rule making proceeding so that all interested parties may file their comments and pertinent data. Tallahassee already has the number of assignments which were contemplated at the time the FM Table was adopted. In view of this we invite comments in addition on the issue of whether the proposed assignment would not preclude their use or that of other channels in other communities which may in the future need such assignments.

5. Authority for the adoption of the amendment proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before November 22, 1965, and reply comments on or before December 7, 1965. All submissions by parties to this proceeding or persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Attention is directed to the provisions of paragraph (c) of § 1.419 which require that any person desiring to file identical documents in more than one docketed rule making proceeding shall furnish the Commission two additional copies of any such document for each additional docket unless the proceedings have been consolidated.

Adopted: October 20, 1965.

Released: October 25, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-11638; Filed, Oct. 28, 1965; 8:49 a.m.]

[1] Commissioners Hyde and Lee absent; Commissioner Cox dissenting.

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1030, 1031, 1032, 1038, 1039, 1051, 1062, 1063, 1067, 1070, 1078, 1079]

CHICAGO, ILL., MARKETING AREA ET AL.

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders or Appropriate Suspension of Certain Provisions Thereof

7 CFR Parts—	Marketing areas	Docket Nos.
1030	Chicago, Ill.	AO 161-A31.
1031	Northwestern Indiana	AO 178-A18.
1032	Suburban St. Louis	AO 313-A9.
1038	Rock River Valley	AO 194-A10.
1039	Milwaukee, Wis.	AO 212-A16.
1051	Madison, Wis.	AO 329-A3.
1062	St. Louis, Mo.	AO 10-A33.
1063	Quad Cities-Dubuque	AO 105-A20.
1067	Ozarks	AO 222-A18.
1070	Cedar Rapids-Iowa City	AO 229-A12.
1078	North Central Iowa	AO 272-A7.
1079	Des Moines, Iowa	AO 295-A8.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Conrad Hilton Hotel, 720 South Michigan Avenue, Chicago, Ill., beginning at 9:30 a.m., local time, on November 4, 1965, with respect to proposed amendments to, or appropriate suspension action concerning, the tentative marketing agreements and the orders, regulating the handling of milk in the Chicago, Ill.; Northwestern Indiana; Suburban St. Louis; Rock River Valley; Milwaukee, Wis.; Madison, Wis.; St. Louis, Mo.; Quad Cities-Dubuque; Ozarks; Cedar Rapids-Iowa City; North Central Iowa; and Des Moines, Iowa, marketing areas.

The public hearing is for the purpose of receiving evidence concerning whether emergency conditions exist which justify appropriate amendment or suspension of any relevant provisions of the Class I pricing sections of any or all of the aforesaid marketing orders so as to result in maintaining, for December 1965 and immediately ensuing months, approximately the same Class I minimum prices as are now effective under the orders. At the hearing, evidence also will be received on the question of whether the due and timely execution of the functions of the Secretary imperatively and unavoidably requires the omission of a recommended decision in connection with any emergency amendatory action that may be required with respect to any of the aforesaid orders.

This notice is issued on representation by Associated Dairymen, Inc., that emergency action to maintain present Class I price levels as indicated above under the orders is necessary.

The aforesaid proposals have not received approval of the Secretary of Agriculture.

Signed at Washington, D.C., on October 28, 1965.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 65-11712; Filed, Oct. 28, 1965; 10:09 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

FUNCTIONS DELEGATED TO REGIONAL COMMISSIONERS OF CUSTOMS AND DISTRICT DIRECTORS OF CUSTOMS

Notice of Distribution of Functions

There is published below Bureau of Customs Circular (MAN-9-CC) relating to the distribution of functions delegated to Regional Commissioners of Customs and District Directors of Customs.

Dated: October 26, 1965.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[Circular: MAN-9-CC]

OCTOBER 26, 1965.

To: All Principal Customs Field Officers.

Subject: Management; Functions of region, district, and port officers.

References: Treasury Department Order No. 165-17 (T.D. 56464, 30 F.R. 10913); and Customs Delegation Order No. 22 (T.D. 56470, 30 F.R. 11180).

1. PURPOSE. This circular gives instructions as to functions to be performed by regional, district, and port officers.

2. BACKGROUND. Under Custom Delegation Order No. 22 (T.D. 56470, 30 F.R. 11180), regional commissioners of customs and district directors of customs have legal authority to perform any functions heretofore vested in collectors of customs or appraisers of merchandise. However, the Bureau deems it advisable that, until further notice, the functions be distributed as hereinafter set forth.

3. ACTION. A. *Functions to be performed at the regional level.*

Functions to be performed at the regional level include:

(1) Liquidation of all drawback entries;

(2) Review of tentative appraisements or liquidations in appropriate cases;

(3) Review of protests;

(4) Decisions on all petitions for remission or mitigation of penalties or forfeitures, within the limits of the regional commissioner's delegated authority under Customs Delegation Order No. 22;

(5) Control of vessel measurement operations and dissemination of information as to tonnage of vessels admeasured;

(6) Systematic evaluation of field operations by liaison officers;

(7) Recognition of employee organizations;

(8) Approval of cartage contracts;

(9) Decisions on claims, including overtime claims filed by employees, death claims filed by survivors, tort claims, etc.;

(10) Matters pertaining to formal procurement contracts (other than construction contracts);

(11) Procurement of space and rentals, including regional negotiations with the General Services Administration; and

(12) Maintenance of customs laboratory services, including advice on scientific and technical matters; analysis of official samples of merchandise, development of weighing, sampling, testing procedures; evaluation of test results of commercial laboratories on certain commodities; and recommendations when such results may be used for customs purposes.

B. *Functions to be performed at customs district headquarters level.*

The following functions shall be performed at the customs district headquarters level:

(1) All functions performed at other ports of entry, as described in paragraph C. below;

(2) Assuring current and efficient performance of work in the district;

(3) Providing technical advice and assistance to ports;

(4) Developing district programs and procedures;

(5) Evaluating, and directing improvements in, existing district programs and procedures;

(6) Maintaining effective communications between ports of entry and higher levels of authority;

(7) Transmitting and interpreting orders, instructions, and other material received from regional headquarters and the Bureau, and assuring that they are understood and carried out;

(8) Maintaining good public relations;

(9) Coordinating inspection and control and classification and value operations at the ports;

(10) Maintaining contact with importers, customhouse brokers, carriers' representatives, and others engaged in international trade, and obtaining cooperation of these individuals and organizations in developing and installing improved procedures and practices;

(11) Proceedings for revocation or suspension of customhouse brokers licenses;

(12) Liquidation of entries, except drawback entries; and

(13) Appraisement of merchandise.

C. *Functions to be performed at ports of entry.*

The following functions shall be performed at ports of entry:

(1) Direct administrative supervision over port activities;

(2) Acceptance of all types of customs entries of merchandise for consumption, warehouse, exhibition or other temporary use; transportation under bond, etc.;

(3) Acceptance of various types of bonds, relative to production of missing documents, redelivery of merchandise, exportation of merchandise, payments of amounts due, etc.;

(4) Examination of merchandise;

(5) Inspection and release of imported cargo;

(6) Clearing passengers traveling by all types of carriers;

(7) Discharging, examining, and delivering passengers' baggage;

(8) Registration of foreign articles taken out of the United States;

(9) Acceptance of estimated duties and taxes at time of entry;

(10) Acceptance of additional amounts found to be due upon liquidation;

(11) Acceptance of protests;

(12) Acceptance of appeals to reappraisement;

(13) Acceptance of drawback claims;

(14) Boarding of vessels and other carriers;

(15) Entrance and clearance of vessels and aircraft;

(16) Assessment of tonnage taxes;

(17) Issuance of permits to lade and unlade;

(18) Acceptance and approval of requests for overtime services;

(19) Admeasurement of vessels;

(20) Marine documentation;

(21) Renewal of licenses, changes of masters, recording bills of sale, preferred mortgages, etc.;

(22) Examination and inspection of export shipments;

(23) Supervision and control of merchandise in bonded warehouses;

(24) Supervision of operations in foreign-trade zones;

(25) Seizure of merchandise and assessment of penalties;

(26) Maintenance of records of liquidated entries;

(27) Consultations with importers with a view to answering questions and resolving problems relative to liquidation of import and drawback entries;

(28) Organization and administration of customs sales of unclaimed, abandoned, and seized merchandise; and

(29) Furnishing information by telephone and by mail, concerning all types of importations and the customs requirements for entry, release, quota merchandise, narcotics, gold, arms, and ammunition, etc.

D. *Functions other than those enumerated.*

Any functions delegated by the Commissioner not enumerated in this circular shall be performed at the regional level or at such other level as the regional commissioner shall designate.

4. EFFECTIVE DATE

This circular shall be effective upon receipt.

File: CC 191.8 I

LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 65-11700; Filed, Oct. 28, 1965; 8:49 a.m.]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DEFENSE INDUSTRY BULLETIN

Articles and Items of Interest for Publication

The Assistant Secretary of Defense (Public Affairs) approved the following on October 15, 1965: Ref: (a) DOD Directive 5122.5, Assistant Secretary of Defense (Public Affairs), July 10, 1961.

I. *Purpose.* This instruction assigns responsibility and provides uniform guidance for preparing and reporting information to the Office of the Assistant Secretary of Defense (Public Affairs) concerning Department of Defense policies, programs, and procedures of interest to industry for publication in the monthly publication, Defense Industry Bulletin.

II. *Applicability.* A. The provisions of this instruction apply to all elements of the Office of the Secretary of Defense, the Defense agencies, and Military De-

partments (hereinafter referred to collectively as DOD Components).

B. Its provisions do not alter the provisions of reference (a) which requires that information of sufficient importance to warrant a DOD press release will continue to be processed through the Directorate for Information Services, OASD (PA).

III. *Objective and responsibility.* A. The objective of this instruction is to apprise defense contractors, trade associations, and other business organizations through the Defense Industry Bulletin of DOD activities which have an impact on business and industry, so as to:

1. Achieve widespread awareness and understanding of Department of Defense plans, programs and procedures governing research, development and production, and the procurement of goods and services.

2. Serve as a guide to the business community and stimulate ideas among its members for solution of problems arising in the fulfillment of defense requirements.

3. Establish a medium of communication through which Department of Defense can make information available.

B. The Directorate for Community Relations, OASD(PA), will be responsible for publishing the Defense Industry Bulletin and for maintaining the current distribution lists for the publication.

IV. *Reporting.* DOD Components will submit the following to the Editor, Defense Industry Bulletin, Office of the Assistant Secretary of Defense (Public Affairs), at any time during the month but not later than the 20th day of each month; the first report will be due on December 20, 1965 (negative report required):

A. Appropriate stories and articles, not to exceed 2,000 words in length, with supporting photographs or illustrations for inclusion in the publication.

B. Material covering subjects that are timely and of particular interest to those organizations oriented toward defense contracting, including, but not necessarily limited to, articles and short items related to research and development; procurement; contract management; small business opportunity, Department of Defense policy that in any way affects industry; management improvement programs such as Zero Defects; examples of successful programs conducted by Defense and industry working together; explanation of new DOD Issuances that affect defense industry; major organizational changes; and items of interest that DOD components wish to bring to the attention of industry.

C. In addition, pertinent information shall be submitted for inclusion in the following sections of the Defense Industry Bulletin (negative report required).

1. *About people.* Key personnel appointments and reassignments.

2. *Speakers calendar.* Public appearance and speaking commitments of key officials projected up to 90 days.

3. *Bibliography.* Official instructions, directives, regulations and other publications.

4. *Meetings and symposia.* Scheduled technical meetings and symposia sponsored by DOD organizations projected up to 90 days.

5. *Calendar of events.* Meetings, conferences, briefings, demonstrations, exercises, etc., projected up to 90 days.

D. Nothing in this paragraph should be construed as requiring submission of an article or items every month if no significant information exists. Only information that is of sufficient importance to industry to warrant dissemination through the Defense Industry Bulletin is desired.

V. *Report control symbol.* The reporting requirements of this instruction have been assigned Report Control Symbol DD-PA(M) 692.

VI. *Implementation.* Each DOD Component will designate one action officer and one alternate to coordinate with the Editor, Defense Industry Bulletin in carrying out the provisions of this instruction. Two copies of supplementing regulations or instructions and the names of the action officers and alternates will be forwarded to the Assistant Secretary of Defense (Public Affairs) within sixty (60) days after the effective date of this instruction.

VII. *Effective date.* This instruction is effective immediately.

Dated: October 25, 1965.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 65-11602; Filed, Oct. 28, 1965; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

ANNUAL SURVEYS IN MANUFACTURING AREA

Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to continue or initiate the annual surveys listed below for the year 1965 and for each year thereafter, under the authority of Title 13, United States Code, sections 181, 224, and 225 approved August 31, 1954. These surveys, most of which have been conducted for many years, are significant in the manufacturing area and on the basis of information and recommendations received by the Bureau of the Census, the data have significant application to the needs of the public and industry and are not available from non-Governmental or other Governmental sources.

The establishments covered by these surveys directly account for the bulk of all manufacturing employment. The information to be developed from these surveys is necessary to an adequate measurement of total industrial production. Government agencies need data on the output of these industries. Manufacturers in the industries involved, as well as their suppliers and customers and general public, have all requested such data in the interest of business efficiency and stability.

Such surveys, if conducted, shall begin not earlier than 30 days after publication of this notice in the FEDERAL REGISTER.

Report forms in most instances furnishing data on shipments and/or production and in some instances on stocks, unfilled orders, orders booked, consumption, etc., will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys. The surveys have been arranged under major group headings shown in the revised Standard Industrial Classification Manual (1957 edition) promulgated by the Bureau of the Budget for the use of Federal statistical agencies.

MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS

Prepared animal feeds.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Stocks of wool (as of Jan. 1, 1966).
Cotton and synthetic woven goods finished.
Narrow fabrics.
Knit cloth for sale.
Woolen and worsted machinery activity.
Yarn production.
Rugs, carpets, and carpeting.

MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Gloves and mittens.
Apparel.
Brassieres, corsets, and allied garments.
Sheets, pillowcases, and towels.

MAJOR GROUP 24—LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Hardwood plywood.
Softwood plywood:
Lumber.

MAJOR GROUP 25—FURNITURE

Office furniture.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Pulp, and detailed grades of paper and board.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Sulfuric acid.
Industrial gases.
Inorganic chemicals.
Pharmaceutical preparations, except biologicals.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Plastics products.

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers (by method of construction).

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Consumer, scientific, technical, and industrial glassware.
Fibrous glass.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Steel mill products.
Insulated wire and cable.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Aluminum foil, converted.
Steel power boilers.
Heating and cooking equipment.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Internal combustion engines.
Tractors.
Farm machines and equipment.
Mining machinery and equipment.
Vending machines.
Air-conditioning and refrigeration equipment.
Office, computing, and accounting machines.
Pumps and compressors.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Radios, television, and phonographs.
Motors and generators.
Wiring devices and supplies.
Switchgear, switchboard apparatus, relays, and industrial controls.
Selected electronic and associated products.
Electric housewares and fans.
Electric lighting fixtures.

MAJOR GROUP 38—PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKS

Selected instruments and related products.
Atomic energy products and services.

The following list of surveys represents annual counterparts of monthly, quarterly, and semiannual surveys and will cover only those establishments which are not canvassed or do not report in the more frequent survey. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly, quarterly, and semiannual reports except for Construction Machinery which will additionally call for data on shipments of power cranes and shovels, concrete mixers, and attachments for contractors' off-highway type tractors. Also, reports on man-made fiber, silk, woolen and worsted fabrics, on finishing plants, and on piece goods inventories listed below will call for information relating to the monthly fluctuations of stocks and unfilled orders for woven fabrics in addition to the annual production data.

MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS

Flour milling products.
Confectionery products.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Man-made fiber, silk, woolen, and worsted fabrics.
Finishing plant report—broad woven fabrics.
Piece goods inventories and orders.
Broad woven goods (cotton, wool, silk, and synthetic).
Consumption of wool and other fibers, and production of tops and noils.

MAJOR GROUP 25—FURNITURE AND FIXTURES

Mattresses and bedsprings.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Consumers of wood pulp.
Converted flexible packaging products.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Superphosphates.
Paint, varnish, and lacquer.

MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES

Asphalt and tar roofing and siding products.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Rubber.

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers.

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Glass containers.
Refractories.
Clay construction products.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Nonferrous castings.
Steel forgings.
Iron and steel foundries.
Magnesium mill products.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Plumbing fixtures.
Steel shipping barrels, drums, and pails.
Closures for containers.
Metal cans.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Construction machinery.
Metalworking machinery.
Farm pumps.
Fans, blowers, and unit heaters.
Typewriters

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Electric lamps.
Fluorescent lamp ballasts.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft engines.
Complete aircraft.
Backlog of orders for aircraft, space vehicles, missiles, engines, and selected parts.
Aircraft propellers.
Truck trailers.

Also, the Annual Survey of Manufactures will be conducted and will call for general statistical data such as employment, payroll, manhours, capital expenditures, cost of materials consumed, etc., in addition to information on value of products shipped and quantity data for selected classes of products. This survey, while conducted on a sample basis, will cover all manufacturing industries. Data on employment and payrolls for auxiliary establishments of manufacturing companies such as central administrative offices, warehouses, etc., will be included.

A survey of Research and Development costs will also be conducted. The data to be obtained will be limited to total research and development costs of work performed by the company, total cost of research and development work performed for the Federal Government, and, for comparative purposes, total net sales and receipts, and total employment of the company.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C., 20233.

Any suggestions or recommendations concerning the subject matter of these proposed surveys should be submitted in writing to the Director of the Census within 30 days after the date of publication and will receive consideration.

Dated: October 18, 1965.

A. ROSS ECKLER,
Director.

[F.R. Doc. 65-11599; Filed, Oct. 28, 1965; 8:45 a.m.]

SURVEY OF DISTRIBUTORS STOCKS OF CANNED FOODS

Notice of Consideration

Notice is hereby given that the Bureau of the Census is planning to conduct its usual annual survey of inventories covering 30 canned and bottled products, including vegetables, fruits, juices, and fish as of December 31, 1965, under the provisions of the Act of Congress approved August 31, 1954, 13 U.S.C. 181, 224, and 225. This survey, together with the previous surveys, provides the only continuing source of information on stocks of the specified canned foods held by wholesalers and in warehouses of retail multiunit organizations.

On the basis of information received by the Bureau of the Census, these data will have significant application to the needs of the public, industry and the distributive trades, and governmental agencies and are not publicly available from nongovernmental or other governmental sources.

Such survey, if conducted, shall begin not earlier than 30 days after publication of this notice in the FEDERAL REGISTER.

Reports will not be required from all firms but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods, in order to provide year-end inventories of the specified canned food items with measurable reliability. These stocks will be measured in terms of actual cases with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, a number of selected multiunit firms will be requested to provide information on the location of establishments maintaining canned food stocks that are not currently reporting in the Canned Food Survey.)

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C., 20233.

Any suggestions or recommendations concerning the subject matter of this proposed survey should be submitted in writing to the Director of the Census within 30 days after the date of this publication and will receive consideration.

A. ROSS ECKLER,
Director, Bureau of the Census.

[F.R. Doc. 65-11600; Filed, Oct. 28, 1965; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15856, 15857; FCC 65M-1389]

CHAPMAN RADIO AND TELEVISION CO. AND ANNISTON BROADCASTING CO.

Order Continuing Hearing

In re applications of William A. Chapman and George K. Chapman, doing business as Chapman Radio and Television Co., Anniston, Ala., Docket No. 15856, File No. BPCT-3317; Anniston Broadcasting Co., Anniston, Ala., Docket No. 15857, File No. BPCT-3320; for construction permit for new television broadcast station.

It is ordered, This 26th day of October 1965, that the hearing is rescheduled from October 27 to November 16, 1965.

Released: October 26, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-11639; Filed, Oct. 28, 1965; 8:49 a.m.]

[Docket Nos. 16209, 16210; FCC 65M-1391]

ELYRIA-LORAIN BROADCASTING CO. ET AL.

Order Continuing Hearing

In re applications of Elyria-Lorain Broadcasting Co., Docket No. 16209, File Nos. BR-2173, BRH-571, for renewal of licenses of Stations WEOL AM and FM, Elyria, Ohio; and Loren M. Berry Foundation, (Transferor), and The Lorain County Printing & Publishing Co., (Transferee), Docket No. 16210, File No. BTC-4707, for transfer of control of Elyria-Lorain Broadcasting Co.

Pursuant to a prehearing conference as of this date, and in considering a petition filed October 14, 1965, on behalf of WWIZ, Inc., and Sanford A. Schafitz, seeking intervention in this proceeding pursuant to § 1.223 of the Commission's rules: *It is ordered*, This 26th day of October 1965, that said petition to intervene is granted to the extent that WWIZ, Inc., is made a party to the proceeding and is denied in all other respects;

It is further ordered, That the hearing now scheduled for November 15, 1965, be and the same is hereby rescheduled for February 1, 1966, 10 a.m., in the Commission's offices, Washington, D.C.

Released: October 26, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-11640; Filed, Oct. 28, 1965; 8:49 a.m.]

[Docket Nos. 16253, 16254; FCC 65-949]

KEITH L. REISING AND KENTUCKY CENTRAL BROADCASTING, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Keith L. Reising, Louisville, Ky., Docket No. 16253, File No. BPH-4207; requests: 106.9 mc, No. 295; 25 kw; 503 ft.; Kentucky Central Broadcasting, Inc., Louisville, Ky., Docket No. 16254, File No. BPH-4345; requests: 106.9 mc, No. 295; 34.2 kw; 132 ft.; for construction permits.

1. The Commission has before it for consideration the above-captioned and described applications and a request for waiver by Kentucky Central Broadcasting, Inc., to permit the acceptance of its application for filing.[1]

2. Although Channel 295 is assigned to Louisville, Ky., in Zone II, a station operating on that channel from a site in Louisville would be short-spaced to cochannel and first adjacent channel stations WMRI-FM and WSRW-FM in Marion, Ind., and Hillsboro, Ohio, respectively. In order to meet the spacing requirements, the station either would have to be located at least 10 miles to the South or Southwest of Louisville, or it would have to be located across the river from Louisville in Indiana in Zone I where the spacing requirements are less stringent. Reising's proposed Indiana site meets the spacing requirements. Kentucky Central's on the other hand, is located in Kentucky and does not meet the applicable minimum spacing requirements.

3. In its request for waiver to permit acceptance of its application for filing, Kentucky Central argues that since its site is actually farther from the Indiana and Ohio stations than Reising's would be the Commission either should waive § 73.205 of its rules (which specifies that the location of the proposed site rather than the city to be served determines whether the application is for Zone I or II) to treat the application as one for a Class B station in Zone I, or waive the mileage separations requirements of § 73.207, but in so doing limit the station to Class B facilities. Kentucky Central contends that under these circumstances, use of the Zone boundary to determine acceptability for filing would be arbitrary and unfair, resulting in unequal treatment for applicants proposing operation on the same channel to serve the same city.

4. Kentucky Central complains of the inequality of treatment involved when one of two essentially similar applications meets the applicable criteria and the other does not. This, however, is the inevitable consequence of drawing a line separating the acceptable from the unacceptable. No showing, however, has been made that a site meeting the separation requirements is unavailable nor has Kentucky Central alleged that operation from the proposed site (that of its existing standard broadcast station) would better serve the public interest. Therefore, we have concluded that Kentucky Central's request for waiver should be denied.

5. Nevertheless, since Kentucky Central's application was tendered for filing in its present form on February 7, 1964, we believe it would be unfair to reject Kentucky Central's application without affording it an opportunity to amend before we acted on Reising's application. On the other hand, it would serve no purpose to delay action on both applications until such time as the amendment had been filed. Therefore, we are accepting the application for filing and on our own motion waiving § 1.580(b) of our rules to permit its simultaneous designation for hearing. Kentucky Central will be afforded 45 days from the release of this document within which to amend its proposal to specify a site meeting the applicable separation requirements. Failure to submit the amendment within the specified period will result in dismissal of the application with prejudice. Our action designating these mutually exclusive applications for hearing will not operate to deprive interested parties of their opportunity to object since they may seek intervention, pursuant to § 1.223 of the Commission's rules. Likewise, since the applications have been on file for well over a year, and a party desiring to file a competing application was on notice that the Reising application could have been acted on immediately if Kentucky Central's request for waiver had been denied, ample opportunity to file such competing application has been provided.

6. Since the area and population to be served by the Kentucky Central proposal cannot be determined until receipt of its amendment, it is not possible to determine whether such area and population are significantly different from those Reising would serve. Therefore, the parties may request the Review Board to enlarge issues to include a comparative 1 mv/m coverage issue if, as a result of Kentucky Central's amendment, the areas and populations to be served would be markedly different.

7. Kentucky Central is the wholly owned subsidiary of Bluegrass Broadcasting Co., Inc., licensee of Station WVLK-FM Lexington, Ky., and sole stockholder in WCMI, Inc., licensee of Station WCMI-FM, Ashland, Ky. Because of the proximity of these stations and Louisville, it would not be possible for the stations to obtain maximum facilities without causing overlap of the respective 1 mv/m contours in contra-

[1] In addition to the above-captioned applications, a mutually exclusive application has been filed by Kentuckiana TV, Incorporated. Since this application has not been on file for the required 30 days, it will not be designated for hearing at this time but will be considered in a subsequent order after expiration of the 30-day waiting period.

vention of § 73.240(a)(1) of the Commission's rules. Consequently, an issue is raised concerning the efficiency of Kentucky Central's proposed use of the channel.

8. According to the estimates in Reising's application, he requires $50,325, to construct the station and operate it for one year. Since funds available in the form of liquid assets and a loan commitment total only $21,052, Reising has failed to demonstrate the ability to construct and operate for a one year period without revenue. Consequently, Reising must depend upon operating revenues during the first year of operation if he is to establish his financial qualifications. However, Reising has failed to make a convincing showing that the available and committed funds will be supplemented by sufficient advertising or other revenue to enable him to discharge his financial obligations during the first year. Ultravision Broadcasting Co., FCC 65–581.

9. Likewise, taken in the most favorable light, Kentucky Central shows current assets of only $36,849.48 with which to meet its anticipated costs of construction and operation during the first year of $51,891. Since it has failed to make any alternative showing, a financial issue concerning Kentucky Central is also required.

10. The present standard comparative issue was adopted by the Commission on February 4, 1953, as part of a series of changes which were made in the procedures to be followed in the conduct of hearings, and the new hearing order which included this issue was released as a public notice (FCC 53–120). Essentially, the reason for the change was the Commission's conclusion that the general comparative issue, which had been used, failed to indicate either the matters which properly could be adduced or the matters which would be relied upon by the Commission in making its determination. At that time there was no policy statement of the sort recently issued [2] to which reference could be made. Therefore, the three-part issue was adopted and by virtue of its specificity, resolved this problem. Now, because of the change in Commission policy regarding the areas of comparison, that issue requires revision. We now propose to return to the general issue, but in so doing make clear that the policy statement is to be used as a guide to determine the matters which are admissible and the weight which should be accorded. Now that a clear expression of policy exists, we feel that use of a general issue would be appropriate.

11. This general issue, as the policy statement contemplates, would not permit the adduction of evidence regarding programming or likelihood of effectuation. But, if a "material and substantial" difference were noted in the former or the proposal appeared deficient in the latter, specific issues would be added. In this particular case, a separate issue is required because Kentucky Central proposes considerable (31 percent) duplication of its companion AM station and Reising proposes independent operation. Further, in line with the policy statement's elimination of the question of effectuation, and our decision to use specific language in questions of financial qualifications (see footnote 13 of the policy statement) certain changes in the financial issues also are required. We have inserted specific financial issues directed solely to the financial question raised in the application. We have also discontinued use of the ordering clause which permitted the Examiner to add an "Evansville" issue.[3]

12. Consequently, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding. Except as indicated by the issues set forth below, the applicants appear to be legally, technically, and otherwise (except financially), qualified to operate as proposed.

It is ordered, That the provisions of § 1.580(b) of the Commission's rules are waived and the application of Kentucky Central Broadcasting, Inc., is accepted for filing and pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the basis for Keith L. Reising's estimated revenues for the first year of operation and whether, in view of the evidence adduced, Reising is financially qualified to construct and operate his proposed station.

2. To determine the basis for Kentucky Central's estimated revenues for the first year of operation and whether, in view of the evidence adduced, Kentucky Central is financially qualified to construct and operate its proposed station.

3. To determine the extent to which duopoly considerations may preclude future expansions of the proposed Kentucky Central facility and in the light of the evidence adduced in response to this question, whether this proposal represents an efficient use of the channel within the meaning of 307(b) of the Communications Act of 1934, as amended.

4. To determine whether the public in the area to be served by applicants will be better served by the addition of an FM station that in part duplicates the broadcasting of an AM station in the same community or an FM station that is independently programmed.

5. To determine, in the event the foregoing issues 1, 2 and 3 are answered in the affirmative, which of the proposals would better serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

It is further ordered, That request for waiver of the Commission's rules filed by Kentucky Central Broadcasting, Inc., is denied.

It is further ordered, That Kentucky Central Broadcasting, Inc., shall, within forty-five (45) days of the release of this memorandum opinion and order, amend its application to specify a transmitter site which will comply with the minimum separation requirements of § 73.207 of the Commission's rules and that if Kentucky Central fails to file such amendment within the period specified, its application shall be dismissed with prejudice.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 20, 1965.

Released: October 26, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 65–11641; Filed, Oct. 28, 1965; 8:49 a.m.]

[Docket Nos. 15877, 15878; FCC 65M–1383]

SMILES OF VIRGINIA, INC., AND PETERSBURG BROADCASTING CO., INC.

Order Continuing Prehearing Conference

In re applications of Smiles of Virginia, Inc., Petersburg, Va., Docket No. 15877, File No. BPH–4641; Petersburg Broadcasting Co., Inc., Petersburg, Va., Docket No. 15878, File No. BPH–4700; for construction permits.

The Hearing Examiner having under consideration a motion filed on October 19, 1965, by Smiles of Virginia, Inc., requesting continuance of the prehearing conference in the above-entitled proceeding from October 29, 1965, to November 26, 1965; and

[2] 30 F.R. 9660; 1 FCC 2d 393; July 28, 1965.

[3] That issue, originating in the South Central Broadcasting Corp. proceeding, 9 RR 1035 (1953) read as follows: "To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated".

[4] Commissioners Hyde and Lee absent.

It appearing, That on April 23, 1965, Smiles of Virginia, Inc. filed a petition for rule making requesting the addition of Channel 237 to Petersburg, Va.; and that on June 16, 1965, the Commission issued a notice of proposed rule making (Docket 16063; RM-771) proposing, inter alia, the addition of such channel to Petersburg, specifying July 20 and July 30, 1965, respectively, as the dates for interested parties to file comments and reply comments; and

It further appearing, That no adverse comments were filed with respect to the rule making proposal and such matter is, therefore, ready for final action by the Commission; and that such action may render the hearing on the comparative issues unnecessary; and

It further appearing, That counsel for the other applicant and counsel for the Broadcast Bureau have informally agreed to a waiver of the four-day requirement of the Commission's rules and indicated that they have no objection to a grant of the instant request for continuance;

It is ordered, This 25th day of October 1965, that the motion for continuance of the prehearing conference be and it is hereby granted; and the prehearing conference presently scheduled for October 29, 1965, be and it is hereby continued to November 26, 1965, at 10 a.m., in the offices of the Commission in Washington, D.C.

Released: October 26, 1965.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-11642; Filed, Oct. 28, 1965; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

COMBINED PORTUGAL LINES AND LYKES BROS. STEAMSHIP CO., INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. L. Gusman,
Assistant Vice President, Traffic,
Lykes Bros. Steamship Co., Inc.,
821 Gravier Street,
New Orleans, La.

Agreement 9379-1, between Combined Portugal Lines and Lykes Bros. Steamship Co., Inc., modifies their approved agreement which covers a through billing arrangement on cargo from ports in Portugal, with transshipment at the port of Rotterdam for discharge at United States Gulf ports, by the addition of origin ports in North Spain, and transshipment at the port of Antwerp.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-11627; Filed, Oct. 28, 1965; 8:48 a.m.]

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval:

Mr. John K. Cunningham, Chairman,
American West African Freight Conference,
80 Broad Street,
New York, N.Y., 10004.

Agreement 7680-20, between the member lines of the American West African Freight Conference, modifies the basic agreement, as amended, by extending the termination date of the Conferences' Neutral Body Self-policing system from November 30, 1965, to November 30, 1966.

Dated: October 26, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-11628; Filed, Oct. 28, 1965; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-12004, etc.]

SOCONY MOBIL OIL CO., INC., ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificate [1]

OCTOBER 14, 1965.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 5, 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 all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however*, That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-12004 D 10-4-65	Socony Mobil Oil Co., Inc., Post Office Box 2444, Houston, Tex., 77001 (partial abandonment).	Transcontinental Gas Pipe Line Corp., Outside Island Field, Vermilion Parish, La.	(2)	.....
G-15431 C 9-28-65	The Superior Oil Co., Post Office Box 1521, Houston, Tex., 77001.	El Paso Natural Gas Co., Aneth Field, San Juan County, Utah.	17.7	15.025
G-16345 E 10-1-65	Elder Oil Co. (successor to R. J. Braden, et al.), Peoples Bank Bldg., Marietta, Ohio.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	20.0	15.325
G-18351 E 10-1-65	Elder Oil Co. (successor to R. J. Braden, et al., d.b.a. South Fork Gas Co.), Peoples Bank Bldg., Marietta, Ohio.	....do.....	20.0	15.325
CI61-1809 [3] E 2-24-64	Tidewater Oil Co. (successor to Whitehall Oil Co., Inc.), Post Office Box 1404, Houston, Tex., 77001.	Florida Gas Transmission Co., Opelousas Field, St. Landry Parish, La.	20.0	15.025
CI62-772 E 10-1-65	Elder Oil Co. (successor to R. J. Braden, et al.), Peoples Bank Bldg., Marietta, Ohio.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	25.0	15.325
CI62-1000 C&E 9-27-65	Jansan Oil Co. (successor to W. W. Carter (Operator), et al.), 503 Busby Dr., San Antonio, Tex.	United Gas Pipe Line Co., South Cabeza Creek Field, Goliad County, Tex.	12.0	14.65
CI62-1231 E 10-1-65	Elder Oil Co. (successor to R. J. Braden, d.b.a. Long Run Development Co.), Peoples Bank Bldg., Marietta, Ohio.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	25.0	15.325
CI62-1282 [3] E 2-24-64	Tidewater Oil Co. (successor to Whitehall Oil Co., Inc., et al.), Post Office Box 1404, Houston, Tex., 77001.	Florida Gas Transmission Co., Opelousas Field, St. Landry Parish, La.	19.75	15.025
CI63-20 D 10-4-65	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex., 77001.	Arkansas Louisiana Gas Co., Arkoma Area, Le Flore County, Okla.	Assigned	.....
CI63-548 D 9-29-65	Phillips Petroleum Co. (Operator), et al., Bartlesville, Okla., 74004 (partial abandonment).	Northern Natural Gas Co., Anadarko Basin Area, Beaver County, Okla.	(2)	.....
CI63-603 C 9-30-65 [4]	Sinclair Oil & Gas Co. (Operator), et al., Post Office Box 521, Tulsa, Okla., 74102.	Lone Star Gas Co., E. Doyle Field, Stephens County, Okla.	15.0	14.65
CI63-1206 C 10-4-65	Texaco Inc., Post Office Box 52332, Houston, Tex., 77052.	Kansas-Nebraska Natural Gas Co., Inc., Frontier Formation, Alkali Butte Unit, Fremont County, Wyo.	15.0	14.65
CI64-175 C 9-27-65	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla., 74102.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	18.0	15.025
CI66-129 C 10-4-65	Joseph E. Seagram & Sons, Inc., d.b.a. Texas Pacific Oil Co., Post Office Box 747, Dallas, Tex., 75221.	....do.....	18.0	15.025
CI66-255 A 9-20-65	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif., 90017.	Southern Union Gathering Co., Texaco-State "L" Unit, Basin Dakota Pool, San Juan County, N. Mex.	18.0	15.025
CI66-256 B 9-20-65	Texas Gas Producing Co., [3] Meadows Bldg., Dallas 6, Tex.	Transcontinental Gas Pipe Line Corp., South Clara Driscoll Field, Nueces County, Tex.	Depleted	.....
CI66-257 B 9-24-65	Arthur M. Guida, 533 Custer Ave., Akron, Colo., 80720.	Kansas-Nebraska Natural Gas Co., Inc., Jackpot Field, Morgan County, Colo.	(2)	.....
CI66-258 B 9-20-65	Socony Mobil Oil Co., Inc., Post Office Box 2444, Houston, Tex., 77001.	United Gas Pipe Line Co., South Porter Field, Karnes and Goliad Counties, Tex.	(2)	.....
CI66-259 (CI60-423) F 9-13-65	George L. Buckles (successor to Husky Oil Co.), Post Office Box 56, Monahans, Tex.	El Paso Natural Gas Co., Langlie-Mattix Field, Lea County, N. Mex.	[5] 15.5	14.65

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI66-260 A 9-29-65	Edison J. Parsons, et al., 119 Highlawn Dr., Ripley, W. Va., 25271.	Consolidated Gas Supply Corp., Ripley and Union Districts, Jackson County, W. Va.	[5] 25.0	15.325
CI66-261 A 9-29-65	Neds Run Oil & Gas Co., c/o C. C. Cottrille, agent, 901 East Myles Ave., Pennsboro, W. Va., 26415.	Consolidated Gas Supply Corp., McClellan District, Doddridge County, W. Va.	25.0	15.325
CI66-262 A 9-29-65	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla., 74102.	American Louisiana Pipe Line Co., Calcasieu Lake Dome Field, Cameron Parish, La.	20.0	15.025
CI66-263 A 9-29-65	Walter & Edward Smith, c/o Walter E. Smith, agent, Grantsville, W. Va., 26147.	Consolidated Gas Supply Corp., Sheridan District, Calhoun County, W. Va.	25.0	15.325
CI66-264 A 9-30-65	Dale Drilling Co., et al., c/o Paul F. Starr, agent, Box 25, Spencer, W. Va., 25276.	Consolidated Gas Supply Corp., Washington District, Calhoun County, W. Va.	25.0	15.325
CI66-265 A 9-30-65	Bush & Williams, c/o F. A. Williams, Jr., partner, 425 New York Ave., Harrisville, W. Va.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	25.0	15.325
CI66-266 A 9-30-65	M. Justice Well No. 1, c/o James F. Scott, agent, 124 Valley St., Salem, W. Va., 26426.	Consolidated Gas Supply Corp., McClellan District, Doddridge County, W. Va.	25.0	15.325
CI66-267 A 9-30-65	Bowers Drilling Co., Inc., 1434 Wichita Plaza, Wichita, Kans., 67202.	Cities Service Gas Co., I.L.S. Field, Barber County, Kans.	14.0	14.65
CI66-268 A 9-30-65	Crystal Oil and Land Co., Post Office Box 1101, Shreveport, La., 71101.	Texas Eastern Transmission Corp., Northeast Lisbon Area, Claiborne Parish, La.	15.75	15.025
CI66-269 A 9-30-65	Socony Mobil Oil Co., Inc., Post Office Box 2444, Houston, Tex., 77001.	American Louisiana Pipe Line Co., South Lake Sands Field, St. Mary and Iberia Parishes, La.	20.0	15.025
CI66-270 A 10-1-65	Caroline Gruss, et al., c/o Ernest R. Fleck, Esq., Fleck, Smith, Mather, Strutz, Mayer and Stewart, Post Office Box 1496, Bismarck, N. Dak., 58502.	Mountain Fuel Supply Co., South Baggs Unit, Carbon County, Wyo.	15.0	15.025
CI66-271 A 10-1-65	Petroleum Promotions, Inc., 2817 Clio Rd., Flint, Mich., 48504.	Consolidated Gas Supply Corp., Glenville District, Gilmer County, W. Va.	25.0	15.325
CI66-272 A 10-1-65	Petroleum Resources, Inc., 38442 Jonathan Dr., Mount Clemens, Mich., 48043.	Consolidated Gas Supply Corp., Collins Settlement District, Lewis County, W. Va.	25.0	15.325
CI66-273 A 10-1-65	Pauley Petroleum Inc., et al., Operator, Ten Thousand Santa Monica Blvd., Los Angeles, Calif., 90067.	United Gas Pipe Line Co., Glendale Dome Area, Trinity County, Tex.	13.0	14.65
CI66-274 B 10-5-65	Colorado Oil and Gas Corp., Box 749, Denver, Colo., 80201.	Panhandle Eastern Pipe Line Co., Collins Unit, West Plains Field, Seward County, Kans.	Depleted	.....
CI66-275 A 10-5-65	Cabot Corp. (SW) (Operator), et al., Post Office Box 1101, Pampa, Tex., 79066.	Southern Natural Gas Co., Bayou Henry Field, Iberville Parish, La.	[3] 16.0	15.025
CI66-276 A 10-4-65	C. F. Raymond, 1700 Broadway, Suite 517, Denver, Colo., 80202.	El Paso Natural Gas Co., acreage in La Plata County, Colo.	[3] 13.0	15.025
CI66-277 A 10-4-65	Texaco Inc., Post Office Box 52332, Houston, Tex., 77052.	Grand Valley Transmission Co., Fence Canyon Unit, Grand and Uintah Counties, Utah.	12.0	15.025
CI66-278 F 10-4-65	Skelly Oil Co. (successor to Southwest Production Co.), Post Office Box 1650, Tulsa, Okla., 74102.	El Paso Natural Gas Co., acreage in La Plata County, Colo.	14.0	14.65
CI66-279 A 10-4-65	Pioneer Production Corp. (Operator), et al., Post Office Box 2542, Amarillo, Tex., 79105.	Panhandle Eastern Pipe Line Co., acreage in Morton County, Kans.	16.0	14.65
CI66-280 B 10-4-65	Ruth I. Penton and D. N. Penton, d.b.a. Penton & Penton, et al., Post Office Box 308, De Quincy, La., 70633.	Trunkline Gas Co., South Bearhead Creek Field, Beauregard Parish, La.	[12]	.....
CI66-281 A 10-4-65	Placid Oil Co., 2500 First National Bank Bldg., Dallas, Tex., 75202.	American Louisiana Pipe Line Co., Patterson Field, St. Mary Parish, La.	[3] 21.25	15.025

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.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
C166-282 A 9-29-65	W. W. Harvey, 614 Fort Worth National Bank Bldg., Fort Worth, Tex., and W. C. Sojourner, Post Office Box 3234, Abilene, Tex.	Arkansas Louisiana Gas Co., Red Oak Field, Latimer and Le Flore Counties, Okla.	15.0	14.65
C166-283 A 10-4-65	Socony Mobil Oil Co., Inc., Post Office Box 2444, Houston, Tex., 77001.	Kansas-Nebraska Natural Gas Co., Inc., Southeast Liberal Area, Beaver and Texas Counties, Okla.	17.0	14.65
C166-284 A 9-29-65	Kenneth B. Valentine, Operator, 7684 Phelan, Clarkston, Mich.	Consolidated Gas Supply Corp., Union District, Clay County, W. Va.	20.0	15.325
C166-285 A 10-1-65	American Petrofina Co. of Texas, Post Office Box 2159, Dallas, Tex., 75221.	El Paso Natural Gas Co., Canyon Largo Unit, Rio Arriba County, N. Mex.	12.0	15.025
C166-286 F 10-6-65	Jack L. Phillips (successor to Humble Oil & Refining Co.), Post Office Box 392, Gladewater, Tex., 75647.	United Gas Pipe Line Co., Mount Selman Field, Cherokee County, Tex.	10.8876	14.65
C166-287 A 10-7-65	Kilroy Properties Incorporated, et al., 1908 First City National Bank Bldg., Houston, Tex., 77002.	Transcontinental Gas Pipe Line Corp., North Live Oak Field, Vermilion Parish, La.	17.5	15.025

[1] Production from Preston J. Miller Lease ceased due to depletion of reservoir.
[2] Consolidated with Docket Nos. G-13221, et al.
[3] Abandons service insofar as the Burditt "A" No. 1 Well, which has ceased to produce and has been plugged and abandoned.
[4] Adds interest of McCasland, Inc.
[5] Certificate issued to Roy A. Lamb and A. G. Galt, d.b.a. Pan American Engineering Co.
[6] Wells were temporarily abandoned in August 1959 and all equipment except the well casing was removed from the lease.
[7] Sales under Contract No. S-2147 have been added to contract covering Rate Schedule No. 59, Docket No. G-11982.
[8] Rate in effect subject to refund in Docket No. RI65-64.
[9] Buyer will reimburse Seller 2.0 cents per Mcf for all transportation and gathering expenses; Seller will reimburse Buyer for compressing and pumping services at average cost of compression per Mcf should Buyer elect to compress gas.
[10] Includes 1.0 cent per tax reimbursement.
[11] Plus settlement for liquid products.
[12] Production from wells has ceased and no additional production of gas is expected from the subject property.
[13] If compression is required and Seller does not elect to install compression facilities, Buyer may install such facilities and deduct from the price the actual cost of compression up to a maximum of 2 cents per Mcf.

[F.R. Doc. 65-11534; Filed, Oct. 28, 1965; 8:45 a.m.]

[Docket No. RI66-118]

SKELLY OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

OCTOBER 22, 1965.

On September 7, 1965, Skelly Oil Co. (Skelly)[1] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 31, 1965.
Purchaser and producing area: Cities Service Gas Co. (Hugoton Field, Texas County, Okla.) (Oklahoma Panhandle Area).
Rate schedule designation: Supplement No. 2 to Skelly's FPC Gas Rate Schedule No. 192[2]
Effective date: November 6, 1965[3]
Amount of annual increase: $1,800.
Effective rate: 16.5 cents per Mcf.[4]
Proposed rate: 17.0 cents per Mcf.[5][6]
Pressure base: 14.65 p.s.i.a.

[1] Address is: Post Office Box 1650, Tulsa, Okla., 74102.
[2] Rate Schedule covers only gathering service.
[3] The stated effective date is the effective date requested by Respondent.
[4] Total cost of gas to Cities Service Gas Co. is 16.5 cents per Mcf including 0.5 cent per Mcf gathering charge.
[5] Periodic increase due to increase in gathering charge.
[6] Total cost of gas to Cities Service Gas Co. is 17.0 cents per Mcf including 1.0 cent per Mcf gathering charge.

Skelly proposes an increase in its gathering charge for deep gas from 0.5 cent to 1.0 cent per Mcf, amounting to $1,800 annually for such gas delivered to Cities Service Gas Co. (Cities Service), from the Hugoton Field, Texas County, Okla. The deep gas is sold to Cities Service at the wellhead at 16.0 cents per Mcf, gathered by Skelly in its existing (shallow gas) gathering system and delivered at a point on Cities Service's line. As the cost for deep gas to Cities Service of 17.0 cents per Mcf, including the proposed 1.0 cent per Mcf gathering charge, exceeds the area increased rate ceiling of 11.0 cents per Mcf for Oklahoma Panhandle Area as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR Ch. I, Part 2, § 2.56) the proposed increase in gathering charge should be suspended as hereinafter ordered.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 2 to Skelly's FPC Gas Rate Schedule No. 192 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Skelly's FPC Gas Rate Schedule No. 192.

(B) Pending such hearing and decision thereon, Supplement No. 2 to Skelly's FPC Gas Rate Schedule No. 192 is hereby suspended and the use thereof deferred until April 6, 1966, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(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 December 8, 1965.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65-11617; Filed, Oct. 28, 1965; 8:47 a.m.]

[Docket No. E-7188]

U.S. DEPARTMENT OF THE INTERIOR, SOUTHEASTERN POWER ADMINISTRATION

Notice of Request for Approval of Rates

OCTOBER 22, 1965.

Notice is hereby given that the Secretary of Interior, on behalf of the Southeastern Power Administration (SEPA), pursuant to the provisions of section 5 of the Flood Control Act of 1944, has filed with the Federal Power Commission a request for confirmation and approval of Wholesale Power Rate Schedules CR-1-A and CR-2, applicable to the power marketed from the Cumberland River Power System, consisting of six hydroelectric projects. The Cumberland River Power System includes the Barkley Project with the five Cumberland Projects already in commercial operation. Rate Schedule CR-1-A encompasses and supersedes Wholesale Power Rate Schedule CR-1, now applicable to the sale of power from the Dale Hollow, Center Hill, Wolf Creek, Old Hickory, and Cheatham Projects, which was approved by the Commission on December 23, 1964, in Docket No. E-7188. Rate Schedule CR-2 covers the sale of peaking and standby power for the system to Big Rivers Rural Electric Cooperative Corp. Approval of these two rate schedules is requested for a period ending June 30, 1970.

Rate Schedule CR-1-A, which is available to the Tennessee Valley Authority, contains a list of credits which are to be

used to adjust the computed applicable annual charge to compensate for the retention of peaking and standby power and the transfer of retained power and energy for sale by SEPA to other customers.

The proposed rates and credits in Rate Schedule CR–1–A are as follows:

Rates. The payments to the Department of the Interior by TVA hereunder for availability of capacity and deliveries of power and energy are estimated to produce over a period of years an average annual payment of $8,700,000, which amount is hereinafter referred to as the basic annual charge.

The basic annual charge shall be the applicable annual charge for each year (ending June 30) in which the average unregulated flow of water into the Wolf Creek Reservoir as determined hereinafter is between 8,500 and 9,250 c.f.s. To determine the applicable annual charge in other years, the basic annual charge shall be adjusted in accordance with variations in said flow of water, as follows: For each 750 c.f.s. or fraction thereof by which the said flow of water for the year is greater than 9,250 c.f.s., the applicable annual charge shall be greater by $700,000; for each 500 c.f.s. or fraction thereof by which the said flow of water for the year is less than 8,500 c.f.s., the applicable annual charge shall be less by $700,000; provided that the applicable annual charge for any year shall be not less than $5,900,000 nor more than $11,500,000.

Unless otherwise mutually agreed, the annual unregulated flow of water into the Wolf Creek Reservoir will be established from a consideration of the unadjusted discharge registered at Rowena gauging station as determined by the U.S. Geological Survey, adjusted for changes in storage at all reservoirs upstream from said station, in accordance with capacity ratings by the owners thereof, and for other possible factors which may be mutually agreed upon by the parties.

TVA shall pay the applicable annual charge to the Department of the Interior in monthly installments as follows:

(a) For each of the months July through December, monthly installment payment shall be $525,000.

(b) For the month of January and each succeeding month through June, the installment payment for each month will be the amount computed for that month as follows:

(1) The estimated applicable annual charge will first be computed using an estimated average flow for the year determined by combining the inflow from the beginning of the fiscal year through the month for which the installment payment is being computed with the minimum probable inflow for the remainder of the fiscal year as listed in Table I below opposite the month for which said payment is being computed.

(2) The installment payment will then be determined by taking the difference between the estimated applicable annual charge for the fiscal year as determined under (1) and the total of the installment payments for the preceding months in that fiscal year and multiplying said difference by the percentage listed in Table II opposite the month for which the installment payment is being computed.

Month	Table I (second-foot days)	Table II (percentage)
January	800,000	20
February	700,000	25
March	200,000	30
April	50,000	40
May	7,800	50
June	0	100

(c) In the event that the total of the monthly installment payments for any fiscal year exceeds the applicable annual charge for that fiscal year, the excess shall be credited against the monthly installment payments for the succeeding fiscal year.

Credits for retained power. The applicable annual charge shall be adjusted as follows to compensate for the retention of peaking and standby power and the transfer of retained power and energy for sale by the Administrator of Southeastern Power Administration to other customers. For each supply year, the first of which is the year beginning November 1, 1965, the applicable charges shall be reduced by:

(a) $11.00 per kw. of peaking power retained.

(b) $3.00 per kw. of the contract standby demand of the Administrator's first other customer, plus $2.00 per kw. of the sum of the contract standby demands of the second and third other customers. The first other customer shall be the one with the largest contract standby demand.

(c) 4 cents per calendar day (or fraction thereof) per kw. of emergency standby power used in November and between April 1 and October 31 of each supply year, and 6 cents per calendar day (or fraction thereof) per kw. of the emergency standby power used during any other period of the year.

(d) 2.0 mills per kw.-hr. of energy associated with peaking power retained and of the energy scheduled with the use of maintenance standby power.

(e) 3.25 mills per kw.-hr. of energy scheduled with the use of emergency standby power.

(f) $18.00 per kw. of the maximum amount, if any, by which the capacity used by the other customers exceeds the amount of the Cumberland capacity to which the Administrator is entitled. For purposes of this subsection the Administrator shall be entitled at any time to the sum of the following:

(1) The total of peaking power retained by the Administrator for use at that time by all of the other customers, and

(2) If the Administrator at that time is delivering standby power to any other customer the contract standby demand of that customer.

Notwithstanding the foregoing, insofar as such excess consists of excess emergency standby power takings, the reduction provided for in this subsection (f) shall not apply to the first 100 mw. for the first 24 hours of the first four occasions of the emergency excess takings in any supply year caused by outages of generating units of the Administrator's other customers occurring simultaneously with scheduled outages or other emergency outages.

(g) 3.5 mills per kw.-hr. of the energy taken in any hour in excess of the amount of energy to which the Administrator is entitled.

Wholesale Power Rate Schedule CR-2 available to the Big Rivers Rural Electric Cooperative Corp. is a new rate schedule which covers the sale of peaking and standby power and energy generated at the Cumberland River Power System and provides as follows:

Monthly rate. The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand charge. $3.00 per supply year for each kilowatt of the contract standby demand, payable $0.25 per billing month.

$10.00 per supply year for each kilowatt of the contract peaking demand, payable $0.83⅓ per billing month.

$0.04 per calendar day (or fraction thereof) per kw. of standby power delivered for emergency purposes in November and between April 1 and October 31 of each supply year, and $0.06 per calendar day (or fraction thereof) per kilowatt of the standby power delivered for emergency purposes during any other period of the year.

A supply year is a year beginning November 1.

Energy charge. 2.00 mills per kilowatt-hour for all maintenance standby energy.

2.90 mills per killowatt-hour for all peaking energy.

3.25 mills per kilowatt-hour for all emergency standby energy.

Billing month. The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of service. The standby capacity and peaking capacity and the associated standby energy and peaking energy sold to Big Rivers under this rate schedule shall come exclusively from capacity and energy available from the six-project Cumberland River Power System. Standby capacity shall be used by Big Rivers only to replace loss of generation on its system because of maintenance and/or emergency outages of its generating equipment. Maintenance outages shall be a matter of coordination between the Government and Big Rivers.

Big Rivers is prohibited from using in any supply year any standby capacity and peaking capacity in excess of the capacity to which it is entitled. Should the power used by Big Rivers exceed the capacity to which it is entitled in any sixty (60) consecutive minute period in any supply year, Big Rivers shall pay the Government $18 per kilowatt of the largest such excess occurring during that year through the current billing period. Big Rivers shall also pay the Government 3.50 mills per kilowatt-hour for the energy taken in any hour in excess of the amount of energy to which Big Rivers is entitled.

The terminal equipment required for delivery of power at the Barkley switchyard will be furnished by the Government, and the terminal equipment required at any other points of delivery agreed upon will be furnished by Big Rivers.

The electric systems of Big Rivers and TVA shall be operated in parallel, and Big Rivers shall not interconnect with other power systems that are normally operated in parallel with TVA's system.

Service interruption. When capacity made available and sold under this rate schedule is reduced or interrupted for sixty (60) minutes or longer and such reduction or interruption is not due to conditions on Big Rivers' system, (a) the monthly demand charge for standby capacity for the billing month shall be reduced for billing purposes for each hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $0.25 divided by the number of hours in the billing month times the reduction, in kilowatts, of such capacity, (b) the monthly charge for peaking capacity for the billing month shall be reduced for billing purposes, for each hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $0.83⅓ divided by the number of hours in the billing month times the reduction, in kilowatts, of such capacity, and (c) the amount of peaking energy which Big Rivers had scheduled but did not receive on the day or days of interruption may be rescheduled and taken by Big Rivers not later than the close of the then current supply year.

The above rate schedules and contracts are on file with the Commission for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to the proposed rates and charges should submit the same in writing on or before November 26, 1965, to the Federal Power Commission, Washington, D.C., 20426.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11618; Filed, Oct. 28, 1965; 8:47 a.m.]

[Docket No. E-7251]

WEST PENN POWER CO.

Notice of Application

OCTOBER 22, 1965.

Take notice that on October 14, 1965, an application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act by West Penn Power Co. (West Penn), a corporation organized under the laws of the State of Pennsylvania and qualified to do business in the States of Pennsylvania and West Virginia, with its principal place of business office at Greensburg, Pa., seeking an order authorizing it to lease the entire electrical facilities of the Borough of Tarentum, Allegheny County, Pa.

West Penn is an operating public utility engaged in the production, distribution and sale of electricity in the greater portion of the Counties of Armstrong, Butler, Fayette, Greene, Washington, and Westmoreland, and in parts of Allegheny, Cameron, Centre, Clarion, Clinton, Elk, Indiana, Lycoming, McKean, and Potter Counties, Pa.

The assets to be leased consist of the entire electric facilities of Tarentum, including all the rights and property, real and personal, tangible and intangible, comprising Tarentum's electric utility system except: cash; bills, notes and accounts receivable; corporate records and accounts; office furniture, fixtures, equipment, and supplies; materials and supplies; and transportation equipment.

The application indicates that the term of the lease is 30 years and that in consideration of the lease, Applicant will pay Tarentum $4,200,000 in the annual installments of $140,000. The facilities are to be operated by West Penn for the same purposes for which they are presently being used by Tarentum, according to the application. The application further indicates that 6 months after the completion of the proposed transaction, West Penn will construct facilities to connect the transmission and distribution system of Tarentum with West Penn's utility system. At that time, the generating equipment and land and building occupied thereby will revert to Tarentum.

According to the application, the proposed arrangements will more efficiently and more economically take care of the growing needs of Tarentum and more promptly restore service in case of interruption and provide other benefits. West Penn states that it will provide electric service to the inhabitants of Tarentum at its applicable filed tariffs except that it will supply to present Tarentum electric customers, service at their existing rate if the new rates would effect an increase to those customers. The application states that the effect of West Penn's rates on the customers will vary depending on the type and extent of electric use, but of the 2,798 customers concerned, 2,663 will receive decreases and under the proposed arrangement indicated above, none will receive an increase.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 29, 1965, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-11619; Filed, Oct. 28, 1965; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

WILLIAM R. REMALIA

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 during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 15, 1965.

Dated: October 15, 1965.

WILLIAM R. REMALIA.

[F.R. Doc. 65-11622; Filed, Oct. 28, 1965; 8:47 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COTTON TEXTILE PRODUCTS IN CATEGORY 9 PRODUCED OR MANUFACTURED IN BRAZIL

Levels of Restraint

OCTOBER 26, 1965.

On October 25, 1965, the U.S. Government, in furtherance of the objective of, and under the terms of, the Long Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6 relating to nonparticipants, informed the Government of Brazil that it was renewing for an additional 12-month period beginning October 28, 1965, and extending through October 27, 1966, the restraint on imports to the United States of cotton textiles in Category 9, produced or manufactured in Brazil.

There is published below a letter of October 26, 1965, from the Chairman, President's Cabinet Textile Advisory Committee, to the Commissioner of Customs, prohibiting, effective October 28, 1965, for the 12-month period extending through October 27, 1966, the entry or withdrawal from warehouse for consumption in the United States of cotton textile products in Category 9 produced or manufactured in Brazil in excess of 551,250 square yards.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

THE ASSISTANT SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

Washington 25, D.C.
October 26, 1965.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Long Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6 relating to non-participants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, you are directed to prohibit, effective October 28, 1965, and for the 12-month period extending through October 27, 1966, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton textile products in Category 9, produced or manufactured in Brazil in excess of the following level of restraint:

Category	*12-month level of Restraint*
9	551,250 square yards

Entries of cotton textile products in Category 9, produced or manufactured in Brazil, which have been exported to the United States from Brazil, prior to October 28, 1965, shall be subject to this directive since the level for the period October 28, 1964, through October 27, 1965, has been exhausted by previous entries.

A detailed description of Category 9 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on October 1, 1963 (28 F.R. 10551).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Brazil and with respect to imports of cotton textile products from Brazil have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of section 4 of the Administrative Procedure Act. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

JOHN T. CONNOR,
Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 65-11645; Filed, Oct. 28, 1965; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File 7-2476]

KLM ROYAL DUTCH AIR LINES

Application for Unlisted Trading Privileges and Opportunity for Hearing

OCTOBER 25, 1965.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchanges: KLM Royal Dutch Air Lines, File 7-2476.

Upon receipt of a request, on or before November 10, 1965, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commision (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-11623; Filed, Oct. 28, 1965; 8:47 a.m.]

[811-1197]

ZIONS UTAH BANCORPORATION

Application for Order Declaring That Company Has Ceased To Be Investment Company

OCTOBER 25, 1965.

Notice is hereby given that an application has been filed pursuant to section 8(f) of the Investment Company Act of 1940 ("Act") for an order of the Commission declaring that Zions Utah Bancorporation, 359 South Main Street, Salt Lake City, Utah (previously known as Zions First National Investment Co.) ("applicant"), a Nevada corporation and a registered, closed-end, non-diversified, management investment company, has ceased to be an investment company. All interested persons are referred to the application filed with the Commission for a full statement of the representations contained in the application which are summarized below.

Applicant, from time of its registration under the Act in December 1962 until September 23, 1965, owned voting trust certificates representing slightly less than 50 percent of the capital stock of Zions First National Bank (Bank). On this latter date the voting trust was terminated and as of such date applicant was the legal and beneficial owner of 50.12 percent of the capital stock which stock constituted approximately 89 percent of applicant's assets. Applicant represents that it is, and has been primarily engaged in the banking business through the Bank which is now a majority-owned subsidiary.

The only change contemplated in applicant's business will result from a presently proposed acquisition of all of the assets of Lockhart Corporation, a Nevada corporation (herein called "Lockhart"), in exchange for shares of applicant's capital stock. Lockhart is a holding company which is principally engaged through wholly owned subsidiaries in the industrial loan and consumer finance business in Utah and Colorado, in the savings and loan business in Utah and in equipment leasing in Utah. Upon the proposed acquisition, the wholly owned subsidiaries of Lockhart will become wholly owned subsidiaries of applicant. Applicant represents that upon such acquisition it will also engage in the several businesses of these wholly owned subsidiaries.

On September 22, 1965, applicant's stockholders approved a change in applicant's business to cease being an investment company under the Investment Company Act of 1940 and to authorize applicant to be principally engaged through majority-owned and wholly-owned subsidiaries in the banking, finance, savings and loan and related businesses.

Applicant claims that it no longer is an investment company as defined in section 3(a)(1) and (3) of the Act because it neither (1) is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities; nor (2) does it own, or propose to own, investment securities, as defined therein, having a value exceeding 40 per centum of the value of its total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Securities of a majority owned subsidiary which is not an investment company are excluded from the definition of investment securities.

Applicant further claims that it is now, and upon acquisition of the Lockhart subsidiaries will continue to be, excepted from the definition of an investment company pursuant to the provisions of section 3(c)(7) of the Act. Section 3(c)(7) excepts from the definition of an investment company any company primarily engaged, directly or through majority-owned subsidiaries, in one or more of the businesses described in paragraphs (3), (5), and (6), of section 3(c). Among the businesses described in sections 3(c)(3), (5), and (6) are banking, savings and loan, industrial loan and consumer finance businesses.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 10, 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 should order a hearing thereon. Any such communication should be addressed: Secretary,

Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after 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 request or upon the Commission's own motion.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail to the Director, Office of Investment Assistance, Small Business Administration, Washington, D.C., 20416.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 65-11624; Filed, Oct. 28, 1965; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 26, 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. 40081—*Crude sulphur to Roseport, Minn.* Filed by V. P. Brown, agent (No. 6), for interested rail carriers. Rates on sulphur (brimstone), crude (unground or unrefined), in carloads, from Lignite, McGregor, and Tioga, N. Dak., to Roseport, Minn.

Grounds for relief—Market competition.

Tariff—Supplement 86 to V. P. Brown, agent, tariff ICC 18.

FSA No. 40082—*Beet or cane sugar to East St. Louis, Ill., and St. Louis, Mo.* Filed by V. P. Brown, agent (No. 7), for interested rail carriers. Rates on sugar, beet or cane, in bulk, in covered hopper cars, in carloads, from Drayton, N. Dak., Bingham, East Grand Forks and Wilds, Minn., to East St. Louis, Ill., and St. Louis, Mo.

Grounds for relief—Market competition and restoration of rate relationship.

Tariff—Supplement 86 to V. P. Brown, agent, tariff ICC 18.

FSA No. 40083—*Ground barite (Barytes) to Gilmer, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-8771), for interested rail carriers. Rates on ground barite (barytes), in carloads, from specified points in Missouri, to Gilmer, Tex.

Grounds for relief—Market competition.

Tariff—Supplement 50 to Southwestern Freight Bureau, agent, tariff ICC 4509.

FSA No. 40084—*Iron and steel articles to Vicksburg, Miss.* Filed by Illinois Freight Association, agent (No. 294), for interested rail carriers. Rates on iron and steel articles, viz.: bars or rods, noibn, plates or sheets, noibn, galvanized, painted or plain, corrugated or not corrugated, loose or in packages, also strip steel, noibn, in carloads, from Chicago, Ill., and points taking Chicago rates, also Joliet and South Chicago, Ill., also Gary and Indiana Harbor, Ind., to Vicksburg, Miss.

Grounds for relief—Barge competition.

Tariff—Supplement 42 to Illinois Freight Association, agent, tariff ICC 1033.

FSA No. 40085—*Iron and steel articles to Cedars and LeTourneau, Miss.* Filed by Illinois Freight Association, agent (No. 296), for interested rail carriers. Rates on iron and steel articles; viz, bars or rods, noibn, plates or sheets, noibn, galvanized, painted or plain, corrguated or not corrugated, loose or in packages; also strip steel, noibn, in carloads, from Chicago, Ill., and points taking Chicago rates, also Joliet and South Chicago, Ill., and Gary and Indiana Harbor, Ind., to Cedars and LeTourneau, Miss.

Grounds for relief—Barge-truck competition.

Tariff—Supplement 42 to Illinois Freight Association, agent, tariff ICC 1033.

FSA No. 40086—*Iron and steel articles to New Orleans, La.* Filed by Illinois Freight Association, agent (No. 298), for interested rail carriers. Rates on specific iron and steel articles named in the application, in carloads, from Chicago, Ill., and points taking Chicago rates, also Joliet and South Chicago, Ill., Gary and Indiana Harbor, Ind., to New Orleans, La.

Grounds for relief—Barge competition.

Tariff—Supplement 42 to Illinois Freight Association, agent, tariff ICC 1033.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 65-11632; Filed, Oct. 28, 1965; 8:48 a.m.]

[Notice 75]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 26, 1965.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 321 TA), filed October 22, 1965. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis., 53141. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles*, in secondary movements by truckaway method, from Selkirk, N.Y., to points in Connecticut, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont; from Framingham, Mass., to points in Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island. Restricted to transportation of traffic originating at the site of plant of American Motors Corp. in Kenosha, Wis., having an immediately prior movement by rail, for 150 days. Supporting shipper: American Motors Corp., 1425 Plymouth Road, Detroit, Mich., 48232, Leonard C. Kropp, distribution traffic manager, automotive division. Send protests to: W. F. Sibbald, Jr., District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 108 West Wells Street, Room 511, Milwaukee, Wis., 53203.

No. MC 42919 (Sub-No. 6 TA), filed October 22, 1965. Applicant: COASTAL TRUCKWAYS, INC., Factory Street, Post Office Box 225, Wilkesboro, N.C. Applicant's representative: H. Overton Kemp, Room 101, 327 North Tryon Street, Post Office Box 20202, Charlotte, N.C., 28202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Baltimore, Md., to points in North Carolina west of U.S. Highway 1, and *empty containers*, on return, for 180 days. Supporting the National Brewing Co., Baltimore, Md. Send protests to: Jack K. Huff, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 206, 327 North Tryon Street, Charlotte, N.C., 28202.

No. MC 94265 (Sub-No. 161 TA), filed October 22, 1965. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Military Highway, Norfolk, Va. Applicant's representative: Marvin K. Allegood, Jr. (same address as above). Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooked, frozen, prepared meats*, from Chicago, Ill., to Cumberland, Md., for 175 days. Supporting shipper: S. Baumgarten, Traffic Manager, Pronto Food Corp., 3001 West Cornelia Avenue, Chicago 18, Ill. Send protests to: Robert W. Waldron, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 10–502 Federal Building, Richmond, Va., 23240.

No. MC 111434 (Sub-No. 61 TA), filed October 22, 1965. Applicant: DON WARD, INC., 241 West 56th Avenue, Denver, Colo., Office: Post Office Box 1488, Durango, Colo. Applicant's representative: Mr. Charles H. Haines, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pozzolan*, from Laramie, Wyo., to the East Portal of the Aurora Rampart Tunnel, about 7 miles west of Waterton, Jefferson County, Colo., for 150 days. Supporting shipper: Ideal Cement Co., Denver National Building, Denver 2, Colo. Send protests to: Luther H. Oldham, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 2022 Federal Building, 1961 Stout Street, Denver, Colo.

No. MC 111729 (Sub-No. 118 TA), filed October 22, 1965. Applicant: ARMORED CARRIER CORPORATION, 222–17 Northern Boulevard, De Bevoise Building, Bayside, N.Y. Applicant's representative: J. K. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except coin, currency, bullion, and negotiable securities), *audit and accounting media of all kinds*, between Wilkes-Barre, Pa., on the one hand, and, on the other, points in Orange and Broome Counties, N.Y., for 150 days. Supporting shipper: The First National Bank of Wilkes-Barre, 11 West Market Street, Wilkes-Barre, Pa. Send protests to: E. N. Carignan, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y., 10013.

No. MC 111729 (Sub-No. 119 TA), filed October 22, 1965. Applicant: ARMORED CARRIER CORPORATION, 222–17 Northern Boulevard, De Bevoise Building, Bayside, N.Y. Applicant's representative: J. K. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs, narcotics, pharmaceuticals, and other sundry drug products*, between points in Wayne County, Mich., on the one hand, and, on the other, points in Ohio, Indiana, and West Virginia, (2) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies consisting of labels, envelopes, and packaging materials, and advertising literature moved therewith* (excluding motion picture film used primarily for commercial theater and television exhibition), between Cleveland, Ohio, and Buffalo, N.Y., (3) *engineering tracings and prints, engineering specifications, and engineering calculations*, between Garden City, N.Y., and Boston, Mass., (4) *small parts consisting of bellows, collets, connectors, disconnectors, gauges, housings, indicators, levers, poppets, portable tools, pumps, regulators, thermometers and valves*, limited to shipments not to exceed 75 pounds per shipment, between Bryan, Ohio, and Buffalo, N.Y. (5) *commercial papers, business papers, records, audit and accounting media, including invoices, vouchers and credit documents*, (a) between Garden City, N.Y., and Boston, Mass., between Bryan, Ohio, and Buffalo, N.Y., (c) between points in Wayne, Oakland, and Macomb Counties, Mich., on the one hand, and, on the other, points in Ohio (except Cleveland, Ohio), (d) from points in Dane, Milwaukee, Outagamie and Waukesha Counties, Wis., to Milwaukee Airport, Wis., and/or O'Hare Field, Chicago, Ill., for 180 days. Supporting shippers: The ARO Corp., Bryan, Ohio; J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, N.Y., 10010; Associated Engineers & Consultants, Inc., 975 Stewart Avenue, Garden City, Long Island, N.Y.; Superior Laboratories, Inc., 3990 East 71st Street, Cleveland, Ohio, 44105; Frank W. Kerr Co., 1734 West Lafayette, Detroit 16, Mich.; and, National Bank of Detroit, Detroit, Mich., 48232. Send protests to: E. N. Carignan, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y., 10013.

No. MC 120634 (Sub-No. 8 TA), filed October 22, 1965. Applicant: JOE HODGES TRANSPORTATION CORPORATION, Post Office Box 82397 Stockyards Station, 1911 Northwest First Street, Oklahoma City 8, Okla. Applicant's representative: John E. Maupin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those of unusual value), serving the plantsite of United Carbon Co. plant, located approximately 6 miles east of Shamrock, Tex., on U.S. Highway 66 at Norrick, Tex., as an off-route point in connection with applicant's authorized route between Wellington and Wheeler, Tex., for 180 days. Supporting shipper: United Carbon Co., A. V. Krone, general traffic manager, Post Office Box 1503, Houston, Tex., 77001. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla., 73102.

No. MC 126745 (Sub-No. 12 TA), filed October 22, 1965. Applicant: SOUTHERN COURIERS, INC., 222–17 Northern Boulevard, Bayside, N.Y., 11361. Applicant: J. K. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting media*, between Nashville, Tenn., on the one hand, and, on the other, points in Blount, Colbert, Cullman, Etowah, Franklin, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Madison, Marshall, and Morgan Counties, Ala., for 180 days. Supporting shipper: Data Service Corp., 1907 Division, Nashville 4, Tenn. Send protests to: E. N. Carignan, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y., 10013.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 65-11633; Filed, Oct. 28, 1965; 8:48 a.m.]

[Notice 836]

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

OCTOBER 25, 1965.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC–F–9240. Authority sought for control by EASTERN EXPRESS, INC., 1450 Wabash Avenue, Terre Haute, Ind., of WHEELOCK BROS., INC., 720 East Third Street, Kansas City, Mo., and for purchase by EASTERN EXPRESS, INC., of the operating rights and property of WHEELOCK BROS., INC., and for acquisition by WILSON M. HOUSE, also of Terre Haute, Ind., of control of such rights and property through the transaction. Applicants' attorney and representative: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind., and Kent E. Whittaker, 2715 Commerce Tower, Kansas City, Mo. Operating rights sought to be controlled and transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Chicago, Ill., and Denver, Colo., serving certain intermediate and off-route points with restrictions, between Russell, Kans., and Great Bend, Kans., serving no intermediate points, between Topeka, Kans., and junction U.S. Highway 54 and Kansas Highway 99, serving certain intermediate points, between McPherson, Kans., and Hutchinson, Kans., serving no intermediate points, between Kansas City, Kans., and Wichita, Kans., serving certain intermediate and off-route points, between the junction of U.S. Highway 40 and Missouri Highway 7, and Lake City, Mo., between Kansas City, Mo., and Lake City, Mo., serving intermediate and off-route points within 2 miles of Lake City; several alternate routes for operating convenience only;

packinghouse products and supplies, poultry, and *eggs,* between Kansas City, Mo., and Chicago, Ill., serving certain intermediate points with restriction, and the off-route point of Kansas City, Kans.; *sugar,* between Sugar City, Colo., and Rocky Ford, Colo. serving no intermediate points; *general commodities,* over irregular routes, between Denver, Colo., and points within 6 miles of Denver, with restriction; *canned goods, beans, pickles,* and *seed,* from certain points in Colorado, to certain points in Missouri and Kansas; and *soap* and *soap products,* from Kansas City, Kans., and Kansas City, Mo., to points in Kansas and certain points in Colorado. EASTERN EXPRESS, INC. is authorized to operate as a *common carrier* in Pennsylvania, Missouri, New Jersey, Indiana, Illinois, Wisconsin, Connecticut, New York, Massacuhsetts, Rhode Island, Ohio, Maryland, West Virginia, Michigan, Iowa, Kentucky, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE: F.D. No. 23852 filed simultaneously.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 65-11634; Filed, Oct. 28, 1965; 8:48 a.m.]

[Notice 1253]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 26, 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-68216. By order of October 22, 1965, Transfer Board approved the transfer to Clayton H. Zeigler, doing business as Zeigler's Storage & Transfer, Carlisle, Pa., of the certificate in No. MC-45674, issued February 19, 1942, to Sally May Deckman and Leroy M. Deckman, a partnership, doing business as O. Deckman & Son, Carlisle, Pa., authorizing the transportation of: Household goods, from points in Cumberland, Adams, Franklin, Perry, Dauphin, and York Counties, Pa., to points in New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, North Carolina, Georgia, West Virginia, Ohio, Indiana, Illinois, and Kansas; and from points in the above-described destination territory to points in Pennsylvania. Dual operations were authorized. Christian V. Graf, 407 North Front Street, Harrisburg, Pa., attorney for applicants.

No. MC-FC-68217. By order of October 22, 1965, Transfer Board approved the transfer to Malone Transportation, Inc., Philadelphia, Pa., of certificate in No. MC-64154 issued October 28, 1955, to Fergus A. Malone, doing business as John Sheahan, Jr., Philadelphia, Pa., authorizing the transportation of: General commodities, with the usual exceptions including household goods and commodities in bulk, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey within 10 miles of Philadelphia. Raymond A. Thistle, Jr., Suite 1408, 1500 Walnut Street, Philadelphia, Pa., 19102, attorney for applicants.

No. MC-FC-68220. By order of October 22, 1965, Transfer Board approved the transfer to Victor Chimienti, Inc., Spokane, Wash., of permit in No. MC-118071 (Sub-No. 2), issued March 22, 1965, to Victor Chimienti, Spokane, Wash., authorizing the transportation of: Bananas and other partially exempt commodities, from Fresno and Sacramento, Calif., to Spokane, Wash. Del Cary Smith, Jr., 615 Spokane & Eastern Building, Spokane, Wash., 99201, attorney for applicants.

No. MC-FC-68222. By order of October 22, 1965, Transfer Board approved the transfer to C. & C. Donnelly Trucking Corp., Freeport, Long Island, N.Y., of the operating rights in Certificate No. MC-126348, issued October 21, 1964, to Philip Albo, doing business as Amello Trucking Co., Franklin Square, Long Island, N.Y., authorizing the transportation, over irregular routes, of: General commodities, except those of unsual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New York, N.Y., on the one hand, and, on the other, points in Nassau County, N.Y. George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J., representative for transferor, and A. David Millner, 1060 Broad Street, Newark, N.J., 07102, representative for transferee.

No. MC-FC-68223. By order of October 22, 1965, Transfer Board approved the transfer to Albert Simmons, Jr., and Billy C. Simmons, doing business as Simmons Bros. Transfer, 1202 Avenue E, Bogalusa, La., of the operating rights in Certificate No. MC-107509, issued May 8, 1964, to B. Z. Thomas, 2014 Riverside Drive, Bogalusa, La., authorizing the transportation, over irregular routes, of: Household goods, as defined by the Commission, lumber, livestock, and new and used furniture, between points in Washington, St. Tammany, and Tangipahoa Parishes, La., on the one hand, and, on the other, points in that part of Mississippi on and south of U.S. Highway 80.

No. MC-FC-68228. By order of October 22, 1965, Transfer Board approved the transfer to W. H. Kilbourne, Inc., Akron, Ohio, of the operating rights issued by the Commission August 18, 1943, under Permit No. MC-71207, to W. H. Kilbourne, Akron, Ohio, authorizing the transportation, over irregular routes, of such commodities as are manufactured, processed and/or dealt in by rubber manufacturers and steel product manufacturers, and equipment, materials, and supplies used in the conduct of such businesses, traversing Pennsylvania for operating convenience only, from Akron, Ohio, to points in Rhode Island, Massachusetts, Connecticut, specified points in New York, and those in New Jersey located on and north of New Jersey Highway 33; tire fabric, from Fall River and New Bedford, Mass., to Akron, Ohio; chemicals, from Naugatuck, Conn., to Akron, Ohio; and scrap tires and tubes, from Boston, Cambridge, New Bedford, Pittsfield, Fall River, and Springfield, Mass., Hartford, Conn., Newark, N.J., and Albany and New York, N.Y., and points on Long Island, N.Y., to Akron, Ohio. Monte E. Mack, 820 Second National Building, Akron, Ohio, attorney for applicants.

No. MC-FC-68239. By order of October 22, 1965, Transfer Board approved the transfer to Dunmyre Motor Express, Inc., Chicora, Pa., of Certificates Nos. MC-98748 (Sub-No. 1) and MC-98748 (Sub-No. 3), issued June 24, 1959, and October 10, 1961, to George A. Dunmyre, Jr., Kenneth R. Dunmyre, James E. Dunmyre and Robert L. Dunmyre, a partnership, doing business as Dunmyre Motor Express, Chicora, Pa., authorizing the transportation of general commodities, excluding household goods and commodities in bulk, over regular route, between Pittsburgh, Pa., and Shippenville, Pa., serving the intermediate points of Millerstown, Pa., and those between Millerstown and Shippenville; and the off-route points of St. Petersburg, Wentling's Corners, East Brady, Kaylore, and Brady's Bend, Pa.; over irregular routes, petroleum products, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificate, 61 MCC 209, in containers, from Karns City and Petrolia, Pa., to points in Delaware, Maryland, and New Jersey, except points in New Jersey within 15 miles of New York, N.Y., restricted against the transportation of noninflammable petroleum products, in containers, from Karns City to points in New Jersey within the Philadelphia, Pa., commercial zone, as defined by the Commission; and from Petrolia and Karns City, Pa., to Philadelphia and Erie, Pa., restricted to shipments for export only, and restricted against transportation of shipments of noninflammable petroleum products in containers from Karns City to points in the Philadelphia, Pa., commercial zone, as defined by the Commission; and empty petroleum products-containers, on return; and aluminum chloride, dry, in sealed bins, from Elkton, Md., to Petrolia, Pa. Edward M. Larkin, 901 Grant Building, Pittsburgh 19, Pa., attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 65-11635; Filed, Oct. 28, 1965; 8:48 a.m.]

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