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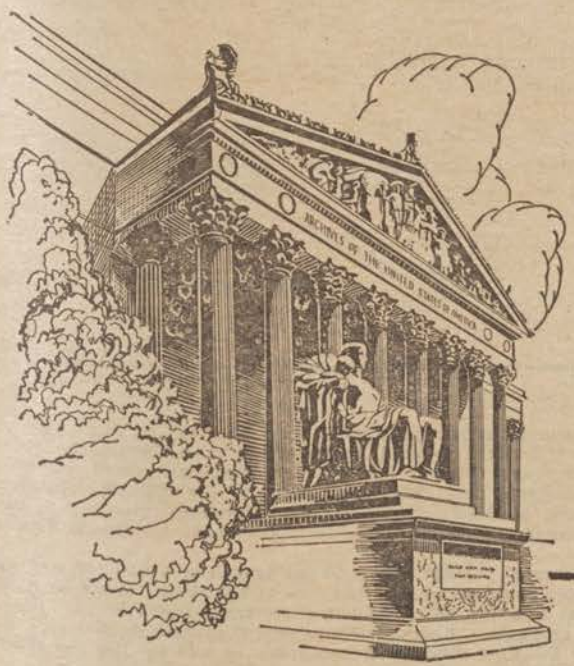

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

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Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER G—PROCUREMENT

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Subchapter G, containing the Army Procurement Procedure, is amended, as follows:

PART 591—GENERAL PROVISIONS

1. Sections 591.108, 591.109, and 591.109–2 (b) and (c) are revised; in § 591.150(b), subparagraphs (7), (8), and (9) are revoked; and new § 591.151 is added, as follows:

§ 591.108 Departmental procurement instructions and ASPR implementations.

Two copies of each procurement instruction and each change thereto, including circulars and regulations and other directives relating to procurement matters, issued by Heads of Procuring Activities, shall be forwarded by the HPA at the time of issuance to the addressee listed in § 591.150(b)(6) for review in accordance with § 1.108(d) of this title. Heads of Procuring Activities shall insure that procurement instructions, including circulars and regulations and other directives relating to procurement matters, issued by their subordinate activities, meet the criteria in § 1.108 (a) and (b) of this title.

§ 591.109 Deviations from ASPR, APP, and Department of Defense and Department of the Army publications governing procurement.

Request for approval of any deviation shall be forwarded to the addressee in § 591.150(b)(6), except where the approval authority is at a level below OASA (I&L), as in § 591.109–2 (b) and (c). Each submittal shall contain a full description of the deviation, including a description of the circumstances in which the deviation will be used and, when feasible the cause, form, or procedure to be used. The request for deviation shall be supported by a complete justification.

§ 591.109–2 Deviations affecting one contract or transaction.

* * * * *

(b) The following individuals have been authorized, without power of redelegation, to approve deviations from ASPR which affect only one contract or procurement action:

(1) The Commanding General, U.S. Army Materiel Command.

(2) The Director of Procurement and Production, U.S. Army Materiel Command.

The authority granted has not been extended to Part 9 of this title or to other provisions of this subchapter as to which the Department of Defense has suspended departmental deviation authority (e.g., Subpart G of Part 1 and Part 15 of this title) or as to which action or deviation authority is limited to a level higher than Headquarters, U.S. Army Materiel Command. Unless exigency of the situation requires immediate action, written notice of each deviation shall be given to the addressees in § 1.109–2 of this title and § 591.150(b)(6) in advance of the effective date of such deviation.

(c) A Head of Procuring Activity, his deputy, or a principal assistant responsible for procurement, is hereby authorized, without power of redelegation, to approve deviations from this subchapter (except Part 599) which affect only one contract or transaction provided that any such deviation does not conflict with a statutory requirement or ASPR (Subchapter A, Chapter I of this title). Each deviation shall be reported promptly on an after-the-fact basis to the addressee in § 591.150(b)(6).

§ 591.150 Procurement channels and mailing addresses.

* * * * *

(b) * * *

(7) [Revoked]

(8) [Revoked]

(9) [Revoked]

* * * * *

§ 591.151 Signatures on correspondence relating to procurement.

All recommendations, reports, findings, data, information, and other documents relating to procurement which are addressed to the addressees in § 591.150(b)(1) through (6) shall be signed by the Head of the Procuring Activity, his deputy, or a principal assistant in the headquarters office responsible for procurement, unless Subchapter A, Chapter I of this title and this subchapter specify otherwise.

2. Section 591.201–53 is revised; §§ 591.201–54, 591.302–50, 591.302–51, and 591.352 are revoked; and § 591.401(e) is revised, as follows:

§ 591.201–53 Oversea area.

The term "oversea area" when applied to a procuring activity means a procuring activity in Alaska, the Caribbean, Europe, Hawaii, or Japan.

§ 591.201–54 Oversea area. [Revoked]

§ 591.302–50 Integration of current procurement with mobilization planning. [Revoked]

§ 591.302–51 Procuremeent during National emergency. [Revoked]

§ 591.352 Public release of long-range procurement estimates. [Revoked]

§ 591.401 Responsibility of each procuring activity.

* * * * *

(e) The Commanding General, 1st U.S. Army shall exercise the functions of Head of Procuring Activity for The Judge Advocate General's School.

* * * * *

3. Sections 591.402 (d) and (g)(4) and 591.403 are revised; in § 591.452, paragraph (d) and portions of the sample form in paragraph (f) are revised; and § 591.453(a) is revised, as follows:

§ 591.402 General authority of contracting officers.

* * * * *

(d) A contracting officer shall personally sign all contracts and modifications entered into by him. This authority cannot be delegated except insofar as specifically permitted by § 591.451.

* * * * *

(g) * * *

(4) The contracting officer makes a statement in writing, setting forth data identifying the contract, describing the circumstances to show clearly that the criteria above have been met, and stating that the contract is considered completed. This statement shall be distributed to the contract files, the contractor, the appropriate finance and accounting officer, and to any other appropriate Government office (e.g., consignee, inspector). This statement is not necessary where quantities delivered fall within variations permitted by the contract terms.

§ 591.403 Requirements to be met before entering into contracts.

(a) *Availability of funds.* Prior to the execution of any contract, the contracting officer shall assure that sufficient funds are available to effect the procurement and shall include a citation of the funds to be charged together with such assurance as a part of the contract file. Each contract, purchase order, and delivery order shall reflect the complete accounting classification. (See AR 37–21, 37–42, and 37–102.)

(b) *Contracts and awards subject to approval.* Where a contract or an award of a contract is subject to approval by an authority at a level higher than the contracting officer, no such contract shall be entered into by a contracting officer until such approval has been obtained. If approval of a contract, modification, or change order by any officer or official of the Department of the Army other than the contracting officer is required, (1) the Approval of Contract clause set forth in § 7.105–2 of this title will be included, (2) all changes and deletions will have been made before such approval is requested, and (3) the contract, modification, or change order is not binding on the Government until so approved, even though signed by the contractor and the contracting officer.

(c) *Date of signature.* Where a signature is required on a contract, agreement, orders requiring acceptance, amendments, or similar instruments to constitute a valid agreement in writing sufficient to support the recording of a fund obligation, the signature shall be affixed prior to the expiration of the period for obligation of the appropriation involved. The actual date of the signing

shall be placed adjacent to the signature. However, the date of execution of a notice of award or letter contract shall be the date of obligation notwithstanding that a definitive contract may be issued thereafter. (See AR 37–21.)

§ 591.452 Selection and appointment of ordering officers.

* * * * *

(d) *Reporting requirement.* (1) The ordering officer shall submit at the beginning of each month information concerning individual purchase transactions completed during the preceding calendar month to the purchasing office to which he is responsible. This information is for consolidation into DD Form 1057 (Monthly Procurement Summary by Purchasing Office) (RCS–CSGLD–534 (R6)). It shall be submitted in such a manner that it may readily be included on DD Form 1057. Appointing authorities shall insure that ordering officers are properly instructed in the preparation and submission of such information.

(2) The ordering officer shall be responsible for preparation, execution, and submission of DD Form 350 (Individual Procurement Action Report) (RCS–CSGLD–525(R7)). The purchasing office executing the contract under which such orders are placed shall furnish to the ordering officer such information as he will need to complete blocks 10A, 10B, 10C, 15, 16, 17, 18, 19, 20, 21, and 22 and any other information necessary.

* * * * *

(f) *Sample form of suggested letter for appointing ordering officers.*

Date_____

Subject: Appointment of ordering officers.

To: (Address to individual, indicating rank or grade, and section or location).

* * * * *

2. * * *

b. * * *

(1) The aggregate amount of the purchase transaction is not in excess of $100. ($250 under emergency conditions.) Purchases will not be split to avoid this dollar limitation.

* * * * *

h. You will prepare, execute and submit a DD Form 350 (Individual Procurement Action Report) in accordance with the provisions of section XXI, Part 1 of ASPR. (See APP 1–452(d).)

* * * * *

§ 591.453 Responsibility for contract administration.

(a) Commanders are responsible for administration of contracts under their cognizance in the same manner and to the same degree as any other mission or function assigned to their command. Direct responsibility for execution and administration of a specific contract rests upon the duly appointed contracting officer concerned (§ 591.402(b)). This does not mean that the contracting officer must personally act in each and every matter relating to the administration of contracts although the ultimate responsibility is his. He can properly discharge certain of his responsibilities through designated representatives (§ 591.451, paragraphs 103.1 and 103.2 of § 30.2 of this title, and paragraph 103.2 of § 30.3 of this title).

* * * * *

4. Section 591.601–3 is revoked; the section heading of § 591.652 is revised; and Subpart I and § 591.1002–6 are revoked, as follows:

§ 591.601–3 Joint consolidated list. [Revoked]

§ 591.652 Provisional withholding of funds.

* * * * *

Subpart I—Responsible Prospective Contractors [Revoked]

§ 591.1002–6 Paid advertisements in newspapers and trade journals. [Revoked]

5. In § 591.1006–50, the introductory text of paragraph (b) is revised; and Subpart P is revoked, as follows:

§ 591.1006–50 Congressional notification of proposed awards, Reports Control Symbol SAOAS–38.

* * * * *

(b) In CONUS, the required contract information shall be telephoned to the Deputy Chief of Staff for Logistics (Chief, Procurement Statistics Office, Data Processing Center, Oxford 5–3032, or Oxford 7–3080, Washington, D.C.) providing data in the following format, at least 20 working hours prior to time of award. NOTE: USAMC installations will report the required information in accordance with AMC Regulation 715–2).

* * * * *

Subpart P—Novation Agreements and Change of Name Agreements [Revoked]

PART 592—PROCUREMENT BY FORMAL ADVERTISING

6. Subpart B and § 592.403 are revoked; § 592.406–50(c) is revised; in § 592.407–9, the introductory text of paragraph (c) and paragraph (g)(3) are revised; and in § 592.451, paragraphs (a) and (b)(1) are revised, as follows:

Subpart B—Solicitation of Bids [Revoked]

§ 592.403 Recording of bids. [Revoked]

§ 592.406–50 Distribution of Administrative Determination and Comptroller General Decisions.

* * * * *

(c) *To General Accounting Office With Standard Form 1036.* See § 2.407–7 of this title and § 610.102 of this subchapter.

* * * * *

§ 592.407–9 Protests against award.

* * * * *

(c) Except as provided in § 592.451(b) a protest case emanating in the U.S. Army Materiel Command, which is submitted for final resolution to a level of authority higher than the cognizant subordinate activity, shall be forwarded to the addressee in § 591.150(b)(17). A protest case occurring in a purchasing office not under the jurisdiction of the U.S. Army Materiel Command which is submitted for final resolution to a level of authority higher than the Head of Procuring Activity shall be forwarded to the addressee in § 591.150(b)(6). Protests submitted to higher authority shall be documented completely, including—

* * * * *

(g) * * *

(3) Where a Head of Procuring Activity subordinate to Headquarters, U.S. Army Materiel Command, considers that guidance from higher authority is necessary, the matter of withholding contractor performance shall be submitted by the most expeditious means to the addressee in § 591.150(b)(17). Any other Head of Procuring Activity shall submit such request to the addressee in § 591.150(b)(6).

§ 592.451 Request for decision by the Comptroller General.

(a) *Administrative report* (exempt report, par. 39t, AR 335–15). Each case submitted for a decision by the Comptroller General shall be accompanied by an administrative report signed by the contracting officer and the recommendations of each intervening level of authority through which the report is transmitted. This report shall (1) summarize the matter at issue, (2) state the findings and recommendation of the contracting officer, (3) indicate the actions taken, and (4) provide any additional information or evidence deemed necessary, including any documentation specifically requested by the Comptroller General or required by this subchapter or by Subchapter A Chapter I of this title. After review of the report by the cognizant Head of Procuring Activity, his deputy, or principal assistant responsible for procurement, it shall be forwarded as prescribed in paragraph (b) of this section, together with any additional appropriate information and with a statement of the position and recommendation of the reviewer.

(b) *Submission of requests.* Procurement matters shall be submitted to the Comptroller General for decision as follows:

(1) Procuring activities subordinate to Headquarters, U.S. Army Materiel Command or U.S. Continental Army Command shall forward matters to the cognizant Headquarters.

* * * * *

PART 593—PROCUREMENT BY NEGOTIATION

7. In § 593.213–2, paragraphs (a), (b), and (e) are revised; in § 593.305(p), note 3 in subparagraph (1) and item 2 of the form in subparagraph (2) are revised; §§ 593.605–6, 593.605–50, and 593.607–3 are revoked; and the introductory text of § 593.608–6 is revised, as follows:

§ 593.213–2 Application.

(a) *Definition.* The term "standardization" as used herein includes the con-

cept of uniformity to a degree which will accomplish maximum interchangeability of parts. In order to effect a procurement under this paragraph there must have been executed at Secretarial level: (1) A determination to standardize and (2) a determination and findings to support the negotiation of each proposed individual procurement or class of procurements.

(b) *Responsibility.* Responsibility within the Army for action under § 3.213–5 of this title including maintenance of records of standardization actions and files concerning candidate items for standardization and monitoring the standardization program under 10 U.S.C. 2304(a)(13), is vested in the Commanding General, U.S. Army Materiel Command, who has assigned such responsibility to the Director of Procurement and Production. The Director of Procurement and Production assigns responsibility for initiating standardization action, according to groups or categories of candidate items, to a Head of Procuring Activity who is responsible within the assigned category for—

(1) Initiating requests for standardization approval.

(2) Initiating determinations and findings for authority negotiate after (or simultaneous with) standardization approval,

(3) The biennial review required under § 3.213–2(e) of this title and

(4) Reporting the results of such review with data supporting any determination made that the standardization should be continued, revised, or canceled, as the case may be.

* * * * *

(e) *Cancellation considerations.* When redesign or redesignation of a standardized model will not affect interchangeability of parts of the new and old models, the standardization file of the cognizant Head of Procuring Activity and the Director of Procurement and Production shall reflect a revision to the original standardization approval, supported by a determination of the Head of Procuring Activity that cancellation of standardization is not warranted. When, for any reason, the Head of Procuring Activity or the Director of Procurement and Production concludes that an approved standardization should be canceled, written notification shall be given promptly to the addressees shown in § 3.213–5 of this title and § 591.150(b)(6). Consideration shall be given to cancellation when, after standardization, the quantity in the Army supply system of one or more of the selected suppliers falls below 15 percent, but cancellation is not required unless it reasonably appears that in future negotiated procurements such supplier will not be able to offer effective competition. Nevertheless, when the quantity of one or more of the selected supplies falls below 15 percent, standardization should not be continued beyond one procurement except for the most compelling reasons.

§ 593.305 Forms of determinations and findings.

* * * * *

(p) *Sample formats for determinations and findings.* (1) * * *

3. See pertinent "Application" paragraph of ASPR; e.g., for ASPR 3–213 use: (The property to be procured is equipment used for _____
(describe what functions the equipment performs)
and it is necessary to procure such equipment from selected suppliers in order to limit the variety and quantity of parts that must be carried in stock (or one of the statements in ASPR 3–213.2(b) (ii) or (iii), as appropriate). The factors set forth in ASPR 3–213.2(c) have been considered and support negotiation of the proposed procurement.)

* * * * *

(2) * * *

2. The foregoing item is used for _____ and is subject to a recurring procurement requirement. The proposal is based upon facts showing that standardization of such equipment, for purposes of Army procurement, to meet tactical requirements and requirements in Alaska, Hawaii and in other areas outside the remainder of the United States will be in the public interest, taking into consideration the factors enumerated in ASPR 3–213.2(c). The other Military Departments do not object to the proposed standardization.

* * * * *

§ 593.605–6 Receipt of material. [Revoked]

§ 593.605–50 Billing procedure. [Revoked]

§ 593.607–3 Conditions for use. [Revoked]

§ 593.608–6 Use of DD Form 1155 as a delivery order.

DD Form 1155 may be used to consolidate deliveries for payment under indefinite delivery type contracts and brand name contracts. This may be done at the end of a month (or more often) in order to effect payment to the vendor when the following conditions are present:

* * * * *

PART 594—SPECIAL TYPES AND METHODS OF PROCUREMENT

8. In § 594.1002, paragraph (b) is revoked; in § 594.1003–4, the introductory text of paragraph (c)(3) and paragraph (d) are revised; and § 594.1003–5(e) and the introductory text of § 594.1005(a) are revised, as follows:

§ 594.1002 Employment by appointment.

* * * * *

(b) [Revoked]

* * * * *

§ 594.1003–4 Incidents of temporary or intermittent employment by contract.

* * * * *

(c) *Annual and sick leave.* * * *

(3) Except as provided in subparagraphs (1) and (2) of this paragraph, an individual employed under a personal services contract (including any extension thereof) in which there has been established in the contract a regular tour of duty during each administrative workweek is entitled to accrue and use sick leave, and, where the contract (including any extension thereof) also provides for a continuous performance period in excess of 90 calendar days, is also entitled to accrue and use annual leave. Such individual, if employed on a part time basis, shall be entitled to accrue and use sick and annual leave in accordance with CPR L1, implementing the Annual and Sick Leave Act of 1951 as amended.

* * * * *

(d) *Coordination with civilian personnel office.* It is necessary that authorized manpower ceilings not be exceeded (except that such ceilings are not applicable to individuals obtained to meet the requirements of the DEFSIP–B program) and that the cognizant civilian personnel office establish certain records and files on individuals employed to render personal services under contracts (see CPR A9.3–5). Accordingly, the contracting officer administering such contract shall effect necessary coordination with the civilian personnel office before award of the contract.

§ 594.1003–5 Limitations.

* * * * *

(e) Compensation of the individual shall not exceed the maximum rate set by the Classification Act pay schedules for grade GS–15, except that the following may be compensated at rates not in excess of the maximum rate for grade GS–18:

(1) Professional engineering positions primarily concerned with research and development; and

(2) Professional positions in the physical and natural sciences and in medicine.

* * * * *

§ 594.1005 Criteria for submission for Secretarial consideration of proposed contracts for nonpersonal expert or consultant services.

(a) A proposed contract in which expert or consultant services will be furnished by either an organization or an individual, shall be submitted to the addressee in § 591.150(b)(6) for any necessary approval or other action (notwithstanding that the contract describes such services as nonpersonal) if three or more of the following factors exist:

* * * * *

PART 595—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

9. Section 595.101 is revised and § 595.106 is revoked, as follows:

§ 595.101 Federal supply schedule contracts.

In the case of service station deliveries of gasoline and lubricating oil under Federal supply schedule (classes 7 and 14) where an identification card is used, the delivery ticket prepared by the service station and signed by the identification card holder at the time of delivery constitutes a "delivery order" consistent with paragraph 3–5, AR 37–107.

§ 595.106 Federal supply schedules with multiple source provisions. [Revoked]

PART 599—PATENTS, DATA, AND COPYRIGHTS

10. Sections 599.202–1, 599.202–3, 599.202–6, 599.203–1, and 599.203–3 are revoked, as follows:

§ 599.202–1 Acquisition of data. [Revoked]

§ 599.202–3 Multiple sources of supplies. [Revoked]

§ 599.202–6 Data furnished on a restricted basis in support of a proposal. [Revoked]

§ 599.203–1 Basic Data Clause. [Revoked]

§ 599.203–3 Limited rights provisions for addition to basic data clause. [Revoked]

PART 600—BONDS, INSURANCE, AND INDEMNIFICATION

11. Sections 600.105–50 and 600.110 are revoked; new § 600.112 is added; in § 600.201–1, the section heading is revised and paragraph (c) is revoked; and in § 600.201–50, the section heading and paragraph (a) are revised, as follows:

§ 600.105–50 Fidelity and forgery bonds. [Revoked]

§ 600.110 Execution of bonds. [Revoked]

§ 600.112 Execution and administration of bonds and consents of surety.

(a) *Execution, examination, and distribution of bonds and consents of surety.* (1) Immediately after execution the original of all surety bonds required by procuring activities (except as hereinafter provided in subparagraph (3) of this paragraph) shall be forwarded direct to The Judge Advocate General, Attention: Bonds Branch, Department of the Army, Washington, D.C., 20310. If such bond was required in support of a contract or modification thereof, the original signed bond should be attached to the original signed contract or modification thereof, as the case may be, and forwarded to The Judge Advocate General. In the event it is not practicable to forward the original contract or modification, a signed duplicate or an authenticated copy thereof should be attached to the original bond and forwarded to The Judge Advocate General. The Judge Advocate General shall examine bonds as to legal sufficiency, including proper form and execution, the authority of corporate officials who execute bonds on behalf of corporate sureties, and compliance by individual sureties with § 10.201–2 of this title. The Judge Advocate General then shall forward the bond, together with any contract or modification thereof which it supports, to the proper office for filing. The duplicate bond shall be retained and filed in the office to which it pertains or which authorized its acceptance. In case of use of an option in lieu of surety see § 600.202.

(2) Consents of surety shall be handled in the same manner as bonds, except that, for more expeditious handling, they may be forwarded, without the surety's signature, to The Judge Advocate General for execution under the Expediter Plan and for approval.

(3) The following bonds shall not be forwarded to The Judge Advocate General:

(i) Blanket fidelity and forgery bonds.

(ii) Bid bonds (except annual bid bonds). The original and duplicate numbers shall be retained in the office to which they pertain or which authorized their acceptance.

(b) *Authority of The Judge Advocate General as to substitute surety bond.* The Judge Advocate General is authorized to act for the Secretary in accepting a new surety bond in substitution for a bond previously approved covering part or all of the same obligation, and in authorizing the notification of the principal and surety on the bond originally furnished that it will not be considered as security for any default occurring subsequent to the date of approval of the new bond. The Judge Advocate General is authorized to delegate such function to personnel within his office.

§ 600.201–1 Corporate sureties and cosureties.

* * * * *

(c) *Corporate sureties.* [*Revoked*]

§ 600.201–50 Grant, extension, modification and termination of authority to qualify as a corporate surety.

(a) From time to time the Treasury Department issues supplements to TD Circular 570, notifying all Federal agencies of the grant, extension, modification and termination of authority of a specified corporate surety company to qualify as a surety on Federal bonds. Procuring activities will be notified of these supplements through the medium of the DA Circular 715–2-series. Upon receipt of notification of termination of a company's authority to qualify as surety on Federal bonds, each contracting officer concerned shall examine each uncompleted bonded contract and require the affected contractor, if any, to secure new bonds with acceptable surety in lieu of bonds executed by the surety company whose authority has been terminated. New bonds so obtained should be at once forwarded direct to The Judge Advocate General in accordance with § 600.112. The obtaining of new bonds in such case shall not relieve the original surety of liability, but is necessary to assure adequate bond protection.

* * * * *

12. The introductory text of § 600.301 is revised; §§ 600.303 and 600.403 are revoked; and §§ 600.501–1, 600.503, and 600.553(a)(1) are revised, as follows:

§ 600.301 General.

The term "insurance" as used in this subpart includes, but is not limited to, the following forms of coverage, whether provided under an insurance policy issued by privately-operated insurance companies or underwriters, or under a state operated insurance fund, or under an approved self-insurance plan:

* * * * *

§ 600.303 Responsibility for loss of or damage to Government property. [Revoked]

§ 600.403 Workmen's compensation insurance overseas. [Revoked]

§ 600.501–1 Workmen's compensation and employers' liability insurance.

The States of California, New Jersey, New York, and Rhode Island have imposed upon employers the obligation to afford benefits for nonoccupational disability as well as for disability in the course of and arising out of employment. Employers may, under State law, be given the option of insuring with companies or underwriters or of self-insuring this obligation.

§ 600.503 Government property.

The Government Property clause (§ 13.703 of this title) generally relieves the contractor for loss of or damage to Government property in his care, custody, or control and therefore there is no requirement for such coverage except in limited instances. The loss and salvage organizations referred to in the contract clause (§ 13.703 of this title) will be found listed in the local telephone directory of the larger cities. They are known as "General Adjustment Bureau, Inc.," and "Underwriters Adjusting Company."

§ 600.553 Review and approval of contractors' insurance programs.

(a) * * *

(1) The criteria for application of the National Defense Projects Rating Plan is set forth in § 10.603 of this title. Where a location does not qualify for this Plan and the estimated annual premiums are substantial, a commercial retrospective rating plan may be appropriate. If the estimated annual premiums are small, joint insurance with the contractor's commercial operations or special guaranteed cost policies may be advisable.

* * * * *

PART 602—LABOR

13. Section 602.101–3 and the introductory text of § 602.650(a) are revised, as follows:

§ 602.101–3 Reporting of labor disputes.

(Report Control Symbol SAOAS–40.) In situations of extreme urgency contracting officers shall make initial and supplemental reports by telephone or other informal means to the Labor Advisor. In all such cases the information informally submitted shall be confirmed in writing as soon as possible thereafter. Further, in situations where possible serious impact may ensue, direct communication is authorized between procuring activity representatives and the Labor Advisor.

§ 602.650 Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors (DA Cir 715–1).

(a) The Joint Consolidated List issued in accordance with § 1.601–3 of this title will include the following:

* * * * *

PART 603—GOVERNMENT PROPERTY

§ 603.702–51 [Amended]

14. The reference "expressed in § 600.-303," appearing at the end of the introductory text in § 603.702–51, is deleted.

15. Paragraph (b) in § 603.1700 is revised; in § 603.1711–1, the last sentence in paragraph (b)(3) is revised and § 603.1712–2(d) is revised, as follows:

§ 603.1700 General.

* * * * *

(b) It is recognized that local situations may in certain instances demand accounting for Government property by methods which differ from the instructions in this subpart. Where it can clearly be shown that such different accounting methods adequately and fully protect the interest of the Government and do not place undue burden on the contractor, a request for approval to deviate from these instructions should be submitted in accordance with § 591.109 and AR 735–79 to the addressee in § 591.150(b)(6).

§ 603.1711–1 Records of specific contracts where property is involved (B–303.1 and C–213.1).

* * * * *

(b) * * *

(3) * * * The relaxation in the Appendix B (§ 30.2 of this title) accounting requirements for acknowledgment-of-receipt documents in the jacket file of the property administrator, shall not be construed as eliminating the necessity for submission by the contractor of documents or data covering plant equipment or other property set forth in Department of the Army directives such as those governing Production Equipment Records at DIPEC (AR 700–43), the Army Stock Fund (AR 37–111), and the Army Industrial Fund (AR 37–71).

* * * * *

§ 603.1712–2 Records of plant equipment (B–304.3 and C–207.5).

* * * * *

(d) Information recorded on DA Form 804 prior to July 1, 1961, need not be transferred to DD Form 1342 retroactively. Copies of DD Form 1342 delivered to the property administrator by the contractor will be distributed in accordance with AR 700–43.

PART 606—PROCUREMENT FORMS

16. Section 606.102–2, Subpart B, and § 606.504 are revoked, as follows:

§ 606.102–2 Conditions for use. [Revoked]

Subpart B—Forms for Negotiated Procurement [Revoked]

§ 606.504 Order for paid advertisements (Standard Forms 1143 and 1143a). [Revoked]

PART 610—SUPPLEMENTAL PROVISIONS

17. Subpart A is revised; §§ 610.204–2(b)(1) and (c), 610.204–7(b), 610.204–8, and 610.204–9 are revised; and § 610.701 is revoked, as follows:

Subpart A—Distribution of Contracts

Sec.

AUTHORITY: The provisions of this Subpart A issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 610.101 Documentary evidence of purchases.

Each purchase transaction made by a contracting officer, except one under the imprest fund procedure, shall be evidenced by a written contract on approved forms. (See §§ 1.201–4 and 3.607 and Part 16 of this title and § 593.607 and Part 606 of this chapter.

§ 610.102 Distribution of contracts and other documents.

Required distribution of contracts and certain other documents is summarized in §§ 610.102–610.102–3. Release of a contract or information concerning the award shall not be made until the contract has been properly signed by all parties and approved by higher authority when such approval is required. Either this required approval or a statement by the contracting officer to the effect that the award of the contract has been approved shall accompany the contract. Such statement shall contain the name, title, and office of the approving official, and a reference to the date of approval and to the administrative file containing the approval. For distribution of Standard Form 1036 (Statement and Certificate of Award), see §§ 2.407–7 and 16.801 of this title. Documents distributed to the General Accounting Office shall be mailed to the addressee in § 591.150(b)(12).

§ 610.102–1 Definitions.

The following terms are used in connection with the distribution of contracts:

(a) A "signed number" is the contractual instrument with all required signatures.

(b) An "authenticated copy" is a copy of the contractual instrument shown to be authentic by (1) certification as a true copy, or (2) photostatic process. The signatures may be facsimile, stamped, or typed.

(c) A "copy" includes the complete contractual instrument with the names of the contracting parties, but lacks authentication.

(d) A "numbered contract" is one numbered in accordance with ASPR 20–201.

§ 610.102–2 Secret and confidential contracts.

Distribution of classified contracts is subject to the provisions of AR 380–5 and to all other current instructions governing the safeguarding, transmittal, and disclosure of information affecting the national security of the United States. Copies of secret or confidential contracts submitted to the addressee in § 591.150(b)(12) shall be transmitted under two covers, each containing the mailing address. The inner cover only shall bear the security classification.

§ 610.102–3 Distribution instructions.

(a) *Contracts.* The minimum distribution of contracts to be accomplished is set forth hereafter. Supplemental agreements and change orders shall be distributed in the same manner as is prescribed for the contracts to which they pertain and the contracting officer shall note on his retained copy of the supplemental agreement or change order the date on which the contractor's copy was delivered or mailed to him.

(1) *Signed number.* The original signed number of each numbered contract shall be forwarded without delay to the addressee in § 591.150(b)(12). However, where a surety bond was required in support of the contract, see § 600.112 for required routing through The Judge Advocate General. The original signed number of each unnumbered contract shall be forwarded to the finance and accounting officer as an attachment to the first voucher on which payment is made and shall accompany such voucher to the addressee in § 591.150(b)(12); notation (e.g., "Performance Bond Executed;" "Payment Bond Executed") shall be placed on this number if a surety bond was required in support of the contract. The duplicate signed number shall be forwarded to the contractor. The triplicate signed number shall be filed with the contract file.

(2) *Authenticated copy.* (i) An authenticated copy shall be forwarded to the finance and accounting officer for his files. Where the type contract involved is an indefinite delivery type other than a definite quantity type, a comprehensive summary of pertinent contract information and ordering instructions relating to such contract (supply schedule) may be used instead of an authenticated copy. In lieu of copying the signatures of the parties signing the contract or supplemental agreement and of the witnesses thereto, and the corporate certification or certificate, if any, as to the authority of the persons who signed the original for a corporate contractor, the contracting officer or his authorized representative may execute the following certificate on the copies furnished the finance and accounting officer for his use:

I certify that this is a true copy of a document properly signed and, if required, witnessed on _____ and that the
(Date)
corporate certificate therein, if any, was properly executed.

(ii) An authenticated copy of a contract involving the purchase by or for the account of the Government of metal working machinery and production and capital (plant) equipment (as listed in appendixes 1A and 1B, AR 700–43) shall be forwarded to the Defense Industrial Plant Equipment Center (DIPEC), Memphis, Tenn. This copy shall be annotated by the forwarding activity to reflect, for each item being purchased, the

requisition number and the date of the DD Form 1419 previously submitted to DIPEC for screening.

(iii) An authenticated copy shall be distributed to the cognizant audit office within 20 days after execution of each contract enumerated hereafter. Contracts not so enumerated shall not be distributed to an audit office.

(*a*) A fixed-price type contract involving price redetermination, escalation, or incentive features;

(*b*) A fixed-price type contract containing cost reimbursement provisions applicable to portions thereof;

(*c*) A cost-reimbursement type contract;

(*d*) A time-and-materials contract;

(*e*) A labor-hour contract;

(*f*) A negotiated contract where the compensation to be paid the contractor varies on the basis of the actual cost incurred, the quantity of work or service performed, the time element in performing the work or service, or on other similar variable factors;

(*g*) A contract which provides for advance payment, or progress payments based on costs;

(*h*) A letter contract;

(*i*) A change; amendment, and supplement to a contract listed above; and

(*j*) A contract which has been terminated for convenience of the Government (not previously forwarded under requirements of this subparagraph).

(iv) Authenticated copies of the contract in a number equal to the number of receiving Military Departments shall be forwarded with the original signed number when the contract covers purchases made for one or more of the other Military Departments and payment to the contractor is to be made by the Department receiving the supplies or services.

(3) *Copy.* Distribution of any additional copy shall be as directed in appropriate Department of the Army publications or by the cognizant Head of Procuring Activity. It may be furnished for official use within the Department of the Army prior to the distribution of the signed numbers, provided it is plainly marked "Advance Copy," and other safeguards are taken to avoid premature release of award information and to insure that no improper fiscal charges arise.

(b) *Other documents for audit offices.* (1) An authenticated copy of each instrument enumerated hereafter shall be distributed to the cognizant audit office within 20 days after execution—

(i) The advance agreement negotiated pursuant to § 15.107 of this title, and

(ii) The record of negotiations (attached to the contract supplement which it supports); provided, the supplement reflects (*a*) a final negotiated overhead rate under a cost-reimbursement type contract; (*b*) redetermined prices under a contract involving price redetermination, price escalation, or incentive features; or (*c*) termination settlement of a contract forwarded pursuant to paragraph (a)(2)(iii) of this section. The record may consist of a copy of the summary of negotiations.

(2) Within 5 days after receipt from the contractor, the contracting officer shall forward an original and one copy of all documents enumerated hereafter which are either required by the contract, if of the type referred to in paragraph (a)(2)(iii) of this section, or which are acquired by the contracting officer (see § 3.807–3 of this title). The original shall be returned by the audit office at the time of submission of the audit report or when it is determined that an audit is not to be initiated; the duplicate shall be retained for audit office files. These documents include—

(i) Cost and pricing data (see §§ 3.807–2 and 3.807–3 of this title);

(ii) Settlement proposals relating to prime contract and subcontract terminations as provided in § 8.207 of this title (including inventory and accounting information). Termination settlement proposals in connection with lump sum or unit price architect-engineer contracts which provide for settlement on a percentage-of-completion basis and which are terminated for the convenience of the Government shall not be distributed; and

(iii) Other related information necessary for an understanding of the foregoing.

(3) Contracting officers may submit contractual documents specified in paragraph (a)(2)(ii) and (iii) of this section direct to the cognizant audit office.

(4) For contracts involving Government-owned industrial property in possession of contractors, contracting offices shall furnish to the cognizant audit office a letter notification showing contract number, name and address of contractor, address of office administering the property records, and location of the property records. Notifications may be consolidated and furnished weekly or monthly, depending on volume, but separate letters shall be furnished for each location of records.

(5) Within the United States, distribution of the above indicated contractual documents, supplementary, information, and notifications shall be made by the purchasing office to the cognizant audit office of the area in which the records subject to audit are located and shall include one extra copy when contracts administered from within the United States are performed outside the United States.

(c) *Other documents involving acquisition of production and capital (plant) equipment.* When contractors have been authorized to purchase equipment listed in appendixes 1A and 1B, AR 700–43/DSAM 4215.1, for the account of the Department of the Army, a copy of the contractor's purchase order shall be forwarded, within five days of receipt, to DIPEC. This document shall be annotated to reflect, for each item being purchased, the requisition number and date of the DD Form 1419 previously submitted to DIPEC for screening.

(d) *Delivery orders.* (1) Delivery orders under contracts of other Military Departments and other Government agencies shall be distributed in the same manner as provided in paragraph (a), of this section for the distribution of signed numbers.

(2) The cognizant head of procuring activity shall comply with all special instructions of the agency which entered into the contract.

(3) Vouchers distributed to the addressee in § 591.150(b)(12) may relate to less than all of the items covered by the delivery order. If the original signed number of the delivery order has not already been so distributed, it will be submitted with the first voucher; and when vouchers are submitted covering subsequent payments, a reference shall be made to the first voucher. The reference shall contain the date on which the invoice covered by the first voucher was paid and the name of the finance and accounting officer by whom such payment was made.

§ 610.204–2 Personal and professional services.

* * * * *

(b) * * *

(1) Contracts for personal services of alien specialists necessary to meet the requirements of the Defense Scientists Immigration Program—B (DEF SIP–B); (formerly "Project 63");

* * * * *

(c) See § 594.1005 of this chapter for procedure for submittal to the addressee in § 591.150(b)(6) of certain contracts which may involve personal services aspects.

§ 610.204–7 Management engineering services.

* * * * *

(b) In the event that proposed contracts and modifications to contracts for management engineering services are forwarded to the Secretary for contract award approval because (1) the services being procured are of a personal services nature (§ 610.204–2), or (2) Secretarial approval of award is required or desired for other reasons, such proposed contracts or modifications to contracts shall be submitted to the addressee in § 591.150(b)(6).

* * * * *

§ 610.204–8 Leases of Government personal property.

Proposed leases and modifications to leases of Government personal property, except as otherwise provided by specific delegation of the Secretary, shall be submitted for approval to the addressee listed in § 591.150(b)(6).

§ 610.204–9 Automatic data processing equipment (ADPE).

(a) In connection with the award of contracts for acquisition or use of ADPE, see AR 1–251.

(b) If the proposed equipment is to be used for classified information, consideration should be given to classified AR 380–46, "Restrictions on Use of Information Processing Equipment," before requests for ADPE equipment procurement are submitted.

§ 610.701 **Procedure. [Revoked]**

[C1, APP, Oct. 25, 1965] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2214)

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

[F.R. Doc. 66–1202; Filed, Feb. 3, 1966; 8:45 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Civil Aeronautics Board

Section 213.3340 is amended to show that the positions of Special Assistant for Congressional Relations and of his Secretary are no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraphs (d) and (e) of § 213.3340 are revoked.

(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, 1954–1953 Comp., p. 218)

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

[F.R. Doc. 66–1250; Filed, Feb. 3, 1966; 8:49 a.m.]

Title 7—AGRICULTURE

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

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Expenses and Rate of Assessment

On January 18, 1966, notice of rule making was published in the FEDERAL REGISTER (31 F.R. 564) regarding proposed expenses and the related rate of assessment for the initial fiscal period beginning December 20, 1965, and ending July 31, 1966, pursuant to the marketing agreement and Order No. 913 (7 CFR Part 913; 30 F.R. 15204) regulating the handling of grapefruit grown in the Interior District in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Interior Grapefruit Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 913.201 **Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during the initial fiscal period December 20, 1965, through July 31, 1966, will amount to $30,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 913.31, is fixed at $0.005 per standard packed box of grapefruit.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that (1) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (2) such initial period began on December 20, 1965, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

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

Dated: February 1, 1966.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 66–1249; Filed, Feb. 3, 1966; 8:49 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

PART 214—NONIMMIGRANT CLASSES

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

Miscellaneous Amendments

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

1. The first sentence of § 212.2 *Consent to reapply for admission after deportation, removal, or departure at Government expense* is deleted and the following two sentences inserted in lieu thereof: "An application for permission to reapply for admission to the United States after deportation or removal and to remove the bar to inadmissibility contained in paragraph (16) or (17) of section 212(a) of the Act shall be made through the consular officer, and may be granted only in accordance with section 212(d)(3)(A) of the Act and § 212.4(a), when the alien is seeking temporary admission to the United States and is or will be an applicant for a nonimmigrant visa at a consular office. In all other cases, the application for permission to reapply shall be made on Form I–212 as indicated hereafter."

2. The existing fifth sentence of § 212.2 *Consent to reapply for admission after deportation, removal, or departure at Government expense* is amended to read as follows: "An applicant who has submitted Form I–212 shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter."

3. The third sentence of subparagraph (1) *Without visas* of paragraph (c) *Transits* of § 214.2 *Special requirements for admission, extension, and maintenance of status* is amended to read as follows: "Except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without a visa must be made at one of the following ports of entry: Buffalo, N.Y.; Rouses Point, N.Y.; Boston, Mass.; New York, N.Y.; Norfolk, Va.; Baltimore, Md.; Philadelphia, Pa.; Washington, D.C.; Miami, Fla.; Port Everglades, Fla.; Tampa, Fla.; New Orleans, La.; San Antonio, Tex.; Dallas, Tex.; Houston, Tex.; Brownsville, Tex.; San Diego, Calif.; Los Angeles, Calif.; San Francisco, Calif.; Honolulu, Hawaii; Seattle, Wash.; Portland, Oreg.; St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Anchorage, Alaska; Fairbanks, Alaska; San Juan, P.R.; Charlotte Amalie, V.I.; Christiansted, V.I.; Agana, Guam."

4. Paragraph (f) of § 245.1 *Eligibility* is amended to read as follows:

(f) *Concurrent applications to overcome exclusionary grounds.* Except as provided in Parts 235 and 249 of this chapter, an application under this part shall be the sole method of requesting the exercise of discretion under sections 212 (g), (h), and (i) of the Act, insofar as they relate to the excludability of an alien in the United States. An applicant for adjustment under this part may also apply for the benefits of section 212(c) of the Act and for permission to reapply after deportation or removal.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rules prescribed by the order relate to agency procedure.

Dated: January 26, 1966.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 66–1245; Filed, Feb. 3, 1966; 8:48 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 1]

PART 112—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF SBA—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Miscellaneous Amendments

Part 112 of Chapter I of Title 13 CFR is hereby amended by:

§ 112.2 [Amended]

1. Deleting subparagraph (4) of paragraph (a) of § 112.2 thereof.

2. Revising § 112.4 thereof to read as follows:

§ 112.4 Discrimination in employment.

Small business concerns and development companies which apply for or receive any financial assistance of the kind described in subparagraphs (1) and (2) of § 112.2(a), including concerns which are identifiable beneficiaries of loans made under subparagraph (2), may not discriminate on the ground of race, color, or national origin in their employment practices. Such assistance is deemed to have as a primary objective the providing of employment.

3. Revising § 112.6 thereof to read as follows:

§ 112.6 Discrimination in accommodations or services.

Small business concerns which apply for or receive any financial assistance of the kind described in subparagraph (1) of § 112.2(a), concerns which are identifiable beneficiaries of loans made under subparagraph (2) of § 112.2(a), and physicians, hospitals, schools, libraries, and other individuals or organizations which apply for or receive financial assistance of the kind described in subparagraph (5) of § 112.2(a), may not discriminate in the treatment accommodations or services they provide to their patients, students, visitors, guests, members, passengers, or patrons in the conduct of such businesses or other enterprises, whether or not operated for profit.

Effective date. This amendment shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: January 17, 1966.

ROSS D. DAVIS,
Executive Administrator,
Small Business Administration.

[F.R. Doc. 66-1228; Filed, Feb. 3, 1966; 8:47 a.m.]

PART 113—NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SBA—EFFECTUATION OF POLICIES OF LOAN POLICY BOARD

Chapter I of Title 13 CFR is amended by adding the following new Part 113.

Sec.

AUTHORITY: The provisions of this Part 113 issued under P.L. 85-536, secs. 4, 5, 72 Stat. 384, 385; P.L. 85-699, secs. 201, 308, 72 Stat. 690, 694.

§ 113.1 Purpose.

(a) Part 112 of this chapter, issued pursuant to Title VI of the Civil Rights Act of 1964, prohibits discrimination on the basis of race, color, or national origin by some recipients of financial assistance from SBA. The purpose of this part is to reflect to the fullest extent possible the nondiscrimination policies of the Federal Government as expressed in the several statutes, Executive orders, and messages of the President dealing with civil rights and equality of opportunity, and in the previous determination of the Administrator of the Small Business Administration that discrimination based on race, color, or national origin shall be prohibited, to the extent that it is not prohibited by Part 112 of this chapter, to all recipients of financial assistance from SBA.

(b) It is the intention of the Administrator that the prohibitions in this part supplement those in Part 112 of this chapter, that the two parts be read in pari materia, and that the procedures established herein be harmonized to the maximum extent feasible with those established in Part 112 of this chapter.

§ 113.2 Definitions.

As used in this part:

(a) The term "financial assistance" means any financial assistance extended by SBA pursuant to (1) section 7 of the Small Business Act; (2) sections 302(a), 303(b), 501, and 502 of the Small Business Investment Act of 1958; (3) Title IV of the Economic Opportunity Act of 1964; and (4) section 2 of Public Law 87-550; whether extended directly or in cooperation with banks or other lenders through agreements to participate on an immediate basis.

(b) The terms "applicant" and "recipient" mean, respectively, one who applies for and one who receives any of the financial assistance under any of the statutes referred to in paragraph (a) of this section.

§ 113.3 Discrimination prohibited.

To the extent not covered or prohibited by Part 112 of this chapter, recipients of financial assistance may not:

(a) With regard to employment practices within the aided business or other enterprise, whether or not operated for profit, fail or refuse, because of the race, color, or national origin of a person, to seek his services, or to hire him or to retain his services, or to provide him with opportunities for advancement, or to promote him or accord him the rank and rate of compensation, including fringe benefits, merited by his services and abilities, or to permit him the use, on a nonsegregated basis, of toilets or cafeterias or any facilities for rest, comfort, or recreation;

(b) With regard to services or accommodations offered or provided by the aided business or other enterprise, whether or not operated for profit, fail or refuse, because of the race, color, or national origin of a person, to accept him on a nonsegregated basis as a patient, student, visitor, guest, customer, passenger, or patron.

§ 113.4 Assurances required.

An application for financial assistance shall, as a condition to its approval and the extension of such assistance, contain or be accompanied by an assurance that the recipient will comply with this part. Such an assurance shall contain provisions authorizing the acceleration of the maturity of the recipient's financial obligations to SBA in the event of a failure to comply, and provisions which give the United States a right to seek judicial enforcement of the terms of the assurance. SBA shall specify the form of the foregoing assurance for each program, and the extent to which like assurances will be required of contractors and subcontractors, transferees, successors in interest, and other participants in the program.

§ 113.5 Compliance information.

(a) Cooperation and assistance: SBA shall to the fullest extent practicable seek the cooperation of applicants and recipients in obtaining compliance with this part and shall provide assistance and guidance to applicants and recipients to help them comply voluntarily with this part.

(b) Compliance reports: Each applicant or recipient shall keep such records and submit to SBA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as SBA may determine to be necessary to enable SBA to ascertain whether the applicant or recipient has complied or is complying with this part. In the case of a small business concern which receives financial assistance from a development company or from a small business investment company, such concern shall submit to the company such informa-

tion as may be necessary to enable the company to meet its reporting requirements under this part.

(c) Access to sources of information: Each applicant or recipient shall permit access by SBA during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of an applicant or recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the applicant or recipient shall so certify in its report and shall set forth what efforts it has made to obtain this information.

(d) Each applicant or recipient shall make available to persons entitled under this part to protection against discrimination by the applicant or recipient such information as SBA may find necessary to apprise them of their rights to such protection.

§ 113.6 Conduct of investigations.

(a) *Periodic compliance reviews.* SBA shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may, by himself or by a representative, file with SBA a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by SBA.

(c) *Investigations.* SBA will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the applicant or recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the applicant or recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, SBA will so inform the applicant or recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 113.7.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, SBA will so inform the applicant or recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No applicant or recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this part or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 113.7 Procedure for effecting compliance.

(a) *General.* (1) If there appears to be a failure or threatened failure to comply with this part and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by suspending, terminating, or refusing any financial assistance approved but not yet disbursed to an applicant or, in the case of a loan which has been partially disbursed, by refusing to make further disbursements. In addition compliance may be effected by any other means authorized by law.

(2) Such other means may include but are not limited to (i) legal action by SBA to enforce its right, embodied in the assurances described in § 113.4 to accelerate the maturity of the recipient's obligation; (ii) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States; and (iii) any applicable proceedings under State or local law.

(b) *Noncompliance with § 113.4.* If an applicant fails or refuses to furnish an assurance required under § 113.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. SBA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that SBA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Conditions precedent.* No order suspending, terminating, or refusing financial assistance shall become effective until (1) SBA has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means; (2) there has been an express finding on the record after an opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part; and (3) the action has been approved by the Administrator of SBA pursuant to § 113.9.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) SBA has determined that compliance cannot be secured by voluntary means; (2) the action has been approved by the Administrator; (3) the applicant or recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and (4) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the applicant or recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 113.8 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 113.7, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of SBA that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and as consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearing shall be held at the offices of SBA in Washington, D.C., at a time fixed by SBA unless SBA determines that the convenience of the applicant or recipient or of SBA requires that another place be selected. Hearings shall be held before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and SBA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decisions, and any administrative review thereof shall be conducted in conformity with sections 5–8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, request for findings, and other related matters. Both SBA and the applicant or recipient shall

be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

§ 113.9 Decisions and Notices.

(a) *Decision by a hearing examiner.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Administrator for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Administrator his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Administrator may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the Administrator shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Administrator shall be mailed promptly to the applicant or recipient and the complainant, if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Administrator.

(b) *Decisions on record or review by the Administrator.* Whenever a record is certified to the Administrator for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the Administrator conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the Administrator shall be given in writing to the applicant or recipient and the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 113.8 a decision shall be made by the Administrator on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or the Administrator shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Contents of orders.* The final decision may provide for a refusal to extend financial assistance or, in the event that such assistance has already been granted, for acceleration of the recipient's obligation in accordance with the terms of the assurance described in § 113.4. The decision may contain such further terms, conditions and provisions as are consistent with, and will effectuate the purposes of, this part.

§ 113.10 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* Nothing in this part shall be deemed to supersede either of the following (including future amendments thereof): (1) Executive Order 11246 and regulations issued thereunder or (2) Executive Order 11063 and regulations issued thereunder.

(b) *Forms and instructions.* SBA shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part.

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of SBA or to officials of other agencies of the Government, with the consent of such agencies, responsibilities in connection with the effectuation of the purposes of this part (other than responsibility for first decisions as provided in § 113.9) including the achievement of effective coordination and maximum uniformity within SBA and within the executive branch of the Government in the application of this part and of comparable regulations issued by other agencies of the Government to similar situations.

Effective date. This part shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER and applies to monies paid after its effective date under any of the assistance described in subparagraph (a) of § 113.2, to the extent such financial assistance and prohibited activities are not covered by the provisions of Part 112 of Chapter I, even where paid pursuant to an application approved prior to such date.

Dated: January 17, 1966.

ROSS D. DAVIS,
Executive Administrator,
Small Business Administration.

[F.R. Doc. 66-1223; Filed, Feb. 3, 1966; 8:47 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter I—Bureau of Employees' Compensation, Department of Labor

PART 25—COMPENSATION FOR DISABILITY AND DEATH OF NONCITIZENS OUTSIDE THE UNITED STATES

Criteria for Payment of Compensation

The Department of Labor Appropriation Act, 1966 (79 Stat. 589, 592), in providing an appropriation for compensation benefits payable in accordance with section 42 of the Act of September 7, 1916, as amended (39 Stat. 750, as amended; 5 U.S.C. 793), providing further that for the compensation benefits payable from the appropriation, the authority under section 32 of the Act of September 7, 1916, as amended (39 Stat. 749, as amended; 5 U.S.C. 783), to make rules and regulations shall be construed to include the nature and extent of the proofs and evidence required to establish the right to such benefits without regard to the date of the injury or death for which claim is made. A comparable provision was contained in the Department of Labor Appropriation Acts for 1962 (75 Stat. 589, 594), 1963 (76 Stat. 361, 366), 1964 (77 Stat. 224, 229), and 1965 (78 Stat. 959, 963). A regulation implementing the special provisions contained in these Acts was published in the FEDERAL REGISTER on November 8, 1961 (26 F.R. 10509), on September 21, 1962 (27 F.R. 9383), on February 20, 1964 (29 F.R. 2599), and on November 4, 1964 (29 F.R. 14921). A further extension of that regulation is timely, indicating that it applies to compensation benefits payable from the appropriation made under the Department of Labor Appropriation Act, 1966.

Therefore, pursuant to section 32 of the Act of September 7, 1916, as amended (39 Stat. 749, as amended, 5 U.S.C. 783), the Department of Labor Appropriation Act, 1966 (79 Stat. 589, 592), Reorganization Plan No. 19 of 1950 (15 F.R. 3178, 64 Stat. 1271), and General Order No. 46 of the Secretary of Labor (15 F.R. 3290) 20 CFR 25.5 is hereby revised to read as follows:

§ 25.5 Applicable criteria.

(a) The following criteria shall apply to cases of employees specified in § 25.1 and such cases, if otherwise compensable, shall be approved only upon evidence of the following nature without regard to the date of the injury or death for which claim is made:

(1) Appropriate certification by the Federal employing establishment, or;

(2) An Armed Services casualty or medical record, or;

(3) Verification of the employment and casualty by military personnel, or;

(4) Recommendation of an Armed Services "Claim Service" based on investigations conducted by it.

(b) This section shall apply only in the adjudication of claims for benefits payable from the appropriation provided

in the Department of Labor Appropriation Act, 1966.

(79 Stat. 592)

This revision shall become effective immediately upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 24th day of January 1966.

THOMAS A. TINSLEY,
Director,
Bureau of Employees' Compensation.

[F.R. Doc. 66-1213; Filed, Feb. 3, 1966; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6875]

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Miscellaneous Amendments

On December 8, 1965, a notice of proposed rule making to amend 26 CFR Part 251 was published in the FEDERAL REGISTER (30 F.R. 15172). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice, and the amendments as published in the FEDERAL REGISTER are hereby adopted.

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

(Sec. 7805, Internal Revenue Code (68A Stat. 917; 26 U.S.C. 7805))

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

EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: January 28, 1966.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to (1) provide for the voiding of red strip stamps attached to bottles of imported spirits diverted for exportation, (2) eliminate the requirement that the customs officer make entries on Form 1444, (3) prescribe the number of copies to be prepared for certain notices and applications, and (4) make minor editorial changes, the regulations in 26 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer, are amended as follows:

PARAGRAPH 1. Section 251.65a is amended to require the notice requesting an extention of time for making a final accounting of strip stamps to be filed in duplicate. As amended, § 251.65a reads as follows:

§ 251.65a Extension of time for final accounting of strip stamps.

Where an importer is not able, within the 18-month period prescribed in §§ 251.64 and 251.65, or within any extension period which might be granted in this section, to give a complete accounting for all strip stamps issued with respect to any requisition on Form 428 in the manner prescribed in this part, he shall notify the collector of customs, in writing, in duplicate, prior to the expiration of the 18-month period or any extension period granted under this section, setting forth all pertinent facts and requesting an extension of time wherein to make his final accounting. If satisfied that the circumstances warrant an extension of time, the collector of customs may grant an extension, or extensions, not to exceed a total of 12 months. If any application is made for a further extension of time, the collector of customs shall submit it, with his recommendation, to the Commissioner of Customs, who may, when the circumstances warrant, grant an additional extension of time. Where the collector of customs is not satisfied with the reasons given for requesting an extension of time, he shall proceed as prescribed in § 251.92.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 2. Section 251.72 is amended to provide for the voiding, when so authorized by the collector of customs, of red strip stamps attached to bottles of imported spirits diverted for exportation. As amended, § 251.72 reads as follows:

§ 251.72 Exportation of imported distilled spirits; red strip stamps.

When imported distilled spirits to which red strip stamps were affixed prior to arrival in the United States are diverted for exportation purposes by the importer, the strip stamps shall be effectively destroyed by the importer under customs supervision, prior to exportation: *Provided,* That the collector of customs may authorize the importer to void, rather than destroy, such strip stamps under customs supervision. When voiding of red strip stamps has been authorized, they shall be voided by legibly stamping thereon, with indelible ink and in boldface capital letters no smaller than 10-point type, the word "VOIDED" or the word "CANCELED." Red strip stamps affixed to distilled spirits originating in the United States, evidencing the tax or indicating compliance with the provisions of chapter 51, I.R.C., shall not be removed at or prior to the time of exportation.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 3. Section 251.73 is amended to provide for the destruction of red strip stamps, rather than to refer to § 251.72 for such provision. As amended, § 251.73 reads as follows:

§ 251.73 Withdrawal without payment of tax: red strip stamps.

Red strip stamps affixed to imported distilled spirits to be withdrawn from customs custody free of tax for entry into the United States shall be effectively destroyed by the importer, his agent, or the subsequent purchaser, under customs supervision, prior to such tax-free withdrawal.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 4. Section 251.91 is amended to reflect the change in § 251.72 as to voiding red strip stamps. As amended, § 251.91 reads as follows:

§ 251.91 Credit for red strip stamps affixed to containers diverted by the importer for exportation.

When red strip stamps are destroyed or voided under the provisions of § 251.72, the importer may be given credit for such stamps if he obtains from the supervising customs officer a certificate regarding the destruction or voiding and submits the certificate to the collector of customs. The collector of customs shall, on receipt of the certificate, credit the original application for the stamps and the importer shall make appropriate entries on his strip stamp record.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 5. Section 251.135 is amended to require that application, in triplicate, be filed for modification of Form 52A, 52B, or 338. As amended, § 251.135 reads as follows:

§ 251.135 Forms to be provided by users at own expense.

Forms 52A, 52B, and 338 shall be provided by importers at their own expense, but must be in the form prescribed: *Provided,* That with the approval of the Director, of an application, in triplicate, the forms may be modified to adapt their use to tabulating or other mechanical equipment.

(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)

PAR. 6. Section 251.136 is amended to require that the application to keep files at a location other than the importer's place of business be filed in duplicate. As amended, § 251.136 reads as follows:

§ 251.136 Filing.

If the importer maintains looseleaf records of receipt or disposition, one legible copy of each such record shall be marked or stamped "Government File Copy," and shall be filed not later than the close of the business day next succeeding that on which the transaction occurred. All records required by this part, and legible copies of all reports required by this part to be submitted to the assistant regional commissioner or to the collector of customs, shall be filed separately, chronologically, and in numerical sequence within each date, at the importer's place of business to which they relate: *Provided,* That on application, in duplicate, the assistant regional commissioner may authorize the files, or any individual files, to be maintained at other premises under control of the importer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to internal revenue or customs officers desiring to examine such files. Supporting documents, such as consignors' invoices, delivery receipts, or bills of lading, or exact copies thereof, may be filed in accordance with the importer's

customary practice. Documents supporting records of disposition shall have noted thereon the serial numbers of the records of disposition to which they refer.

(72 Stat. 1342, 1345, 1361, 1395; 26 U.S.C. 5114, 5124, 5207, 5555)

PAR. 7. Section 251.184 is amended to eliminate the requirement for entries on Form 1444 by the customs officer. As amended, § 251.184 reads as follows:

§ 251.184 Customs gauge and release.

Where the appropriate permit, Form 1444, is on file, and on receipt of entry for release of distilled spirits, the spirits shall be gauged by a customs officer, who shall prepare a report of gauge on Form 2629, in triplicate. The distilled spirits may then be released free of tax for shipment to the United States or governmental agency thereof named in the permit, Form 1444. The customs officer shall state on each copy of Form 2629 the permit number of the Form 1444 under which the distilled spirits were withdrawn. The original of Form 2629 shall be retained by the collector of customs, one copy shall be forwarded to the governmental agency to whom the distilled spirits are consigned, and one copy shall be forwarded to the Director.

(72 Stat. 1375; 26 U.S.C. 5313)

[F.R. Doc. 66-1216; Filed, Feb. 3, 1966; 8:46 a.m.]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER K—PROCEDURES

PART 42—SUBSIDENCE AND STRIP MINE REHABILITATION, APPALACHIA

Incident to the institution of a program to seal and fill voids in abandoned coal mines and to reclaim and rehabilitate existing strip and surface mine areas under the Appalachian Regional Development Act of 1965 (P.L. 89-4, 79 Stat. 5) a new Part 42 is added to Title 30—Mineral Resources. These regulations shall become effective on the date of publication in the FEDERAL REGISTER.

The new Part 42 reads as follows:

Sec.
42.1 Purpose and scope.
42.2 Definitions.
42.3 Qualification of projects.
42.4 Application for contribution.
42.5 Contribution contracts.
42.6 Project contract.
42.7 Administration of contributions.
42.8 Withholding of payments.
42.9 Reports.
42.10 Obligations of States or local authorities.
42.11 Nondiscrimination.
42.12 Civil rights.

AUTHORITY: The provisions of this Part 42 issued under section 205, 79 Stat. 13.

§ 42.1 Purpose and scope.

The regulations in this part provide for contributions by the Secretary with respect to projects in the Appalachian Region for the sealing and filling of voids in abandoned coal mines or for the reclamation and rehabilitation of existing strip and surface mine areas under the authority of subsection (a)(1) of section 205 of the Appalachian Regional Development Act of 1965 (P.L. 89-4, 79 Stat. 5).

§ 42.2 Definitions.

As used in the regulations in this part and in contribution contracts entered into pursuant to the regulations in this part:

(a) "Government" means the United States of America,

(b) "Commission" means the Appalachian Regional Development Commission established by section 101 of the Appalachian Regional Development Act of 1965,

(c) "Secretary" means the Secretary of the Interior or his authorized representative,

(d) "Director" means the Director of the United States Bureau of Mines or his authorized representative,

(e) "Bureau" means the United States Bureau of Mines,

(f) "State" means any one of the States listed in section 403 of the Appalachian Regional Development Act of 1965, and

(g) "Local authorities" or "local bodies of government" means a county, city, township, town, or borough, and other local governmental bodies organized and existing under authority of State laws.

§ 42.3 Qualification of projects.

(a) Projects for the reclamation and rehabilitation of strip-mined areas will be considered only if all of the lands embraced within the project are lands owned by the Federal Government, or a State, or local bodies of government.

(b) Projects must be submitted by a State to the Commission and receive the approval of that body.

§ 42.4 Application for contribution.

(a) A State in its application for contribution to a project shall fully describe the conditions existing in the project area and give a full justification for the project in terms of the relationship of the potential benefits that will result from the project to the estimated costs of the project and in terms of the improvement, on a continuing basis, to the economic potential of the State or area which the project will bring about. If the project entails the reclamation and rehabilitation of strip and surface mined areas, the application shall state the uses to which the lands will be put.

(b) Before submitting a project to the Secretary for approval, the Director shall obtain from the State the following:

(1) Copies of inspection procedures, designs, plans, and methods of engineering proposed for the construction, installation, services or work to be performed to accomplish the objectives of the project;

(2) Accurate information, data, and maps on the location of the project, the area involved, and, if the project consists of work designed to prevent or alleviate subsidence, information, data, and maps (if available) of the seams of coal to be filled or flushed;

(3) The proposed advertisement for bids for each project contract, which advertisement shall include suitable references concerning the fact that the project is one to the cost of which the Government will contribute under the Appalachian Regional Development Act of 1965, and that the State's acceptance of liability arising out of any bid shall be subject to contribution by the Government under the provisions of a contribution contract with the Government for that purpose;

(4) The proposed project contract, together with specifications and drawings pertaining to the equipment, materials, labor and work to be performed by the project contractor;

(5) Releases, proper consent or the necessary rights or interests in lands and coal formations, for gaining access to and carrying out work in or on the project, and other documents required by the Bureau for approval of the project, and in form and substance satisfactory to the Bureau;

(6) Certifications or documents, as may be required by the Bureau, indicating public ownership or control of subsurface coal or mineral rights accompanied by appropriate resolutions from the State or local authorities to indemnify and hold the Government harmless should any property owner within the project area make any claim for damage resulting from the work within the project area if releases, consents or rights or interests were not obtained from such property owner by the State or local authorities, and not to mine or permit mining of coals or other minerals in property owned or controlled by the State or local authorities;

(7) If the project is for the rehabilitation or reclamation of a strip mine area, evidence satisfactory to the Secretary that the State or local authority owns the lands upon which the project is proposed to be carried out, and that effective installation, operation, and maintenance safeguards will be enforced;

(8) The estimated total cost of the proposed project and, if the work is proposed to be performed in phases, the estimated cost of each phase.

(c) If the Secretary approves the project, the Director will submit to the State a contribution contract, subject to receipt by the State of an acceptable bid on the proposed project contract that does not exceed by more than 20 percent the estimated cost of the project established by the contribution contract. If the lowest acceptable bid exceeds by more than 20 percent the estimated cost of the project, or phase of the project, it may be accepted only with the approval of the Secretary, and only after the contribution contract has been amended to provide for an increase in contributions sufficient to meet the increase in costs.

§ 42.5 Contribution contracts.

(a) Each project shall be covered by a contribution contract between the Government, as represented by the Director, and the State. The contract shall establish the total estimated cost of the project and, if the project is to be accomplished in phases, the estimated cost

of each phase. The maximum obligations of the parties to share the cost of the project shall be stated in terms of the total estimated cost of the project. Other responsibilities of the parties shall also be described in the contract, as may be agreed upon and as may be in conformity with the regulations in this part, to meet the needs and requirements of a particular project.

(b) The Government's obligation to contribute funds may be less than but shall not exceed 75 percent of the total estimated cost of the project. The obligation of the State (and, if appropriate, the local authorities) to contribute funds may be more but shall not be less than 25 percent of the total estimated cost of the project.

(c) None of the funds contributed by the Government or by the State shall be used for operating or maintaining the project or for the purchase of culm, rock, spoil, or other filling or flushing material.

(d) The Director may, without approval by the Secretary, execute amendments to a contribution contract which will cover the costs of additional work under a project contract, if the estimated cost of the project or phase established in the contribution contract will not be increased by more than 20 percent.

(e) If the bids on work to be done under a proposed project contract exceed the estimated cost of that work, the State shall not enter into a project contract until the contribution contract has been amended to provide for an increase in contributions sufficient to meet the increase in costs.

§ 42.6 Project contract.

(a) Upon approval of the project by the Secretary, execution of the contribution contract, and receipt of an acceptable bid, the State shall carry out and execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts, entered into by the State and its contractors or suppliers for the construction, installation, services or work to be performed.

(b) Project contracts shall be entered into only with the lowest responsible bidder pursuant to suitable procedures for advertising and competitive bidding.

(c) The Bureau shall be advised of the time and place of the opening of bids on a proposed project contract and may have a representative present.

(d) No amendment shall be made to, and no change order shall be issued under, a project contract, if the amendment or change order would result in an expenditure under the project contract in excess of the estimated cost of the work established by the contribution contract until the contribution contract has been amended to provide for an increase in contributions sufficient to meet the increase in costs.

(e) The State shall furnish the Director, in duplicate, a certified true executed copy of each project contract with related plans, specifications, and drawings annexed thereto, promptly upon its execution.

(f) The State shall include in each project contract provisions to the effect that—

(1) Regardless of any agreement between the State and the United States of America respecting contributions by the Government to the cost of the contract under the provisions of section 205 (a) (1) of the Appalachian Regional Development Act of 1965 (P.L. 89–4, 79 Stat. 5), the United States of America shall not be considered to be a party to the contract or in any manner liable thereunder. Neither the Government nor any of its officers, agents, or employees shall be responsible for any loss, expense, damages to property, or injuries to persons, which may arise from or be incident to the use and occupation of any property affected by the operations contemplated under the project, or for damages to the property of the contractor, or for injuries to the person of the contractor, or for damages to the property, or injuries to the contractor's officers, agents, servants, or employees, or others who may be on said premises at their invitation or the invitation of any of them, and the State and the project contractor shall hold the Government and any of its officers, agents, or employees, harmless from all such claims.

(2) The Secretary of the Interior or the Director of the United States Bureau of Mines or their authorized representative may enter upon and inspect the project at any reasonable time and may confer with the contractor and the State regarding the conduct of project operations.

(3) All laborers and mechanics employed by the contractor or subcontractors on the project shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133—133z–15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(4) To assure the use of local labor to the maximum extent practicable in the implementation of a project:

(i) Every contractor or subcontractor undertaking to do work on the project which is or reasonably may be done as on-site work, in carrying out such contract work shall give preference to qualified persons who regularly reside in the labor area as designated by the U.S. Department of Labor wherein such project is situated, or the subregion, or the Appalachian counties of the State wherein such project is situated, except:

(*a*) To the extent that qualified persons regularly residing in the area are not available;

(*b*) For the reasonable needs of any such contractor or subcontractor, to employ supervisory or specially experienced individuals necessary to assure an efficient execution of the contract;

(*c*) For the obligation of any such contractor or subcontractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that in no event shall the number of nonresident persons employed under this (*c*) exceed 20 percent of the total number of employees employed by such contractor and his subcontractors on such project.

(ii) Every such contractor and subcontractor shall furnish the appropriate U.S. Employment Service offices with a list of all positions for which laborers, mechanics, and other employees may be required.

(iii) Every such contractor and subcontractor shall furnish periodic reports to the contracting agency on the extent to which local labor has been used in carrying out the contract work.

§ 42.7 Administration of contributions.

(a) The Government's contribution to a State will be made only pursuant to a contribution contract and only upon the basis of payments made, or that are then due and payable, by the State under a project contract between the State and its contractor for the construction, installation, services or work performed on individual projects and shall not exceed 75 percent of such amounts.

(b) The State shall submit to the Director, not more often than once a month and for each contribution contract, a separate voucher which describes each payment made or that is due and payable by the State under a project contract. The amounts claimed under each voucher shall be certified by the State as proper charges under the project contract, and the State shall also certify that the amounts have either been paid or are due and payable thereunder. Insofar as the Government's contribution payments relate to amounts due and payable rather than amounts already paid, the State shall disburse such funds, together with the funds contributed by the State, promptly upon receipt from the Government.

(c) The State shall maintain suitable records and accounts of its transactions with and payments to project contractors, and the Government may inspect and audit such accounts and records during normal business hours and as it may deem necessary.

§ 42.8 Withholding of payments.

Whenever the Secretary, after reasonable notice and opportunity for hearing, finds that there is a failure by the State to expend funds in accordance with the terms and conditions governing the Government's contribution for an approved project, he shall notify the State that further payments will not be made to the State from available appropriations until he is satisfied that there will no longer be any such failure. Until the Secretary is so satisfied, payment of any financial contribution to the State shall be withheld.

§ 42.9 Reports.

At such times and in such detail as the Secretary shall require, the State shall furnish to the Secretary a statement with respect to each project showing the work done, the status of the project, expenditures, and amounts obli-

gated, and such other information as may be required.

§ 42.10 Obligations of States or local authorities.

(a) The State shall have full responsibility for installing, operating, and maintaining projects constructed pursuant to the regulations in this part.

(b) The State shall give evidence, satisfactory to the Secretary, that it will enforce effective safeguards with respect to installation, operation, and maintenance.

(c) The State shall agree that neither the Government nor any of its officers, agents, or employees shall be responsible for any loss, expense, damages to property, or injuries to persons, which may arise from or be incident to work upon, or to the use and occupation of any property affected by operations under, the project, and the State shall agree to hold the Government and its officers, agents, or employees harmless from all such claims.

(d) In order to assure effective safeguards with respect to installation, operation, and maintenance, the State or local authority will be required to own (or control), the land, subsurface, or coal seams in instances such as the following:

(1) If the objective of the project is to prevent or alleviate subsidence, the State or local authority shall have or acquire such subsurface and underground rights or interests in such coal seams or coal measures as may be required to assure the stability and continued existence of the project and to such an extent as will give reasonable assurance that the work will not be disturbed in the future.

(2) If the objective of the project is to rehabilitate or reclaim strip-mined areas, the land shall be owned by the Federal, State, or local body of Government. Such ownership shall comprise such mineral, subsurface and underground rights and interests as will assure that no further mining operations will be conducted upon or under the land in the future.

(3) If the objective of the project is to seal abandoned open shafts, slopes, air holes and other mine openings to underground workings where public safety hazards exist, or to control or prevent erosion, water pollution, or discharge of harmful mine waters, the State shall have or acquire such right, title or interest in the lands as will assure the stability and continued existence of the project work.

(4) The extent of ownership or control necessary shall be determined with respect to each individual project.

(e) The State or local authorities shall agree not to mine or permit the mining of coal or other minerals in the land or property owned or controlled by the State or local authorities, if required by the Bureau to assure the success or protection of the project work for such period of time as may be required by the Bureau.

(f) Upon request of the Bureau, the State or local authority shall furnish and disclose the nature and extent of its right, title, or interest in lands within, or which may be affected by, the project and submit an analysis, in writing, of the title situation, the effectiveness, extent and strength of the title which has been acquired, and an opinion as to the protection which the documents conveying the various rights, titles, and interests in the lands afford the project work and as to any defects in the title.

(g) If necessary, State and local authorities shall procure the enactment of State or local laws or ordinances providing authority to participate in the work and projects conducted pursuant to the regulations in this part on lands owned by the State, the local authorities, or private persons, and the requisite authority to permit the State or local authorities to meet the obligations imposed by the regulations in this part or a contribution contract and to enter into project contracts of the kind and nature contemplated for the work to be performed.

§ 42.11 Nondiscrimination.

The State shall comply with the provisions of section 301 of Executive Order 11246 (Sept. 24, 1965; 30 F.R. 12319, 12935) and shall incorporate the provisions prescribed by section 202 of Executive Order 11246 in each project contract, and shall undertake and agree to assist and cooperate with the Director and the Secretary of Labor, obtain and furnish information, carry out sanctions and penalties, and refrain from dealing with debarred contractors, all as provided in said section 301.

§ 42.12 Civil rights.

State or local authorities shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the regulations of the Department of the Interior entitled "Nondiscrimination in Federally—assisted Programs of the Department of the Interior—Effectuation of Title VI of the Civil Rights Act of 1964" (Title 43, Code of Federal Regulations, Part 17) and shall give assurances of compliance in such forms as may be required by the Director.

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 26, 1966.

[F.R. Doc. 66-1211; Filed, Feb. 3, 1966; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3870]

[Washington 0844]

WASHINGTON

Withdrawal for National Forest Administrative and Recreation Sites, and Roadside Zones

Correction

In F.R. Doc. 65-12369 appearing at page 14436 in the issue for Thursday, November 18, 1965, the land description for the Whitechuck Road Roadside Zone for section 18, T. 31 N., R. 11 E. now reads NE¼, S½NW¼, NE¼, NW¼. It is corrected to read NE¼, S½NW¼, NE¼ NW¼.

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 171]

PART 136—INSTALLATION, INSPECTION, MAINTENANCE, AND REPAIR OF SYSTEMS, DEVICES, AND APPLIANCES

Rules, Standards, and Instructions

At a session of the Interstate Commerce Commission, division 3, held in its Office in Washington, D.C., this 24th day of January A.D. 1966.

It appearing, that on May 25, 1962, the Commission, division 3, issued a notice of proposed rule making in this proceeding, under authority of section 25 of the Interstate Commerce Act, as amended (49 U.S.C. 26), and section 4(a) of the Administrative Procedure Act (5 U.S.C. 1003), looking to the revision, modification, or amendment of certain of the rules, standards, and instructions for installation, inspection, maintenance, and repair of automatic block signal systems, interlocking, traffic control systems, automatic train stop, train control, and cab signal systems, and other similar appliances, methods, and systems prescribed by the Commission, division 3, by order of June 29, 1950, as amended:

It further appearing, that hearing on the matters and things involved has been held, and that all evidence adduced at said hearing has been properly considered;

And it further appearing, that said division having on the date hereof made and filed a report containing its findings of facts and conclusions thereon which said report is hereby referred to and made a part hereof;[1] and good cause appearing therefor;

It is ordered, That all the rules, standards, and instructions set forth below shall, on the effective date hereof, supersede all corresponding rules and instructions prescribed by the order of June 29, 1950, as amended, but that the order of June 29, 1950, shall, in all other respects, remain in full force and effect;

It is further ordered, That 49 CFR, Part 136 be and the same is hereby amended to read as follows:

§ 136.0 Applicability of this part.

The following rules, standards, and instructions are hereby approved and prescribed for observance by each common carrier subject to the provisions of section 25 of the Interstate Commerce Act, on and after March 31, 1966, unless otherwise indicated.

[1] Report filed as part of original.

Subpart A—Rules and Instructions: All Systems

GENERAL

§ 136.2 Grounds.

Each circuit, the functioning of which affects the safety of train operations, shall be kept free of any ground or combination of grounds which will permit a flow of current equal to or in excess of 75 percent of the release value of any relay or other electromagnetic device in the circuit, except circuits which include any track rail and except the common return wires of single-wire, single-break, signal control circuits using a grounded common, and alternating current power distribution circuits which are grounded in the interest of safety.

§ 136.6 Hand-operated switch equipped with switch circuit controller.

Hand-operated switch equipped with switch circuit controller connected to the point, or with facing-point lock and circuit controller, shall be so maintained that when point is open one-fourth inch or more on facing-point switch and three-eighths inch or more on trailing-point switch, track or control circuits will be opened or shunted or both, and if equipped with facing-point lock with circuit controller, switch cannot be locked. On such hand-operated switch, switch circuit controllers, facing-point locks, switch-and-lock movements, and their connections shall be securely fastened in place, and contacts maintained with an opening of not less than one-sixteenth inch when open.

§ 136.11 Adjustment, repair, or replacement of component.

When any component of a system or interlocking, the proper functioning of which is essential to the safety of train operation, fails to perform its intended signalling function, it shall be adjusted, repaired or replaced without undue delay.

§ 136.16 Relief.

Relief from the requirements of this part will be granted upon an adequate showing by an individual carrier. Relief heretofore granted to any carrier by order of the Commission shall constitute relief to the same extent from the requirements of this part.

TRACK CIRCUITS

§ 136.51 Track circuit requirements.

Track relay shall be in deenergized position whenever any of the following conditions exists, and the track circuit of an automatic train-stop, train-control, or cab-signal system shall be deenergized in the rear of the point where any of the following conditions exists:

(a) When a rail is broken or a rail or switch-frog is removed except when a rail is broken or removed in the shunt fouling circuit of a turnout or crossover, provided, however, that shunt fouling circuit may not be used in a turnout through which permissible speed is greater than 45 miles per hour. It shall not be a violation of this requirement if a track circuit is energized: (1) When a break occurs between the end of rail and track circuit connector; within the limits of rail-joint bond, appliance or other protective device, which provides a by-path for the electric current, or (2) as result of leakage current or foreign current in the rear of a point where a break occurs or a rail is removed.

(b) When a train, locomotive, or car occupies any part of a track circuit, including fouling section of turnout except turnouts of hand-operated main track crossover. It shall not be a violation of this requirement where the presence of sand, rust, dirt, grease, or other foreign matter prevents effective shunting, except that where such conditions are known to exist adequate measures to safeguard train operation must be taken.

(c) Where switch shunting circuit is used:

(1) Switch point is not closed in normal position.

(2) A switch is not locked where facing-point lock with circuit controller is used.

(3) An independently operated fouling-point derail equipped with switch circuit controller is not in derailing position.

Subpart B—Automatic Block Signal Systems

STANDARDS

§ 136.201 Track-circuit control of signals.

The control circuits for home signal aspects with indications more favorable than "proceed at restricted speed" shall be controlled automatically by track circuits extending through the entire block.

§ 136.204 Track signaled for movements in both directions, requirements.

On track signaled for movements in both directions, a train shall cause one or more opposing signals immediately ahead of it to display the most restrictive aspect, the indication of which shall be not more favorable than "proceed at restricted speed." Signals shall be so arranged and controlled that if opposing trains can simultaneously pass signals displaying proceed aspects and the next signal in advance of each such signal then displays an aspect requiring a stop, or its most restrictive aspect, the distance between opposing signals displaying such aspects shall be not less than the aggregate of the stopping distances for movements in each direction. Where such opposing signals are spaced stopping distance apart for movements in one direction only, signals arranged to display restrictive aspects shall be provided in approach to at least one of the signals. Where such opposing signals are spaced less than stopping distance apart for movements in one direction, signals arranged to display restrictive aspects shall be provided in approach to both such signals. In absolute permissive block signaling when a train passes a head block signal it shall cause the opposing head block signal to display an aspect requiring a stop.

Subpart C—Interlocking

STANDARDS

§ 136.301 Where signals shall be provided.

Signals shall be provided to govern train movements into and through interlocking limits, except that a signal shall not be required to govern movements over a hand-operated switch into interlocking limits if the switch is provided with an electric lock and a derail at the clearance point, either pipe-connected to the switch or independently locked, electrically. Electric locks installed under this rule must conform to the time and approach locking requirements of Rule 314 (without reference to the 20-mile exceptions), and those of either Rule 760 or Rule 768, as may be appropriate.

§ 136.302 Track circuits and route locking.

Track circuits and route locking shall be provided. Route locking shall be effective when the first pair of wheels of a locomotive or car passes a point not more than 13 feet in advance of the signal governing its movement.

NOTE 1.—Existing installations on each railroad, which do not conform to the requirements of this section shall be brought into conformity on or before December 31, 1970.

§ 136.303 Control circuits for signals, selection through circuit controller operated by switch points or by switch locking mechanism.

The control circuit for each aspect with indication more favorable than "proceed at restricted speed" of power operated signal governing movements over switches, movable-point frogs and derails shall be selected through circuit controller operated directly by switch points or by switch locking mechanism, or through relay controlled by such circuit controller, for each switch, movable-point frog, and derail in the routes governed by such signal. Circuits shall be arranged so that such signal can display an aspect more favorable than "proceed at restricted speed," only when each switch, movable-point frog, and derail in the route is in proper position.

NOTE: Existing installations on each railroad, which do not conform to the requirements of the section shall be brought into conformity on or before December 31, 1970.

§ 136.305 Approach or time locking.

Approach or time locking shall be provided in connection with signals displaying aspects with indications more favorable than "proceed at restricted speed."

§ 136.311 Signal control circuits, selection through track relays, and through signal mechanism contacts and time releases at automatic interlocking.

The control circuits for aspects with indications more favorable than "proceed at restricted speed" shall be selected through track relays for all track circuits in the route governed, or through repeating relays for such track relays.

At automatic interlocking, signal control circuits shall be selected (a) through track relays for all track circuits in the route governed, and in all conflicting routes within interlocking limits, or through repeating relays for such track relays; (b) through signal mechanism contacts or relay contacts closed when signals for such conflicting routes display stop aspects; and (c) through normal contacts of time releases for such conflicting routes or contacts of relays repeating the normal position of contacts of such time releases.

§ 136.312 Movable bridge, interlocking of signal appliances with bridge devices.

When movable bridge is protected by interlocking the signal appliances shall be so interlocked with bridge devices that before a signal governing movements over the bridge can display an aspect to proceed the bridge must be locked and the track alined, with the bridge locking members within one inch of their proper positions and with the track rail on the movable span within three-eighths inch of correct surface and alinement with rail seating device on bridge abutment or fixed span.

§ 136.314 Electric lock for hand-operated switch or derail.

Electric lock shall be provided for each hand-operated switch or derail within interlocking limits, except where train movements are made at not exceeding 20 miles per hour. At manually operated interlocking it shall be controlled by operator of the machine and shall be unlocked only after signals governing movements over such switch or derail display aspects indicating stop. Approach or time locking shall be provided.

RULES AND INSTUCTIONS

§ 136.328 Plunger of facing-point lock.

Plunger of lever operated facing-point lock shall have at least 8-inch stroke. When lock lever is in unlocked position the end of the plunger shall clear the lock rod not more than one inch.

§ 136.339 Mechanical locking, maintenance requirements.

Locking and connections shall be maintained so that, when a lever or latch is mechanically locked the following will be prevented:

(a) *Mechanical machine.* (1) Latch-operated locking. Raising lever latch block so that bottom thereof is within three-eighths inch of top of quadrant.

(2) Lever-operated locking. Moving lever latch block more than three-eighths inch on top of quadrant.

(b) *Electromechanical machine.* (1) Lever moving in horizontal plant. Moving lever more than five-sixteenths inch when in normal position or more than nine-sixteenths inch when in reverse position.

(2) Lever moving in arc. Moving lever more than 5 degrees.

(c) *Power machine.* (1) Latch-operated locking. Raising lever latch block to that bottom thereof is within seven thirty-seconds inch of top of quadrant.

(2) Lever moving in horizontal plane. Moving lever more than five-sixteenths inch when in normal position or more than nine-sixteenths inch when in reverse position.

(3) Lever moving in arc. Moving lever more than 5 degrees.

Subpart D—Traffic Control System

STANDARDS

§ 136.402 Signals controlled by track circuits and control operator.

The control circuits for home signal aspects with indications more favorable than "proceed at restricted speed" shall be controlled by track circuits extending through entire block. Also in addition, at controlled point they may be controlled by control operator, and, at manually operated interlocking, they shall be controlled manually in cooperation with control operator.

§ 136.404 Signals at adjacent control points.

Signals at adjacent controlled points shall be so interconnected that aspects to proceed on tracks signaled for movements at greater than restricted speed cannot be displayed simultaneously for conflicting movements.

§ 136.405 Track signaled for movements in both directions, change of direction of traffic.

On track signaled for movements in both directions, occupancy of the track between opposing signals at adjacent controlled points shall prevent changing the direction of traffic from that which obtained at the time the track became occupied, except that when a train having left one controlled point reaches a section of track immediately adjacent to the next controlled point at which switching is to be performed, an aspect permitting movement at not exceeding restricted speed may be displayed into the occupied block.

§ 136.407 Approach or time locking; where required.

Approach or time locking shall be provided for all controlled signals.

§ 136.408 Route locking.

Route locking shall be provided where switches are power operated. Route locking shall be effective when the first pair of wheels of a locomotive or car passes a point not more than 13 feet in advance of the signal governing its movement.

NOTE 1.—Existing installations on each railroad, which do not conform to the requirements of the last sentence of this section shall be brought into conformity on or before December 31, 1970.

Subpart E—Automatic Train Stop, Train Control and Cab-Signal Systems

STANDARDS

§ 136.502 Automatic brake application, initiation by restrictive block conditions stopping distance in advance.

An automatic train-stop or train-control system shall operate to initiate an automatic brake application at least stopping distance from the entrance to a block, wherein any condition described in § 136.205 obtains, and at each main track signal requiring a reduction in speed.

§ 136.504 Operation interconnected with automatic block-signal system.

An automatic train-stop or train-control system shall operate in connection with an automatic block-signal system and shall be so interconnected with the signal system as to perform its intended function in event of failure of the engineman to obey a main track signal requiring a reduction in speed.

RULES AND INSTRUCTIONS, LOCOMOTIVES

§ 136.553 Seal, where required.

Seal shall be maintained on any device other than brake-pipe cut-out cock (double-heading cock), by means of which the operation of the pneumatic portion of automatic train-stop or train-control apparatus can be cut out.

§ 136.564 Acknowledging time.

Acknowledging time of intermittent automatic train-stop device shall be not more than 30 seconds.

INSPECTION AND TESTS, ROADWAY

§ 136.576 Roadway element.

Roadway elements, except track circuits, including those for test purposes, shall be gaged monthly for height and alinement, and shall be tested at least every 6 months.

§ 136.587 Departure test.

A test of the automatic train-stop, train-control, or cab-signal apparatus on each locomotive, except locomotives and multiple-unit cars equipped with mechanical trip stop only, shall be made over track elements or test circuits or with portable test equipment, either on departure of locomotive from its initial terminal or, if locomotive apparatus is cut out between initial terminal and equipped territory, prior to entering equipped territory, to determine if such apparatus is in service and is functioning properly. If a locomotive makes more than one trip in any 24-hour period only one departure test shall be required in such 24-hour period. If departure test is made by an employee other than engineman, the engineman shall be informed of the results of such test and a record kept thereof.

§ 136.602 [Deleted]

Subpart G—Definitions

§ 136.802a Siding.

An auxiliary track for meeting or passing trains.

§ 136.831a Track, main.

A track, other than auxiliary track, extending through yards and between stations, upon which trains are operated by timetable or train orders, or both, or the use of which is governed by block signals.

It is further ordered, That this order shall become effective March 31, 1966,

and shall remain in full force and effect until further order of the Commission;

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

(Sec. 12, 24 Stat. L. 383, as amended; 49 U.S.C. 12. Interpret or apply sec. 441, 41 Stat. L. 498, as amended; 49 U.S.C. 26)

By the Commission, division 3.

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

[F.R. Doc. 66-1239; Filed, Feb. 3, 1966; 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 28—PUBLIC ACCESS, USE AND RECREATION

Izembek National Wildlife Refuge, Alaska

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

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

ALASKA

IZEMBEK NATIONAL WILDLIFE RANGE

Boats are permitted on the Izembek National Wildlife Range for public access, use and recreation subject to the following special condition:

(1) The use of water-jet driven boats or boats driven by air propellers, commonly known as air boats, is prohibited.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1966.

PAUL T. QUICK, *Regional Director, Portland, Oreg.*

JANUARY 20, 1966.

[F.R. Doc. 66-1207; Filed, Feb. 3, 1966; 8:45 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Bombay Hook National Wildlife Refuge, Del.

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

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Entry on foot or by motor vehicle is permitted unless prohibited by posting, for the purpose of nature study, photography, hiking and sightseeing, during daylight hours. Pets are allowed if on a leash not over 10 feet in length. Outdoor lunches without fires are permitted in designated areas where tables and refuse containers are provided. Fishing is permitted in tidal water under special regulations. Public hunting under special regulations may be permitted on parts of the refuge. All persons shall comply with all local, State, and Federal laws, ordinances, and regulations.

The refuge area, comprising 17,681 acres, is delineated on maps available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass., 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1966.

EUGENE E CRAWFORD, *Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

JANUARY 27, 1966.

[F.R. Doc. 66-1208; Filed, Feb. 3, 1966; 8:45 a.m.]

PART 33—SPORT FISHING

Lacassine National Wildlife Refuge, La.

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

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

LOUISIANA

LACASSINE NATIONAL WILDLIFE REFUGE

Sport fishing on the Lacassine National Wildlife Refuge, Lake Arthur, La., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 28,000 acres, are delineated on a map available at the refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga., 30323. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1966, through October 15, 1966.

(2) Fishing permitted from 45 minutes before sunrise to 45 minutes after sunset.

(3) Entry to Lacassine Pool restricted to four roller-ways provided.

(4) Boats may not be left inside the refuge overnight.

(5) Boats with outboard motors no larger than 10 hp. permitted in Lacassine Pool. No size restrictions on boats and motors in the canals and streams.

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.

WALTER A. GRESH, *Regional Director, Bureau of Sport Fisheries and Wildlife.*

JANUARY 26, 1966.

[F.R. Doc. 66-1209; Filed, Feb. 3, 1966; 8:45 a.m.]

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Parts 46, 61]

RURAL SERVICE AND MONEY ORDERS

Notice of Proposed Rule Making

Notice is hereby given of proposed rule making consisting of proposed amendments to Part 46 and Part 61 of Title 39, Code of Federal Regulations. One proposed amendment to § 46.5(b) will expand the requirements for painting and identification on mail boxes on rural routes. A second proposed amendment to § 61.1(e)(2) will clarify instructions on the mailing of a money order to the payee by postal employees.

Although the procedures in 39 CFR Part 46 and Part 61 relate to a proprietary function of the Government, it is the desire of the Postmaster General voluntarily to observe the rule making requirements of the Administrative Procedure Act (5 U.S.C., 1003) in order that patrons of the postal service may have an opportunity to comment on the proposed amendments. Written data, views and arguments may be filed with the Director, Distribution and Delivery Division, Bureau of Operations, Post Office Department, Washington, D.C., 20260, at any time prior to the 30th day following the date of publication of this notice in the FEDERAL REGISTER.

The proposed amendments read as follows:

I. § 46.5 Rural Boxes.

* * * * *

(b) *Painting and identification.* The Department prefers that rural mail boxes and posts or supports be painted white, but they may be painted other colors if desired. It is not necessary that posts or supports and boxes be painted the same color. Where box numbers are used, the name of the owner and box number must be inscribed in contrasting color in neat letters and numerals not less than 1 inch high on the side of the box that is visible to the carrier as he regularly approaches, or on the door if boxes are grouped. Where the use of street names and house numbers has been authorized, the house number must be shown on the box. If the box is located on a different street than the patron's residence, both the street name and house number must be inscribed on the box. The placing of the owner's name on the box is optional with the patron where street and house numbers have been authorized. Advertising on boxes or supports is prohibited.

* * * * *

NOTE: The corresponding Postal Manual section is 156.52.

II. § 61.1 Issuance of domestic money orders.

* * * * *

(e) *Issuance to rural patrons.* * * *

(2) *Requesting the mailing of order to Payee.* If the purchaser wants the money order mailed to the payee, he should furnish the carrier with a stamped addressed envelope. The carrier will take the application form, the money and the envelope to the post office where a postal employee will complete the money order and mail it to the payee. No extra charge is made for this service.

* * * * *

NOTE: The corresponding Postal Manual section is 171.152.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 505)

HARVEY H. HANNAH,
Acting General Counsel.

[F.R. Doc. 66-1230; Filed, Feb. 3, 1966; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1033, 1034]

[Docket Nos. AO-166-A30 and AO-175-A21]

MILK IN GREATER CINCINNATI AND DAYTON-SPRINGFIELD, OHIO, MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

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 the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Greater Cincinnati and Dayton-Springfield, Ohio, marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, by the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in five copies. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearing, on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders, as amended, were formulated, was conducted at Cincinnati, Ohio, on October 20-21, 1965, pursuant to notice thereof which was issued October 5, 1965 (30 F.R. 12846).

The material issues on the record of the hearing relating to the Greater Cincinnati and Dayton-Springfield, Ohio, milk orders are:

1. Various modifications of the Class I, II, and III milk definitions and Class II and Class III pricing formulas (including butterfat differentials) of the Greater Cincinnati order, as follows:

a. Reclassification of certain or all Class III milk products into Class II and revision of Class II and Class III pricing formulas;

b. Revision of Class II and Class III butterfat differentials;

c. Reclassification to Class II or Class III of certain milk products now classified as Class I.

2. Revision of location adjustments applicable to class and uniform prices under the Greater Cincinnati order;

3. Revision of the maximum adjustment permitted under the supply-demand adjustor to the Class I prices under both orders; and

4. Incidental and conforming changes in order provisions.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1a. *Reclassification of Class III milk products and revision of Class II and Class III pricing formulas.* Present Class III milk, priced below Class II milk during the months of March through August, should be eliminated. A new formula, based upon the Minnesota-Wisconsin manufacturing price series, for pricing the revised Class II milk should be adopted.

A large producer organization proposed a merger of present Class II milk and Class III milk into one class to be designated Class II milk. This proposal was supported by another large association.

A handler proposed the reclassification to Class II milk of all milk in present Class III other than that used to produce evaporated and condensed milk (or skim milk) in hermetically sealed cans. Classification of milk for the latter uses in Class III at a price lower than Class II milk would be extended from the March-August period to the entire year.

Another handler proposed the reclassification to Class II milk of condensed skim milk or other Class III product ultimately utilized in cottage cheese or ice cream processed in any nonpool plant serving the Cincinnati marketing area. Only Class III milk so used in a Cin-

cinnati pool plant is reclassified to Class II at the present time.

Each of such proponents would revise the formulas for pricing milk presently in Class II and Class III uses generally to increase prices for producer milk used in products other than fluid milk products. The various pricing proposals are described in more detail below.

Producer proponents stated the following reasons for their classification and pricing proposals: (1) To assure that all producer milk used to produce cottage cheese and ice cream will be priced as Class II milk irrespective of the plant (pool or nonpool) in which such products are processed; (2) To establish prices for milk used in nonfluid products at a competitive level but yet not sufficiently attractive to encourage their production at the expense of higher valued use in fluid form; and (3) To minimize the opportunity for use of producer milk for nonfluid products in any pool plant while other pool plants may be short of producer milk for fluid requirements.

In support of such proposals producers pointed to (1) the rapid Class I sales growth in the Cincinnati market in recent months, increasing the opportunities for producer milk to be sold in Class I; (2) the relatively low price applicable to Class III milk (primarily milk and skim milk for condensing and evaporating) especially in the months of March through August, which has encouraged the use of producer milk in such class while outside sources were relied upon for fluid purposes; (3) the difficulty of attracting sufficient producer milk to the market to meet growing Class I needs with the Cincinnati blend price lower than blend prices of markets procuring milk in competition with Cincinnati; and (4) the opportunity for nonpool cottage cheese and ice cream processors in the Cincinnati market to purchase their ingredients from pool plants at a lower price under the order than pool handlers who process these products.

The special Class III classification during March through August should be eliminated. At the present time the primary uses of producer milk in Class III (priced below Class II during the months of March through August) are condensed skim milk and butterfat for ultimate processing into cottage cheese, ice cream mix, and ice cream. Relatively smaller quantities of Class III are disposed of, however, as canned evaporated or condensed milk, butter, and cheese. Much of the condensed skim milk and cream for later conversion into cottage cheese or ice cream is moved to plants in the Cincinnati marketing area for actual processing. When the cottage cheese or ice cream processor in the market operates a nonpool plant the condensed skim milk or butterfat so utilized is accounted for as a Class III item, but if the receiving processor is a pool handler such skim milk or butterfat must be reclassified to Class II milk. In both instances, however, the processor must purchase ingredients of similar inspected quality under prevailing health regulations.

Similar classification for milk utilized at both types of plants (pool and nonpool) throughout the year will insure similar pricing on all producer milk utilized for cottage cheese and ice cream manufacture in the market and tend to equalize raw ingredient costs between pool handlers engaged in cottage cheese and ice cream manufacture and their unregulated competitors.

The conclusion to include present Class III milk together with present Class II milk in a new Class II requires consideration of an appropriate year-round pricing formula for the new classification. Producer proponents of the combined classification proposed that the Class II price formula be established at the level of the "basic formula price for the current month."

The price formula proposed by producers should be adopted. The order currently provides that for the months of September through February the Class III price shall be the same as the Class II price. The Class II price is determined by a "butter-nonfat dry milk solids" formula which for 1964 averaged $3.16 per hundredweight. For each of the months of March through August Class III milk is priced separately by a formula under which the market administrator averages the monthly basic, or "field," prices paid by five milk manufacturing plants in or near the Cincinnati milkshed without reflection of any bonuses for volume, quality, or bulk tank which may be paid by such plants. For the months of March through August 1965 the Class III price averaged approximately $2.76 per hundredweight. During the same 6-month period the Class II price averaged $3.16 per hundredweight.

The basic formula price (Minnesota-Wisconsin manufacturing milk price series) on a "current month" basis averaged $3.18 for the year 1964 and $3.22 for the 6 months March–August 1965.

There is an obvious need in the Cincinnati market to induce greater utilization of producer milk in Class I. One handler last spring completed a large fluid milk and ice cream plant in the Cincinnati market which is designed to serve not only its own outlets in the Cincinnati market but also outlets in other markets including Dayton. At the time this plant was opened its Dayton plant was closed and the milk supply of the Dayton plant moved to the Cincinnati location.

It is the expressed intention of this handler to increase fluid sales from this Cincinnati plant to already established outlets in several other markets as rapidly as a supply buildup will permit. The handler is currently requesting producer organizations to furnish additional supplies and testified to the difficulty of procuring additional supplies at current blend prices. Certain other handlers also have experienced expanded sales in recent months and similarly have requested additional milk supplies for fluid use. Much of the hearing discussion related to the problems of handlers needing Class I milk in obtaining the required supplies.

Under the condition that there is a growing market for producer milk in the highest valued Class I use, little incentive should be given under order pricing to the manufacture of local producer milk into manufactured dairy products. Use in these products should be limited as nearly as practicable to the daily and weekend reserve supplies resulting from an uneven bottling pattern during the week. Pricing policy under the order should encourage reliance on outside sources for such nonfluid uses when producer milk is in relatively short supply for bottling requirements.

It is significant that the Cincinnati utilization in Class I has tended to be lower than in surrounding markets even though for several months handlers have requested the associations to supply more milk for Class I use. For the first nine months of 1965 Cincinnati Class I use averaged 67 percent of producer receipts compared to 79 percent in Dayton-Springfield, 74 percent in Louisville-Lexington-Evansville, 77 percent in Columbus, and 75 percent in Indianapolis. During the period March–August 1965 when the lower Class III price was available monthly quantities ranging from 7.8 million to 19.2 million pounds of producer milk were disposed of in Class III while monthly quantities of fluid milk products imported from outside regulated and unregulated plants ranged from 2.4 million to 5.0 million pounds. The major proportion of the latter quantities was allocated to Class I and Class II while the above producer milk quantities were priced in Class III.

Order pricing should not permit one handler to purchase producer milk at less than the general level of prices for manufacturing milk to utilize in nonfluid products while other handlers are seeking additional supplies for fluid purposes. Only through an increase in the percentage of producer milk in Class I can lasting improvement of producer blend prices result. The proposed increase in price applicable to milk for nonfluid uses to the basic formula price level is an appropriate step to encourage the allocation or flow of available producer milk to its optimum utilization in the market.

While the highest practicable utilization of available supplies in Class I is an immediate objective, the allocation of presently available supplies to this use may not be sufficient to satisfy future Class I requirements. It is likewise important, therefore, that the Cincinnati market be in position to procure milk competitively with other nearby markets.

While requirements for fluid use are increasing, the Cincinnati market is unfavorably situated at this time from the standpoint of procurement of additional supplies or even of holding the current level of supplies. Blend prices in markets competing for milk have generally been higher than for Cincinnati in 1965. For the first 8 months the Cincinnati blend price averaged $4.03 per hundred-

weight f.o.b. market. This compares with $4.19 for Dayton-Springfield, $4.18 for Columbus, $4.09 for Louisville-Lexington-Evansville and $4.14 for Northwestern Ohio.

These price relationships tend to encourage producers away from the Cincinnati market rather than toward it. Moreover, nearly all milk in the milkshed is already associated with one or another of such fluid markets, and there is diminishing opportunity to obtain any substantial amount of Grade A milk for the fluid market by conversion of nearby dairy farmers producing ungraded milk. At the present time, premiums or hauling subsidies are being paid on approximately one-third of the milk supply as certain handlers attempt to satisfy their needs for fluid uses.

The increase in the return for milk for Class III uses through the reclassification and pricing proposals of producers not only will encourage a higher utilization of producer milk in Class I but also will improve the blended prices so as to be somewhat more favorable in relation to competing markets. It is estimated that for the first 8 months of 1965 adoption of these proposals would have improved the Cincinnati blend by an average of 7.8 cents per hundredweight.

In the above circumstances, it is concluded that the price of milk in all the lower valued uses should be increased to the level of the basic formula price. This price, which is representative of the general level of manufacturing milk prices, will result in a price level approximating the price levels for milk for nonfluid uses, including ice cream and cottage cheese, in nearby competing markets. At this price level there will be significantly greater inducement to the handler with excesses over fluid needs to release producer milk to other plants where the milk may be used for fluid purposes since the price of producer milk in nonfluid uses will not be less than alternative sources of milk, or ingredients, for such uses.

Since there are outlets for available producer milk supplies at higher prices, the handler proposal to retain producer milk utilized for canned evaported or condensed milk in Class III at a price which averages about 15 cents per hundredweight lower than the basic formula price is denied.

The handler proposal to reclassify and price as Class II milk (at a proposed level approximating the present Class II price) only that condensed skim milk or other Class III product when it is utilized for cottage cheese or ice cream in a pool or nonpool plant serving the Cincinnati marketing area would have the effect of pricing Class III milk sold to nonpool plants not so serving the marketing area at a level approximately 10 cents above the present Class III price level during the months of March through August. It was contended that some seasonal reduction in price on such milk is necessary to guarantee that the market surplus will be handled in the months of increased seasonal production.

Although the offered price would be 10 cents higher than the Class III price now prevailing, it would remain substantially below the general level of prices being paid for surplus milk in manufactured uses. If additional quantities of milk are allowed to flow to fluid use in accordance with current market requirements, the market should have no difficulty in clearing its normal, temporary surpluses at the basic formula price. The proposal therefore is denied.

1b. *Class II and Class III butterfat differentials.* Producers also proposed a change in the butterfat differential to be applicable to butterfat included in Class II milk and Class III milk as presently defined which are combined into a new Class II milk. The butterfat differential which would be applicable to butterfat in the revised Class II milk category would be the Chicago 92 score butter price times 0.115. The present Class II butterfat differential is the Chicago 92 score butter times 0.118 less a minor adjustment for skim milk replaced as the fat content of milk changes.

In support of this proposal proponents cited the trend toward lower butterfat content in milk and certain milk products and the increasing need for solids-not-fat relative to butterfat in the Cincinnati market. Producers believe a better utilization of the milk supply will be encouraged by this action as well as by an increase in the price for nonfluid uses.

The proposed butterfat differential of 11.5 percent of the Chicago butter price is reasonably related to the level of the revised Class II price and will reflect the same value of butterfat as that provided for in the Columbus, Northeastern Ohio and Northwestern Ohio markets. A reasonable alignment of butterfat values will be maintained also with the Dayton-Springfield market.

1c. *Reclassification of certain fluid milk products.* Pancake mix now classified as Class I when processed by a handler should be reclassified to Class II milk. Milk used for sterilized cream packaged in hermetically sealed metal or glass containers which is received and disposed of without repackaging should be made exempt from classification by modifying the "Class I milk" and "other source milk" definitions. In addition, a change should be made in defining those sour cream mixtures which are designated as Class II items. Milk used for sour cream and eggnog should remain Class I milk.

Reclassification of milk for pancake mix. Milk for pancake mix processed in a handler's plant should be reclassified to Class II since it is not, in its disposed form, comparable with the fluid uses of milk and skim milk which are the highest valued uses of producer milk.

The order presently provides that milk, skim milk or cream disposed of in bulk to any commercial food processing establishment where food products are prepared only for consumption off the premises shall be classified in the lowest valued manufacturing use classification (Class III). This classification is provided so as to permit milk not required for fluid purposes to be disposed of competitively with alternative supplies, such as nonfat dry milk and condensed milk, which are available for the processing of nondairy food products.

Under the terms of the present order, bulk skim milk disposed of to a commercial establishment for the manufacture of pancake mix would be classified as Class III. Although there is no evidence that disposition of milk or skim milk is, in fact, being made by handlers in the market to commercial processors for use in this particular purpose, a surplus classification is permitted when disposed of to bakeries and certain other food processing establishments. It was not shown that skim milk and butterfat used in the processing of pancake mix is required by local health authorities to be made from Grade A milk. We see no justification in the record for classifying milk used in processing pancake mix in Class I simply because of its manufacture in a regulated milk plant.

It is concluded therefore that the "fluid milk product" definition should be modified to exclude pancake mix, thus effecting the reclassification of any skim milk and butterfat used therein to the revised Class II milk. This change is consistent with the proponent handler's request that the Class II category for this product be permitted in the event a two-class system evolved from the hearing. There was no opposition to the reclassification requested.

Accounting for milk in sterilized cream. Sterilized cream received and disposed of in the same glass or metal hermetically sealed container should be excluded from the definitions of "Class I milk" and "other source milk." This will have the effect of exempting this product (when received and disposed of without repackaging) from the reporting, classification and pricing provisions of the order and require only that records be maintained of its receipt and disposition, similar to records currently required of handlers with respect to packaged butter and cheese received and disposed of without repackaging.

Certain handlers proposed that "sterilized products packaged in hermetically sealed containers" either be reclassified from Class I to the lowest-priced use class or be made exempt from classification. Testimony of proponents was concerned, however, only with sterilized cream in such containers and therefore consideration is limited to the latter product.

It was pointed out that at least one brand of sterilized cream for whipping is being distributed in the Cincinnati market. The product referred to is manufactured and packaged in hermetically sealed glass containers by a processing plant located at Gustine, Calif. The product is received and disposed of by handlers in the Greater Cincinnati market in the original container under the handler's own label.

A representative of the manufacturer testified that such sterilized cream may be derived from either Grade A or ungraded milk, but is usually made from ungraded milk. The product is distributed to some 49 States and for all but a few (such as North Carolina and Louisiana where specifically required to be

made from Grade A and so labeled) it may be made from ungraded milk. The product being distributed in the Cincinnati market is manufactured from ungraded milk.

This sterilized cream product contains 30 percent butterfat and certain stabilizers. It is not subject to the pasteurization and other health standards applicable to fresh fluid cream and may not be labeled as "cream" in this market. It need not be distributed through the usual marketing channels through which fresh fluid cream is distributed. The product, because of its long keeping qualities, may be disposed of directly to grocery store chains and can be held in warehouses from which it may be distributed over wide areas.

Under present terms of the order, this product is classified as other source milk in Class I. By excluding the product (when received and disposed of without repackaging) from the "Class I milk" and "other source milk" definitions it will be accounted for in the plant but will not be subject to pricing under the order.

It was not shown on the record that the sterilized cream product has any competitive advantage based upon the cost of milk ingredients and transportation charges of moving the finished product to this market when compared to the costs of producer milk disposed of in the form of regular, or unsterlized, cream. The exemption of this product from price regulation therefore is not expected to affect the orderly marketing of producer milk in the form of fluid milk products in the area. In this connection it may be noted that for each of the years 1963 and 1964, the amount of producer milk in this market sold in the form of "double cream" (cream items containing 27 percent or more butterfat) amounted to about one-tenth of 1 percent.

Classification of sour cream items, sour cream and eggnog. Three handlers proposed that certain sour cream items, sour cream, and eggnog be removed from the fluid milk products presently designated as Class I and be classified as Class II milk. Principal reasons for proposing these changes were sales competition in these items with handlers regulated in other order markets where such products are classified and priced at a lower use value, and growing competition with imitation sour cream products made with vegetable fat.

For example, proponent handlers cited several brands of sour cream and sour cream mixtures which are being sold in stores in the Cincinnati area. Of seven brands of sour cream (real and imitation) cited, four are "sour cream" items sold and distributed by Cincinnati regulated handlers. The remaining three consist of a sour cream product from a Chicago area, an imitation sour cream item from a Marietta, Ohio, plant and a sour cream item from a New Bremen, Ohio, plant.

Sour cream dips, either cultured or not cultured, should be included in the revised Class II milk category.

The order presently provides for the classification as Class II milk of cultured mixtures of skim milk and butterfat to which cheese or any food substance other than a milk product has been added in an amount equal to at least 3 percent of the finished product and which contains not more than 15 percent butterfat. This designation is intended to cover products commonly referred to as "dip specialty products." These dip specialty items are semisolid, coagulated cream products and are distributed in the form of dips, dressings and toppings. Under present provisions of the order any similar specialty product which does not meet these percentage requirements, unless specifically designated in another classification, would be classified as a "fluid milk (Class I) product."

Proponent handlers proposed that sour cream dips, whether cultured or not cultured, be classified as Class II and any percentage requirements with respect to butterfat and cheese or nonmilk product additives as presently called for in the order be eliminated.

This proposal should be adopted. The Class II provisions defining the specialty products commonly known as sour dips or dressings should not arbitrarily exclude such a product solely because the ingredient composition fails to meet the currently prescribed standards. There are no distinguishing differences based on form or use.

Although the current definition of Class II actually includes most of such products disposed of in the market, the possibility remains under present class definitions that similar products intended for similar use would be classified as Class I. The record did not show that there were any distinguishing features involving their use which justify a different (Class I) classification of certain of such products on the basis of the amount of butterfat and food additives content. We conclude that logically all products of this type should be in a single class.

Also, the limiting of Class II dips to "cultured" mixtures should be eliminated. This is appropriate in light of recent technical innovations in the processing of such mixtures and also because of new products on the market which are very similar to those being sold at present but which are not clearly defined under the present classification provisions of the order. Proponent handlers pointed out that dip specialties may now be derived from cream coagulated by organic or inorganic acids rather than by the traditional lactic culture. Since this is a matter of manufacturing technique and does not materially alter the general form or use of the final product, the particular manufacturing process used should not be a determining factor in classification.

Inasmuch as sour cream should remain a Class I product, for reasons to be discussed later in these findings, it is necessary to revise the definition of Class II milk to distinguish the classification of sour cream from the classification of sour cream dips and dressings.

The proposal to reclassify sour cream from Class I to Class II should not be adopted.

The skim milk and butterfat used to produce sour cream for sale in the Cincinnati market is required by local health authorities to be made from Grade A milk. Under the general scheme of classified pricing in Federal order markets, the level of price for milk and milk products which require an approved supply is established at a level higher than than the price level of manufacturing milk unless there are compelling reasons for a lower classification. This is appropriate in order to compensate for the extra cost incurred by producers to produce quality milk and provide sufficient incentive to the producers, through the blended price returns, to encourage the production of those quantities of milk needed for all uses requiring inspected milk.

The sour cream market is a year-round market requiring regularity in the supply of producer milk to meet the market need. In view of the expressed desire of handlers and producers to improve the utilization and level of blend returns to producers in this market, it is not apparent how encouragement to an adequate supply for all uses requiring producer milk, including sour cream, would result from lowering the price of producer milk used in sour cream. In this connection, it is noteworthy that even the proponent of a lower use value for sour cream, sour cream mixtures and eggnog likewise complained of the need for a higher blend price and, correspondingly, the need to direct more of the market's supply of producer milk to fill the bottling needs of the market. The proposal to classify sour cream as Class II was not supported by producers or by other handlers in the market.

In view of these considerations, the proposal should not be adopted.

Proponent handlers requesting the reclassification of eggnog testified to competition in the local market with eggnog made with vegetable fat and with canned eggnog. They stated that they sell fresh eggnog in competition with eggnog sold by handlers regulated under the Fort Wayne, Ind., Louisville-Lexington-Evansville, Dayton-Springfield, Northeastern Ohio, Columbus and Northwestern Ohio Federal milk orders. Eggnog is classified as Class II in these markets, except Columbus and Northwestern Ohio where such products are classified as Class I.

Producer milk used to produce eggnog should continue, however, to be classified as Class I as presently required under the order.

Essentially the same reasons for continuing sour cream as Class I apply also to eggnog. Although market demand for this product is seasonal, it is primarily designed for the fluid market. Also, milk not approved by local health authorities may not be used for eggnog.

2. *Location Adjustments.* The area within which no location differential is applicable should not be revised at this time. Zone differential rates should remain unchanged.

A handler proposed revision of the location adjustment provisions in a manner that no adjustment to the Class I and blend prices would be made with respect to producer milk received at pool

plants within a radius of 90 miles of Cincinnati. At the present time the "no differential" area is limited to a radius of 30 miles from Cincinnati. A corollary proposal would revise the application of zone rates beyond the proposed no differential area. No supporting testimony was given, however, with respect to the latter proposal.

The proponent handler's pool supply plant maintains manufacturing facilities. This plant is located approximately 88 miles from Cincinnati at Covington, Ohio. It is subject to a location adjustment of 14.5 cents under the terms of the present order. Proponent stated that application of the location adjustment to the blended price results in a uniform price at the plant well below the uniform price of the Dayton-Springfield market (f.o.b. market), making it virtually impossible for the plant to hold its bulk tank milk supply without payment of premiums to producers.

Currently, the premiums being paid by this handler exceed the 14.5 cents represented by the location adjustment. It is contended that elimination of the adjustment by including the Covington plant within the "no differential" area would remove the problem of supply procurement and make it possible for the plant to hold its producer milk supply.

The location differential provisions as proposed should not be adopted on the basis of the rather limited consideration given the matter at this hearing. As pointed out in opposition testimony, the proposal made would provide a higher Class I price at Covington than the Dayton-Springfield Class I price which bears a definite location relationship to the Cincinnati Class I price. Covington, like Dayton-Springfield, is north of Cincinnati but somewhat more distant than Dayton-Springfield. Thus, the effect of the proposal on Class I price relationships would not comport with the currently established pattern of prices in the region. Official notice is taken of the November 5, 1964, decision of the Assistant Secretary on amendments to the Cincinnati order for the basis of such price relationship between the markets.

Moreover, according to exhibits introduced by proponent, the prevailing hauling rates on bulk tank milk produced on farms in several counties for delivery to Covington as compared with delivery from the same counties to Cincinnati do not differ materially. On these data, adoption of the proposed plan of location adjustments would tend to encourage delivery of bulk tank milk to proponent's supply plant when it could be delivered directly to Cincinnati at no significantly greater cost to the producer and be immediately available for higher valued utilization.

The order should not encourage receipt of bulk tank milk at outlying plants when it is produced within the radius from which delivery may be made directly from the farm to a city plant without the cost (and charges) involved in intermediate handling. Covington is within such a distance from Cincinnati. When the milk is delivered directly to Cincinnati the location differential is automatically eliminated, of course, since the milk then is eligible for pricing f.o.b. market. Also, as pointed out previously in this decision, the market needs increased supplies for expanding fluid requirements and only that milk available as part of the incidental, but necessary, reserve should be held for processing into nonfluid products.

As to can milk, it is obvious that there would be signficantly greater cost involved in the delivery of such milk directly from farms to Cincinnati than to this country supply plant. Proponent did not show that the present location differential no longer reasonably relates the value of can milk at the country location and its value at the city processing plant. Thus, it must be presumed that the differential continues to reflect the respective costs borne by producer and handler in moving can milk to the market from the country supply plant.

3. *Revision of supply-demand adjustor.* The maximum amount per hundredweight by which the supply-demand adjustor may adjust the Class I prices in both the Cincinnati and the Dayton-Springfield markets for any one month should be reduced from 50 cents to 39 cents.

A common supply-demand "adjustor" to Class I prices was adopted for both markets effective December 1, 1964. In the decision of the Assistant Secretary, issued November 5, 1964, concerning this matter (29 F.R. 15147), it was determined that the Class I sales and producer receipts of both markets should be combined in computing a common supply-demand adjustment for the two markets and that their respective Class I prices should be specifically related. It was determined also that the maximum plus or minus adjustment for any one month should be set at 50 cents per hundredweight. Prior to these amendments to the two orders, the adjustors in the Greater Cincinnati and Dayton-Springfield orders were limited to 50 cents and 38 cents per hundredweight, respectively.

Five handlers proposed to modify the Class I pricing provision of the Greater Cincinnati order by reducing from 50 cents to 20 cents, the maximum amount by which the adjustor may adjust the Greater Cincinnati Class I milk price. In light of this proposal, the Department placed interested parties on notice that the intermarket relationship between Cincinnati and Dayton-Springfield Federal order markets, adopted in the November 5, 1964, decision, could be altered by the handlers' proposal. In order that all aspects of such price alignment might be given full consideration the Dayton-Springfield order therefore was opened for review of the corresponding provision in such order.

At the hearing, proponent handlers modified their original proposal to apply the same 20-cent limitation to the Dayton-Springfield Class I price adjustor. A Dayton handler supported the 20-cent limitation for the two orders and also proposed that there be a limit of 4 cents change in any adjustment one month to the next. Another Cincinnati handler proposed a 24-cent limit (plus or minus) to the supply-demand adjustment, likewise to apply to both markets.

Cincinnati handlers cited as their principal reason for proposing the reduced limit on the supply-demand adjustment, the recent increase in competition with handlers in certain other nearby markets for both milk supplies and sales. This competition for milk sales and supply has come about, in part, from the development of modern highways and expressways and the availability of improved transportation and refrigeration facilities and equipment.

Graded milk from markets under health jurisdictions other than that of Cincinnati market also may now move more freely into the Cincinnati market, if the shippers of such milk are on the approved Interstate Milk Shippers list and the milk has an IMS rating of 90 or better.

Principal markets in competition with Cincinnati handlers for both sales and Grade A milk supply are Dayton-Springfield, Louisville-Lexington-Evansville, and Columbus. Further, certain Cincinnati handlers have expanded their sales in recent years to include the Dayton-Springfield and Columbus markets as well as other nearby Ohio markets such as Tri-States, and have indicated also plans for expansion into other additional sales areas. These developments, they say, have created additional needs for fluid milk and further emphasizes the need for close alignment of Class I and producer blend prices with other Ohio markets.

Certain problems were cited in the matter of intermarket alignment of prices: First, because of the plus adjustments to the Cincinnati Class I price brought about by the action of the supply-demand adjustor in recent months the Cincinnati Class I price reached a level too high in relation to nearby competing markets. In this connection, handlers stated that their proposed limit on plus supply-demand adjustments would tend to increase the incentive to handlers to draw upon sources of milk already under the order to the greatest possible extent for Class I purposes before adding additional producer milk.

The Dayton handler, in support of a 20-cent limit to supply-demand adjustment in conjunction with a 4-cent limit on the amount of monthly change in adjustment stated that the supply-demand formulas presently used in the two orders are obsolete. He contended there is no justification for a plus supply-demand adjustment for the Cincinnati market based upon changes in the percentage of producer milk used in Class I. This handler, however, offered no proposal to change other factor components of the supply-demand formula and did not suggest how the formula might be improved other than by further limiting the action of the formula as indicated.

The supply-demand adjustment was at its highest level in recent years for the month of October 1965 (36 cents per hundred-weight), 6 cents higher than the largest adjustment in 1964, which occurred in September. This 36-cent adjustment was based upon the trend

of the markets' relationship of supply to demand indicated by the departure, or deviation, of the "mover" (e.g., the mover for the October pricing month is based upon the preceding 3 months of June, July, and August) from the predetermined "norm," or standard utilization percentage. The percentage of producer milk classified as Class I averaged (simple) 68 percent for the period of such mover (June, July, and August) 1965, or about 6 percentage points higher than for the same period in 1964. This indisales for the pricing month of October resulted in the 36-cent supply-demand adjustment.

In the November 1964 decision supporting the adoption of this formula it was pointed out that in reestablishing of standard utilization percentages (reflecting the "normal" monthly supply-demand relationship of the two markets in combination) some modification was made for the purpose of lessening the possibility of contraseasonal supply-demand adjustments which might occur as a result of random seasonal shifting in the relationship of production and Class I disposition in the two markets, one year to the next. As a consequence, it could be expected that, all things being equal, monthly price adjustments would be somewhat more sensitive to a trend toward a shortening of supply during the low production months than would be the case if such a trend were indicated during the generally flush production months of the year.

At least a portion of this advance in the fall as compared to a year ago may be attributed, however, to the slight modification of the norms. To an equal extent, an offsetting contraseasonal effect might be expected in the coming spring months of generally flush production since an offsetting adjustment was made in the norms which determine flush period price levels.

As stated previously, handlers directed their objections to the amount by which the current supply-demand formula has contributed to an escalation of the Cincinnati Class I price and resulting misalignment with other markets. Nevertheless, for the 10-month period of January through October 1965, the current supply-demand formula resulted in plus adjustments to the Class I price averaging two cents lower than during the same period 1964. While the Class I price averaged $4.78 during the 1965 period as compared to $4.71 for the same period 1964, the 7-cent average increase in the Class I price in 1965 may be accounted for by a 9-cent average increase in the basic formula price offset by the 2-cent average decrease in the supply-demand adjustment. This increase in the Cincinnati basic formula price is similar to that reflected in several other Federal order markets where the basic price formulas are similar. They reflect competitive conditions in the manufacturing segment of the industry rather than intermarket competition in fluid milk.

The Cincinnati Class I price has, in fact, increased less in recent years than Class I prices in other nearby markets. The Cincinnati price averaged $4.73 per hundredweight for 1963 and remained at that average level in 1964. For the Dayton, Columbus, Indianapolis, Fort Wayne, and Louisville markets the 1964 Class I prices averaged 5, 13, 6, 7, and 8 cents higher, respectively, over those of the preceding year.

Also, over a 2-year period there has been a trend toward a closer alignment of Class I prices between the Cincinnati market and the five other markets cited. A comparison of Class I prices for the 10-month period January through October 1965 with the same period for 1963 shows the Cincinnati Class I price to have increased on the average only 6 cents per hundredweight, whereas the five neighboring markets increased as follows:

	Cents
Dayton-Springfield	22
Columbus	[1] 31
Indianapolis	16
Fort Wayne	17
Louisville-Lexington-Evansville	16

[1] Not including 14 cents added to Class I differential by amendment of May 1, 1964.

The general trend toward a closer alignment of the Cincinnati Class I price with prices in the nearby markets is further demonstrated by the following table:

AMOUNT BY WHICH CINCINNATI ORDER CLASS I PRICE ON THE AVERAGE EXCEEDED CLASS I PRICES IN THE FOLLOWING MARKETS

	First 10 months of—		
	1963	1964	1965
	Cents	*Cents*	*Cents*
Dayton-Springfield	26	23	10
Columbus	48	[1] 36	[1] 9
Indianapolis	35	29	25
Fort Wayne	43	36	32
Louisville-Lexington-Evansville	15	7	5

[1] Including the 14 cents added to Class I differential by amendment of May 1, 1964.

A similar comparison with the more distant market of Chicago also shows the same trend. The Cincinnati Class I price exceeded the Chicago 70-mile zone price on the average by 99, 92, and 86 cents per hundredweight, respectively, for the comparable 10-month periods during 1963, 1964, and 1965.

In light of the above we may not reasonably conclude that the current supply-demand formula has adversely affected the orderly marketing of fluid milk. The proposals for a 20-cent or 24-cent limit are therefore denied. For the same reasons, a counter proposal made by producers to apply both a ceiling and floor on the supply-demand adjustment should not be adopted. The latter proposal would have the effect of fixing at a single level of plus 22 cents the amount the adjustor could affect price in any month. The supply-demand formula is designed as a supplement to other price determinants as a means of bringing about timely responses in price to changes in the market in the relationship between receipts of milk from producers and Class I sales. In the present dynamic market situation, more flexibility in pricing is needed than would be provided by the producers' proposal.

The proposal to establish a 4-cent "dampener" on the month-to-month changes in adjustments should not be adopted.

A Dayton handler proposed the establishment of this device in the supply-demand formulas of both orders as a corollary change to a proposal by certain other handlers to provide for a 20-cent limit to the supply-demand adjustment (discussed elsewhere in these findings).

It was not shown on the record how the 4-cent "dampener" might improve the effectiveness of the supply-demand formula currently in use in the two orders. Further, the appropriateness of the use of the 4-cent figure, in lieu of some other amount was not made clear. The current formula is designed to adjust Class I prices in multiples of three cents.

The proponent handler cited as one reason for the 4-cent dampener, its use in a number of other orders. It was not shown, however, whether the conditions which justified such a device in the Class I pricing formula of another order also prevail in the Cincinnati and Dayton markets. The proposal was not supported by other handlers or producers in either market.

Such a device is employed in the supply-demand formulas of some orders principally as a means of minimizing the possibility of marked variations in Class I prices which otherwise might occur from unusual short-run conditions in the relationship of supply to demand.

Several components of the current supply-demand formula for the two markets, however, are designed to act as a "dampener" to such short term abnormal conditions and thus provide reasonable stability in adjustments to Class I prices. One such component is the provision for a bracket of 3 percentage points in the standard utilization percentage (norm) for each month. This bracketing, together with provisions for "rounding" the computed utilization percentage, provides a "corridor" of 4 percentage points within which the current utilization percentage may move without effecting a price adjustment.

Stability in adjustments also is achieved, to some extent, by the provision in the formula for a 3-month "mover" rather than a 2-month mover as in some other markets. That is, the use of utilization and receipts in the two markets for the 3 preceding months in calculating the current Class I utilization percentage tends to smooth out the adjustments, one month to the next. A further dampening influence is effected from the slight modification recently made in the "norms" to offset contraseasonal price effects, as discussed earlier.

The effectiveness of these devices as a means of stabilizing adjustments is evidenced by the history of adjustments since the inception of the formula in the two orders effective December 1964.

Except for 1 month (March 1965) when the amount of "change" in adjustment (one month to the next) was 9

cents, such change has ranged from 3 to 6 cents, averaging 4.75 cents on a monthly basis during the period December 1964 through December 1965.

During this 13-month period, the month-to-month change in supply-demand adjustments only twice reversed direction, once in April and again in November 1965. To illustrate, the supply-demand adjustment trended downward from a plus 24 cents in December 1964 to a plus 6 cents for March 1965. An upward trend in the adjustment began in April 1965 (plus 9 cents) and continued to increase thereafter (in plus increments of change each month amounting to 3 or 6 cents) to an October 1965 high of plus 36 cents. November 1965 again marked the beginning of a trend downward from a plus 33 cents to plus 27 cents for December 1965, with the addition of significant amounts of new supplies of producer milk to the market. (Official notice is taken of the Greater Cincinnati and Dayton-Springfield market administrator's announcements of Class I price for December 1965.)

Since widely fluctuating changes in the supply-demand adjustments are not evidenced by these data and no evidence was introduced to show how the proposed dampener would improve the formula, the proposal is denied.

That the two markets are in a period of supply and sales transition there can be little doubt. A large milk and ice cream plant was established in the Cincinnati market during 1964 to process milk to be distributed in several market areas. This and other market changes relating to the movement of milk through channels from farm to consumer, brought about in part by improved roads and transportation systems, improved technological developments in milk storage and processing, expansion of plant facilities to effect economies of scale make it evident that the marketing of fluid milk and milk products in the two-market area is going through a period of rapid change.

It is desirable, therefore, that the limit (both maximum and minimum) on the supply-demand adjustment be set at a level less than the 50-cent per hundredweight now provided, and more nearly in line with prevailing limits provided for in other nearby order markets.

A limit of 39 cents per hundredweight is deemed to be appropriate in view of the circumstances herein discussed which indicate a growing interplay of competition for Class I sales between these markets and other Ohio markets. A maximum limit of plus 39 cents is 3 cents higher than the highest level of supply-demand adjustment reached during 1965. This limit is expected to encourage the maximum use of producer milk in Class I during the rapid adjustment in supplies and sales.

Provision should also be made that any negative supply-demand adjustment to Class I price shall not exceed 39 cents per hundredweight. The ceiling of plus 39 cents and a corresponding floor of minus 39 cents adjustment will provide assurance that a close Class I price alignment will be maintained between the Dayton-Springfield and Columbus markets, which compete both in sales and procurement. The Columbus order provides a limit of 38 cents plus or minus.

The appropriateness of a similar alignment between Cincinnati and Dayton-Springfield is evident by the close competition for sales and supply by Dayton and Cincinnati handlers. It is noted further that handlers regulated under the Tri-State order have common sales areas with handlers in the Cincinnati, Dayton-Springfield, and Columbus markets as found in a decision of the Assistant Secretary issued April 23, 1965 (30 F.R. 5904), official notice of which is taken herewith, concerning amendments to the Tri-State order. The order for this market also has a limit of 38 cents plus or minus on its supply-demand adjustor.

Although not presenting a formal proposal one Cincinnati handler testified in support of a similar level of Class I prices for all fluid markets within a 300-mile radius of Cincinnati. Since orders for markets other than Cincinnati and Dayton-Springfield were not under consideration at this hearing, the testimony may not appropriately be considered. As to the relationship of prices between Cincinnati and Dayton-Springfield, this matter is discussed elsewhere in this decision.

4. *Incidental and conforming changes.* There are no incidental or conforming changes necessary to the Dayton-Springfield order provisions. Certain corollary changes in the Greater Cincinnati order, however, are appropriate.

a. The transportation allowance from the pool provided by the Cincinnati order on certain condensed milk and frozen cream should be eliminated.

The present order allows a transportation adjustment on the actual weight of condensed milk or frozen cream when moved from a pool supply plant to a fluid milk (pool) plant where it is processed into a Class II product such as ice cream. Thus, pool handlers purchasing condensed milk or frozen cream from a pool supply plant are allowed the adjustment on the amount used in Class II while an unregulated competitor in the market making a similar product does not receive the allowance even though the source of his condensed milk or frozen cream may be the same pool supply plant.

The new Class II price is applicable to condensed milk, frozen cream, cottage cheese, ice cream and other nonfluid milk products whether sold in the market or outside. The level of such price is in line with the general level of manufacturing milk prices even though the Cincinnati market does have restriction on sources of ingredients for ice cream and cottage cheese in that the ingredients must be derived from Grade A milk.

The processor in the Cincinnati market, whether regulated or unregulated, relying on outside, or nonproducer, sources of milk for his ice cream or cottage cheese ingredients is allowed nothing from the pool for the transportation of such ingredients to the market. Payment for transportation, as well as price, is a matter of private arrangement between buyer and seller. Similarly, since producer milk for condensed milk and frozen cream as well as other nonfluid products is priced at the manufacturing level, it should not be subject to special consideration as to transportation simply because it is producer milk.

Purchasers of condensed milk and frozen cream in the Cincinnati market therefore will be on equal footing with respect to transportation cost on such products. The pool supply plant making such indgredients at least has the natural advantage of proximity to the Cincinnati market. Consequently, neither it nor the pool processor of such products should be disadvantaged by this change in competing with outside sources for those ice cream and cottage cheese outlets within the local market which at present are benefited by the transportation adjustment.

b. A slight modification to the "other source milk" definition is appropriate in view of the proposed consolidation of the two manufacturing classifications of milk (Class II and Class III) into the the new Class II classification.

Among the items included under the "other source milk" definition of the Greater Cincinnati order are plant receipts, from any source, of manufactured dairy products, principally Class III, which are reprocessed, repackaged or converted to another product during the month. This provision in the various orders is designed generally to require handlers to keep records and to account for the nonfluid products from other sources under the circumstances described so that to the extent that they are converted in the handler's plant to a higher valued use, the increment of increased value will be reflected in the total value of all producer milk in the pool. Without such a requirement, for example, a handler by failing to keep records of the nonfat dry milk and similar products which can be reconstituted into skim milk or other fluid milk products would gain a competitive advantage over other handlers in the market.

The Cincinnati order provision is similar to that provided for in many other orders but differs somewhat in that it specifically excludes those nonfluid dairy products received from other pool plants which currently are designated under the order as Class II products (principally ice cream, ice cream mix and cottage cheese) rather than Class III milk products. This exclusionary provision no longer appears necessary under present accounting procedures.

c. Provisions which were pertinent to "Class III" are modified or revised in the Cincinnati order by deleting language no longer applicable. Also, the numerous references to "Class III" are either deleted or changed to "Class II."

d. Other changes in Cincinnati order provisions not specifically discussed are merely conforming changes necessary to implement the conclusions previously set fourth herein.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of

certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which hearings have been held.

Recommended marketing agreements and orders amending the orders. The following orders amending orders, as amended, regulating the handling of milk in the Greater Cincinnati and Dayton-Springfield, Ohio, marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended:

Amendments to the Greater Cincinnati Milk Order. 1. Section 1033.14 is revised to read as follows:

§ 1033.14 Other source milk.

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

(a) Receipts during the month in the form of fluid milk products, except:

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

(2) Sterilized cream received and disposed of in the same glass or metal hermetically sealed container;

(3) Inventory of fluid milk products at the beginning of the month; and

(4) Producer milk; and

(b) Products other than fluid milk products from any source (including those produced at the pool plant) that are reprocessed, repackaged, or converted to another product during the month or for which other utilization or disposition is not established pursuant to § 1033.33.

2. Section 1033.15 is revised to read as follows:

§ 1033.15 Fluid milk product.

"Fluid milk product" means the fluid form of:

(a) Milk, skim milk, buttermilk, flavored milk, milk drink, eggnog, concentrated milk, whipped cream, cream (sweet or sour); and

(b) Any mixture of milk, skim milk or cream including fluid, frozen or semi-frozen malted milk and milk shake mixtures containing less than 15 percent total milk solids.

(c) Excluded from this definition are: Frozen storage cream, aerated cream in dispensers, ice cream and frozen dessert mixes, pancake mix, evaporated and condensed milk, and any sour mixture of skim milk and butterfat in nonfluid form to which cheese or any food substance other than a milk product has been added and which is disposed of as other than sour cream.

3. Section 1033.41 is revised to read as follows:

§ 1033.41 Classes of utilization.

Subject to the conditions set forth in §§ 1033.43 and 1033.44, 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) Fluid milk products classified as Class II pursuant to paragraph (b) (2), (3), and (4) of this section;

(ii) Sterilized cream disposed of in the same glass or metal hermetically sealed container in which received;

(iii) Fluid milk products which are fortified with the addition of milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content.

(2) Not accounted for as Class II milk;

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

(1) Used to produce:

(i) Ice cream, frozen desserts, frozen cream, cheese, butter, and pancake mix;

(ii) Ice cream and frozen dessert mixes, excluding malted milk or milk shake mixtures containing less than 15 percent total milk solids;

(iii) Milk or skim milk and cream mixtures disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product;

(iv) Any sour mixture of skim milk and butterfat in nonfluid form to which cheese or any food substance other than a milk product has been added and which is disposed of as other than sour cream;

(v) Spray and roller process nonfat dry milk solids;

(vi) Evaporated and condensed milk (or skim milk) either in bulk or in hermetically sealed cans; and

(2) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a) (1) (iii) of this section;

(3) Disposed of in bulk as milk, skim milk or cream to any commercial food processing establishment where food products are prepared only for consumption off the premises;

(4) Specifically accounted for as dumped, spilled or disposed of for animal feed;

(5) Contained in inventories of fluid milk products;

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1033.42(b) (1), but not in excess of 2 percent of such milk; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1033.42(b) (2).

§ 1033.42 [Amended]

4. In § 1033.42(b), the words "or Class III", where they appear in two places, are deleted.

§ 1033.43 [Amended]

5. In § 1033.43, paragraph (c) (3) (iv) is revised by deleting the proviso and by certain other changes so that paragraph (c) (3) (iv) now reads "To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk and;"

6. In § 1033.43(d) (3), the words "or Class III", where they appear in two places, are deleted.

7. In § 1033.43(d) (5), the phrase "or Class III, whichever is more nearly similar to the class to which allocated in the other order" is deleted.

§ 1033.45 [Amended]

8. In § 1033.45, the phrase immediately preceding the proviso "Class I milk, Class II milk, and Class III milk for such handler" is changed to read "Class I milk and Class II milk for such handler".

§ 1033.46 [Amended]

9. In § 1033.46, the following changes are made:

A. In paragraph (a) (1), the words "Class III", where they appear in two places, are changed to "Class II", and the reference "§ 1033.41(c) (5)" is changed to "§ 1033.41(b) (6)".

B. In paragraph (a) (2) (i), the words "Class III" are changed to "Class II".

C. In the introductory text of paragraph (a) (3), the phrase "the lowest-priced use available" is deleted and the words "Class II" are substituted thereof.

D. In paragraph (a) (4), the text which reads as follows is deleted: "or Class III, according to the classification claimed by the handler; except that skim

milk allocated pursuant to subparagraph (4)(ii) of this paragraph shall be subtracted as specified in that subparagraph".

E. In paragraph (a)(4)(i), the words "or Class III," where they appear in two places, are deleted.

F. In the introductory text of paragraph (a)(4)(ii), the text enclosed in parenthesis is deleted.

G. In paragraph (a)(4)(ii)(c)(2), the first sentence is revised to read "Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount."

H. In paragraph (a)(4)(iii), the phrase "and Class III milk" and the phrase "or Class III" are deleted.

I. In paragraph (a)(6), the words "Class III" are changed to "Class II".

J. In the introductory text of paragraph (a)(8)(i), the phrase "of all Class II milk and Class III milk" is changed to read "of all Class II milk".

K. In paragraph (a)(8)(ii), the words "and Class III", where they appear in two places, are deleted.

L. In paragraph (a)(10), the word "all" is deleted and the word "both" is substituted thereof; also the phrase "the lowest-priced use available" is deleted and the words "Class II" are substituted thereof.

§ 1033.51 [Amended]

10. Section 1033.51 is revised as follows:

A. In the introductory text of paragraph (a), the figure "50" is changed to "39".

B. Paragraph (c) is revoked and the text of paragraph (b) is revised to read as follows:

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

§ 1033.52 [Amended]

11. In § 1033.52, paragraph (c) is revoked and paragraph (b) is revised to read: *"Class II milk.* Multiply the Chicago butter price for the month by 0.115."

§ 1033.53 [Amended]

12. Section 1033.53 is amended as follows:

A. In paragraph (a)(1), the phrase "or as condensed skim milk or frozen cream" is deleted.

B. In paragraph (a)(2), the words, "or Class II", where they appear in two places, are deleted.

C. In paragraph (b), the phrase "and Class II milk" is deleted.

§ 1033.60 [Amended]

13. In § 1033.60, paragraph (d) is revised by deleting the words "Class III" and substituting the words "Class II" thereof, and by deleting the parenthetical phrase "for other than butter".

§ 1033.61 [Amended]

14. In § 1033.61, paragraph (a)(1)(i) is revised by deleting the words "Class III" and substituting "Class II" thereof;

15. In § 1033.61, paragraph (b)(4) is revised by deleting the phrase "or the Class III price (for other than butter), whichever is higher" and substituting the parenthetical phrase "(not to be less than the Class II price)".

§ 1033.72 [Amended]

16. In § 1033.72, paragraph (b) is revised by deleting the words "Class III" and substituting "Class II" thereof, and by deleting the phrase "for other than butter."

Amendment with respect to the Dayton-Springfield, Ohio Milk Order.

§ 1034.51 [Amended]

1. In § 1034.51, paragraph (a) is revised by changing the figure "50" to "39".

Signed at Washington, D.C., on February 1, 1966.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 66-1252; Filed, Feb. 3, 1966; 8:49 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[332.1]

APPRAISEMENT OF FOOTWEAR SUBJECT TO AMERICAN SELLING PRICE

Notice of Adoption of Proposed Guidelines

There was published in the FEDERAL REGISTER of August 19, 1965, a notice of proposed action, incorporating certain guidelines to be used in appraising imported footwear on the basis of American selling price. These guidelines proposed to instruct appraising officers as follows:

Imported products subject to appraisement on the basis of American selling price by virtue of section 336 of the Tariff Act of 1930, as amended, are required to be appraised at the American selling price of the product manufactured in the United States which is like or similar to the imported product. Customs officers to whom the functions of appraising officers have been delegated shall have the function of selecting the product manufactured in the United States which is like or similar to such an imported product. In carrying out that function, such officers shall use all reasonable ways and means to select the product manufactured in the United States which in their opinion is like, or most similar to the import in physical characteristics, such as appearance, durability, quality, construction, workmanship, and finish. If several products manufactured in the United States are found to be approximately equal in similarity on the basis of the foregoing characteristics, the product which is closest in price to the price of the imported article shall be selected as the most similar.

After consultation with affected individuals and organizations, and full consideration of all relevant data, views, and arguments presented, the action proposed by the notice is being adopted.

Customs officers are being instructed to proceed with appraisement of imported footwear dutiable on the basis of American selling price by virtue of section 336 of the Tariff Act of 1930, as amended, on the basis of the proposed guidelines.

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

Approved: January 24, 1966.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 66-1232; Filed, Feb. 3, 1966; 8:47 a.m.]

Internal Revenue Service

[Delegation Order 66 (Rev. 1); Chief Counsel's Order 1958-11 (Rev. 1)]

REGIONAL COMMISSIONERS ET AL.

Authorities of Regional Appellate Division and Regional Counsel in Protested and Tax Court Cases

JANUARY 28, 1966.

Pursuant to the authority vested in the undersigned, it is ordered that:

1. (a) In each case in which a taxpayer has protested the determination of liability made by the Office of a District Director of Internal Revenue or by the Office of the Director of International Operations, the Regional Commissioner is authorized exclusively to represent the Commissioner (1) in the determination of liability for income, profits, estate, and gift tax in cases not docketed in the Tax Court of the United States, whether before or after issuance of a statutory notice; and (2) in the determination of liability for the excise and employment taxes designated in paragraph 5 of this order. In each region the Assistant Regional Commissioner (Appellate), as Chief of the Appellate Division of the region, is authorized and each Chief, Appellate Branch Office, and each Associate Chief is authorized to represent the Regional Commissioner in the determination of tax liability in any such case; and each Assistant Chief is authorized to represent the Regional Commissioner in the determination of tax liability in any such case in which the net deficiency or the net overassessment determined by the District Director or by the Director of International Operations does not exceed $50,000 and the determination of the Appellate Division does not involve a net overassessment in excess of $50,000.

(b) The authorities delegated in subparagraph (a) of this paragraph are subject to the exceptions set forth in paragraph 3 of this Order, and except as provided in paragraph 4, they may not be redelegated.

2. (a) In each income, profits, estate, and gift tax case docketed in the Tax Court, in conformity with the provisions of Delegation Order No. 60—Chief Counsel's Order No. 1958-5, dated April 17, 1958, the Regional Commissioner is authorized exclusively to represent the Commissioner in the functions delegated to the Regional Appellate Division in that joint order. In each region the Assistant Regional Commisioner (Appellate), as Chief of the Appellate Division of the region, is authorized and each Chief, Appellate Branch Office, and each Associate Chief is authorized to represent the Regional Commissioner in the performance of those functions; and each Assistant Chief is authorized to represent the Regional Commissioner in the performance of those functions in any such case in which the net deficiency or net overassessment determined in the statutory notice does not exceed $50,000 and the basis of disposition does not involve a net overassessment in excess of $50,000.

(b) The authorities delegated in subparagraph (a) of this paragraph are subject to the exceptions set forth in paragraph 3 of this Order and they may not be redelegated.

3. The authorities delegated by this order to the Regional Commissioners do not include authority to:

(a) Eliminate the ad valorem fraud penalty in any income, profits, estate or gift tax case in which the penalty has been determined by the district office in connection with a tax year or period, or which is related to or affects such year or period, for which criminal prosecution against the taxpayer (or a related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, except upon the recommendation or concurrence of the Regional Counsel;

(b) Act in any case in which a recommendation for criminal prosecution is pending, except with the concurrence of the Regional Counsel; nor

(c) Modify any decision of the Excess Profits Tax Council with respect to any issue arising under section 722 of the Internal Revenue Code of 1939, except with the concurrence of the Director of the Appellate Division or his delegate.

4. In any case not docketed in the Tax Court in which a statutory notice was issued by the Office of a District Director, the Assistant Regional Commissioner (Appellate) may relinquish the jurisdiction of the Appellate Division by waiver to the Office of that District Director. Similarly, the Assistant Regional Commissioner (Appellate) for the region which includes Washington, D.C., may relinquish the jurisdiction of the Appellate Division by waiver to the office of the Director of International Operations in any case in which the office of that Director issued the statutory notice. No such waiver shall be made in any case in which criminal prosecution has been recommended and not finally disposed of; nor in any case in which the determination in the statutory notice includes the ad valorem fraud penalty. Notwithstanding any such waiver, upon filing of a petition with the Tax Court, jurisdiction shall revest in the Appellate Division.

5. The excise and employment taxes subject to the provisions of this Order include any Federal excise or employment tax:

(a) Under the Internal Revenue Code of 1939, except any tax imposed by:

(1) Chapter 8, 15, 23, 26, or 27A;

(2) Subchapter B of Chapter 25;

(3) Part V, VI, VII, or VIII of Subchapter A of Chapter 27;

(4) Subchapter B of Chapter 28, insofar as it relates to liquor and tobacco; or

(5) Chapter 9A, insofar as it relates to distilled spirits, wines, cordials, or fermented malt liquors.

(b) Under the Internal Revenue Code of 1954, except any tax imposed by:

(1) Chapter 35 of Subtitle D;

(2) Subchapter A, Chapter 39 of Subtitle D;

(3) Subtitle E; or

(4) Subchapter D, Chapter 78 of Subtitle F, insofar as it relates to liquor and tobacco.

6. (a) In the performance of his functions under this order, each Regional Counsel shall be subject to the general supervision and control of the Chief Counsel. With the approval of the Chief Counsel, Regional Counsel may redelegate any function by this order vested in Regional Counsel.

(b) The Regional Counsel will consider all memoranda prepared in the Regional Appellate Division recommending the issuance of statutory notices, prior to the issuance of such statutory notices by the Regional Appellate Division.

7. The instructions contained in this order are intended to supplement the instructions contained in Delegation Order No. 60—Chief Counsel's Order No. 1958–5, dated April 17, 1958, and supersede other prior instructions to the extent that such other prior instructions are inconsistent herewith.

8. This order supersedes Delegation Order No. 66, Chief Counsel's Order No. 1958–11, issued August 6, 1958, and Amendment 1 thereto, issued August 4, 1959.

Effective date. January 28, 1966.

[SEAL] SHELDON S. COHEN,
Commissioner.

MITCHELL ROGOVIN,
Chief Counsel.

[F.R. Doc. 66–1215; Filed, Feb. 3, 1966; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Sacramento 080122]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 26, 1966.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. Sacramento 080122 for the withdrawal of lands described below, from prospecting, location, entry, and purchase under the mining laws, subject to valid existing claims.

The applicant desires the land for recreation sites, roadside and streamside scenic areas, and an administrative site in the Sierra and Stanislaus National Forests.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 4201 U.S. Courthouse and Federal Building, 650 Capitol Mall, Sacramento, Calif., 95814.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN

SIERRA AND STANISLAUS NATIONAL FORESTS

Merced River Recreation Area

Recreation Development Sites

T. 3 S., R. 19 E.,
Sweetwater Site,
Sec. 19, E½ lot 14 and W½ lot 15;
Sec. 30, W½ lot 2 and E½ lot 3.
Geological Exhibit,
Sec. 19, W½NE¼NE¼, E½NW¼NE¼, E½SW¼NE¼, and W½SE¼NE¼.
Parking Site,
Sec. 19, S½NE¼SE¼ and N½SE¼SE¼.
Unnamed Picnic Site,
Sec. 20, W½NW¼SW¼ and NW¼SW¼SW¼.
Unnamed Picnic Site,
Sec. 20, W½NE¼SW¼, E½NW¼SW¼, and NE¼SW¼SW¼.
Unnamed Picnic Site,
Sec. 20, N½SE¼SW¼ except M.S. 6065.
Unnamed Picnic Site,
Sec. 20, S½SE¼SW¼ except M.S. 6065.
Unnamed Picnic Site,
Sec. 20, NE¼SE¼.
Unnamed Site,
Sec. 21, N½NW¼SW¼.
Unnamed Site,
Sec. 21, S½SW¼NW¼.
Unnamed Site,
Sec. 21, N½SW¼NW¼.
Unnamed Site,
Sec. 21, N½SE¼NW¼.
Unnamed Site,
Sec. 21, S½NE¼NW¼ and S½NW¼NE¼ except M.S. 5798.
Clearing House Site,
Sec. 21, N½SW¼NE¼ except M.S. 5798.
Unnamed Public Service Site,
Sec. 22, lot 2, E½SE¼NW¼ and SW¼SE¼NW¼, exclusive of M.S. 6020 and H.E.S. 247.
Indian Flat Campground,
Sec. 22, S½ lot 4.
Unnamed Picnic Site,
Sec. 22, N½ lot 4 and E½NE¼NE¼ except M.S. 6020.
Bridge Crossing Picnic Site,
Sec. 14, W½NE¼SW¼.
Unnamed Roadside Rest,
Sec. 14, E½NE¼SW¼.
Unnamed Picnic Site,
Sec. 14, W½NW¼SE¼.
Unnamed Site,
Sec. 14, E½NW¼SE¼.
Unnamed Campground Site,
Sec. 14, E½SW¼SE¼ and SE¼SE¼.
Redbud Picnic Site,
Sec. 13, lots 13, 14, 15 and lot 16 except any portion withdrawn under P.L.O. 2136.

T. 3 S., R. 20 E.,
Public Service Site,
Sec. 19, N½ lot 1 except any portion withdrawn under P.L.O. 2136.

Administrative Site

T. 3 S., R. 19 E.,
Sec. 23, NW¼NW¼ and W½SW¼NW¼.

Roadside and Streamside Scenic Area

T. 3 S., R. 19 E.,
Sec. 14, SW¼SW¼NE¼, S½NE¼SE¼, S½SE¼NW¼, E½NW¼SW¼, W½SE¼SW¼, S½SW¼SW¼, and NE¼SW¼SW¼;
Sec. 18, lots 9, 10, 18, and S½ lot 14, N½ lot 15, N½ lot 16, SW¼NE¼SE¼, S½NW¼SE¼, E½SW¼SE¼, NW¼SW¼SE¼, and W½SE¼SE¼;
Sec. 19, lots 4 and 6, S½ lot 3, E½ lot 5, W½ lot 10, E½ lot 11, E½ lot 15, E½SE¼NE¼, and N½NE¼SE¼;
Sec. 20, SE¼SW¼, S½NW¼SE¼, N½SE¼SE¼, and SW¼SE¼ except M.S. 6065;
Sec. 21, SE¼SW¼NE¼, S½SE¼NE¼, and NE¼NE¼SE¼ except any portion within M.S. 5798;
Sec. 22, S½S½SW¼NW¼ and N½NW¼SW¼;
Sec. 30, lots 5, 6, 12, and E½ lot 2, and W½ lot 3.

T. 3 S., R. 20 E.,
Sec. 18, lot 4 except any portions withdrawn under P.L.O. 2136;
Sec. 19, W½NW¼NE¼ and NE¼NW¼ except any portions withdrawn under P.L.O. 2136.

The areas described aggregate approximately 1,750 acres.

R. J. LITTEN,
Chief, Lands Adjudication Section, Sacramento Land Office.

[F.R. Doc. 66–1210; Filed, Feb. 3, 1966; 8:45 a.m.]

[Montana 072454]

MONTANA

Order Providing for Opening of Public Lands

JANUARY 28, 1966.

1. In exchanges of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 35 N., R. 18 E.,
Sec. 11, SW¼.
T. 36 N., R. 18 E.,
Sec. 2, Lots 1 and 2, SW¼;
Sec. 4, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 9, E½E½;
Sec. 17, NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 18, E½SW¼.
T. 37 N., R. 18 E.,
Sec. 24, SE¼NW¼ and E½SW¼.
T. 34 N., R. 19 E.,
Sec. 26, E½SE¼.
T. 35 N., R. 19 E.,
Sec. 6, Lots 3, 4, 5, 6, and 7, SE¼NW¼, and E½SW¼.
T. 36 N., R. 21 E.,
Sec. 19, E½NW¼ and NE¼SW¼.
T. 33 N., R. 25 E.,
Sec. 1, SE¼NE¼ and NW¼SW¼;
Sec. 2, Lots 1, 2, 3, and 4, S½SW¼;
Sec. 3, Lots 1, 2, 3, and 4;
Sec. 12, W½;
Sec. 13, S½.
T. 37 N., R. 25 E.,
Sec. 3, SW¼SW¼;
Sec. 4, Lots 10, 11, and 12, S½N½;
Sec. 5, Lots 11 and 12, S½NE¼, and SE¼;
Sec. 10, NW¼NW¼;
Sec. 11, S½S½;
Sec. 14, S½;
Sec. 23, NW¼;
Sec. 24, SW¼.
T. 33 N., R. 26 E.,
Sec. 6, Lots 1 and 2, S½NE¼, and W½SE¼;
Sec. 24, S½NE¼ and SE¼;
Sec. 25, N½NE¼;
Sec. 26, N½NE¼, SW¼NE¼, and NW¼SE¼.
T. 37 N., R. 26 E.,
Sec. 3, Lot 9, SW¼NW¼;
Sec. 24, W½NE¼ and SE¼;
Sec. 25, N½NE¼;
Sec. 27, N½NE¼.
T. 33 N., R. 27 E.,
Sec. 7, Lots 1, 2, 3, and 4, E½W½.
T. 34 N., R. 27 E.,
Sec. 3, Lots 3 and 4, SW¼NE¼, S½NW¼, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 4, Lots 1, 2, and 3;
Sec. 7, SE¼SE¼;
Sec. 8, S½SW¼;
Sec. 9, W½E½ and E½W½;
Sec. 10, N½NE¼, SE¼NE¼, and NE¼SE¼;
Sec. 11, SW¼NW¼ and NW¼SW¼;
Sec. 17, W½;
Sec. 18, E½E½ and NW¼SE¼;
Sec. 20, S½NE¼, SE¼NW¼, SW¼, W½SE¼, and SE¼SE¼;
Sec. 21, NE¼NW¼, S½NW¼, N½SW¼, and SW¼SW¼;
Sec. 29, NE¼ and N½SE¼;
Sec. 30, Lot 2.
T. 35 N., R. 27 E.,
Sec. 32, S½SE¼;
Sec. 33, S½S½.
T. 36 N., R. 27 E.,
Sec. 5, SW¼NE¼, SE¼NW¼, and E½SW¼.
T. 37 N., R. 27 E.,
Sec. 15, S½;
Sec. 18, Lots 3 and 4, E½SW¼, and SE¼;
Sec. 19, Lots 1 and 2, NE¼, and E½NW¼;
Sec. 20, NE¼ and E½NW¼;
Sec. 21, All;
Sec. 22, N½;
Sec. 29, SW¼;
Sec. 30, Lots 2, 3, and 4, SW¼NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 32, NW¼.
T. 34 N., R. 28 E.,
Sec. 14, S½;
Sec. 23, E½;
Sec. 24, W½.
T. 35 N., R. 28 E.,
Sec. 35, N½.
T. 36 N., R. 28 E.,
Sec. 11, E½SW¼ and W½SE¼;
Sec. 12, SW¼.
T. 25 N., R. 29 E.,
Sec. 25, W½.
T. 29 N., R. 29 E.,
Sec. 25, S½NW¼ and N½SW¼.
T. 35 N., R. 29 E.,
Sec. 3, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 4, Lots 1, 2, and 3, S½NE¼, SE¼NW¼, and SE¼;
Sec. 9, N½NE¼.
T. 36 N., R. 29 E.,
Sec. 12, E½SW¼, W½SE¼, and W½E½SE¼;
Sec. 13, E½NE¼ and SE¼;
Sec. 18, E½SE¼;
Sec. 24, NE¼;
Sec. 29, N½NE¼.
T. 25 N., R. 30 E.,
Sec. 31, Lots 1, 2, 3, and 4, NE¼, and E½NW¼;
Sec. 32, W½NW¼.
T. 24 N., R. 31 E.,
Sec. 18, Lot 4;
Sec. 19, Lots 1, 2, 3, and 4, E½W½.
T. 34 N., R. 31 E.,
Sec. 26, SE¼.
T. 37 N., R. 31 E.,
Sec. 9, W½;
Sec. 34, W½.
T. 32 N., R. 32 E.,
Sec. 17, SW¼.
T. 35 N., R. 33 E.,
Sec. 3, Lots 1, 2, 3, and 4, S½N½;
Sec. 4, Lots 1, 2, 3, and 4, S½N½, and S½.
T. 31 N., R. 36 E.,
Sec. 13, S½SE¼.
T. 31 N., R. 37 E.,
Sec. 8, SE¼NE¼ and NE¼SE¼.
T. 32 N., R. 37 E.,
Sec. 27, SE¼;
Sec. 34, W½NE¼ and E½NW¼.
T. 32 N., R. 38 E.,
Sec. 28, E½.

The areas described aggregate 18,938.38 acres.

2. The lands are widely scattered and are located in Blaine, Phillips, and Valley Counties. Topography varies from gently rolling to steeply rolling. Soils range from heavy clay loams to sandy loams. Presently, the lands are licensed for grazing and are fenced within grazing allotments.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby opened to application, petition, location, and selection. All valid applications received at or prior to 10 a.m., on March 7, 1966, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged. Therefore the mineral status of the lands are not affected by this order.

5. Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Billings, Mont., 59101.

EUGENE H. NEWELL,
Acting Land Office Manager.

[F.R. Doc. 66-1233; Filed, Feb. 3, 1966; 8:47 a.m.]

[U-0146573]

UTAH

Notice of Proposed Exchange

JANUARY 28, 1966.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), notice is hereby given of a proposal under the provisions of section 8(b) of the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315g) to exchange 3,118 acres of federally owned land in Box Elder County, Utah, for 3,186 acres of privately owned land located in the same vicinity. Both tracts of land are in Utah Grazing District No. 1 and are described below.

The Federal lands to be transferred to private ownership and the private lands to be conveyed to the United States of America under the proposal are primarily valuable for grazing of livestock, with some winter use by deer in periods of heavy snow.

In an area where private and public land ownership is intermingled in a checkerboard pattern, the consolidation of land ownership to be achieved under the proposed exchange will promote orderly use and development of both public and private land and will facilitate public land management programs by eliminating long-standing conflicting uses of public lands. Mineral rights in lands involved in the proposal will be reserved by the respective parties to the exchange proposal.

This proposal has been discussed with authorized users of the land and other interested parties. Information derived from the discussions and other sources indicate that these lands meet the criterion of 43 CFR 2410.1-1(a)(2) which provides that, "All present and potential uses and users will be taken into consideration. All other things being equal, land classifications will attempt to achieve maximum future uses and minimum disturbance to or dislocation of existing users," and 43 CFR 2410.1-3(d)(7), which provides that lands "may be determined to be suitable for exchange if the acquisition of the offered lands, the disposition of the public lands, and the anticipated costs of consummating the exchange will not disrupt governmental operations."

Information concerning the proposed exchange is available at the Brigham City Office of the Bureau of Land Management, Box Elder County Courthouse, Brigham City, Utah, and the Salt Lake District Office, 1750 South Redwood Road, Salt Lake City, Utah. Interested parties may submit comments to the District Manager of Salt Lake District for a period of 60 days from the date this notice is published in the FEDERAL REGISTER.

Lands affected by this proposal are described as follows:

Public lands proposed for transfer to private ownership:

SALT LAKE MERIDIAN, UTAH

T. 10 N., R. 17 W.,
Sec. 18, all;
Sec. 20, N½NE¼, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 28, all;
Sec. 30, all.
T. 10 N., R. 18 W.,
Sec. 24, all.
Containing 3,118.28 acres.

Private lands proposed for conveyance to the United States of America:

SALT LAKE MERIDIAN, UTAH

T. 10 N., R. 17 W., SLM,
Secs. 5 and 7, all.
T. 11 N., R. 17 W., SLM,
Secs. 21, 31 and 33, all.
Containing 3,186.25 acres.

R. D. NIELSON,
State Director.

[F.R. Doc. 66-1246; Filed, Feb. 3, 1966; 8:48 a.m.]

[Oregon 017527 (Wash.)]

WASHINGTON

Notice of Proposed Withdrawal and Reservation of Land

JANUARY 28, 1966.

The Corps of Engineers, U.S. Department of the Army, has filed an application, Serial Number Oregon 017527 (Wash.), for the withdrawal of the lands described below from all forms of appropriation under the public land laws, including the mining laws (Ch. 2, 30 U.S.C.) and mineral leasing laws.

The applicant desires to use the land for project planning and for use as a wildlife management area.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 710 Northeast Holladay, Portland, Oreg., 97232.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Corps of Engineers.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

WASHINGTON

WILLAMETTE MERIDIAN

John Day Wildlife Management Area

T. 5 N., R. 24 E.,
Sec. 34, N½S½SW¼, N½S½S½SW¼.
T. 5 N., R. 26 E.,
Sec. 12, N½SE¼NW¼, NE¼SW¼SE¼NW¼, SE¼SE¼NW¼, N½NE¼SE¼, NE¼SW¼NE¼SE¼, E½SE¼NE¼SE¼, NW¼SE¼NE¼SE¼.

The areas described aggregate 122.50 acres.

D. B. LEIGHTNER,
Acting Land Office Manager.

[F.R. Doc. 66-1247; Filed, Feb. 3, 1966; 8:48 a.m.]

[New Mexico 0558183]

NEW MEXICO

Notice of Classification of Public Lands

JANUARY 28, 1966.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), the lands described below are hereby classified for disposal through exchange under section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315g) for lands within the Manzano Division of the Cibola National Forest.

No comments were received as a result of publication of notice of proposed classification (30 F.R. 14691).

The lands affected by this classification are located in Lea County, New Mexico and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 20 S., R. 35 E.,
Sec. 7, lot 2, S½NE¼ and SE¼NW¼;
Sec. 8, S½N½;
Sec. 9, S½N½;
Sec. 10, S½N½;
Sec. 17, NW¼NE¼, NW¼ and N½SW¼;
Sec. 21;
Sec. 22, SW¼NW¼ and W½SW¼.
T. 23 S., R. 37 E.,
Sec. 2, SW¼NE¼;
Sec. 15, W½NE¼ and NW¼.
T. 26 S., R. 37 E.,
Sec. 15, W½SW¼;
Sec. 17, S½;
Sec. 18, lots 3, 4, E½SW¼ and SE¼;
Sec. 19, lots 1, 2, 3, 4, E½ and E½W½;
Secs. 20 and 21;
Sec. 23, SW¼NE¼, S½NW¼ and W½SW¼;
Sec. 24, S½SW¼ and SW¼SE¼;
Sec. 25;
Sec. 26, E½;
Sec. 27, SW¼;
Sec. 28, NW¼ and S½;
Sec. 30, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 31, lots 1, 2, 3, 4, 5, N½NE¼ and NE¼NW¼;
Sec. 33, lots 1, 2, 3, 4 and N½N½;
Sec. 34, lots 1, 2, 3, 4 and N½N½;
Sec. 35, lots 1, 2, 3, 4 and N½N½.
T. 22 S., R. 38 E.,
Sec. 4, SW¼SW¼;
Sec. 9, lots 3, 4 and W½SW¼;
Sec. 28, lots 1, 2, 3, 4, W½NW¼ and NW¼SW¼.
T. 23 S., R. 38 E.,
Sec. 4, lots 1, 4, 5 and 6;
Sec. 6, lot 1;
Sec. 9, lots 1, 2, 3, 4 and S½NW¼.
T. 25 S., R. 38 E.,
Sec. 28, lots 1, 2, 3, 4;
Sec. 33, lots 1, 2, 3, 4 and W½.
T. 26 S., R. 38 E.,
Sec. 4, lots 1, 2, 3, 4 and NW¼;
Sec. 5, W½W½;
Sec. 7;
Sec. 8, W½W½;
Sec. 9, lots 1, 2, 3, 4 and SW¼;
Sec. 17, W½W½;
Secs. 18 and 19;
Sec. 20, NW¼NW¼, S½N½ and S½;
Sec. 28, lots 1, 2, 3, 4 and SW¼SW¼;
Sec. 29, NE¼NE¼, NE¼NW¼, W½W½ and SE¼SE¼;
Sec. 30;
Sec. 31, lots 1, 2, 3, 4 and N½N½;
Sec. 33, lots 1, 2, 3, 4 and N½NW¼.

The areas described aggregate 14,161.10 acres.

For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C., 20240. (43 CFR 2411.12 (d)).

W. J. ANDERSON,
State Director.

[F.R. Doc. 66-1248; Filed, Feb. 3, 1966; 8:48 a.m.]

Office of the Secretary

DIRECTOR, BUREAU OF MINES

Delegation of Authority Regarding Appalachian Regional Development

The following delegation is a portion of the Department of the Interior Manual and the numbering system is that of the Manual.

PART 215—BUREAU OF MINES DELEGATIONS

SEC. 215.5.1 *Delegation of authority—Appalachian Regional Development Act of 1965.* Except as provided in 200 DM 1 the Director, Bureau of Mines may, pursuant to regulations issued by the Secretary, exercise the authority of the Secretary of the Interior under subsections (a) (1) and (2) of section 205 of the Appalachian Regional Development Act of 1965 (P.L. 89-4, 79 Stat. 5).

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 26, 1966.

[F.R. Doc. 66-1212; Filed, Feb. 3, 1966; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

APPLICATION FOR FEDERAL FINANCIAL ASSISTANCE IN CONSTRUCTION OF NONCOMMERCIAL EDUCATIONAL TELEVISION BROADCAST FACILITIES

Notice of Acceptance for Filing

Notice is hereby given that effective with this publication the following de-

scribed application, for Federal financial assistance in the construction of noncommercial educational television broadcast facilities is accepted for filing in accordance with 45 CFR, section 60.7:

Rochester Area ETV Association, 410 Alexander Street, Rochester, N.Y., File No. 126, for the establishment of a new noncommercial educational television station on Channel 21, Rochester, N.Y.

Any interested person may, pursuant to 45 CFR, section 60:8, within 30 calendar days from the date of this publication, file comments regarding the above application with the Director, Educational Television Facilities Program, U.S. Office of Education, Washington, D.C., 20202.

(76 Stat. 64, 47 U.S.C. 390)

RAYMOND J. STANLEY,
Director, Educational Television Facilities Program, U.S. Office of Education.

[F.R. Doc. 66-1296; Filed, Feb. 3, 1966; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT ISBRANDTSEN LINES, INC., AND WEYERHAEUSER LINE

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. P. J. Warmstein, Manager, Conferences and Tariffs, American Export Isbrandtsen Lines, Inc., 26 Broadway, New York, N.Y., 10004.

Agreement 9520, between American Export Isbrandtsen Lines, Inc., and Weyerhaeuser Line, covers the transportation of general cargo under through bills of lading from Portugal to California ports with transhipment at Baltimore, Md., in accordance with the terms and conditions set forth therein.

Dated: January 28, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-1235; Filed, Feb. 3, 1966; 8:47 a.m.]

NORTH ATLANTIC ISRAEL 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 by:

Mr. P. J. Warmstein, Secretary, North Atlantic Israel Freight Conference, 26 Broadway, New York, N.Y., 10004.

Agreement 8220-3 between the member lines of the North Atlantic Israel Freight Conference modifies the exclusive agency provision of the basic agreement to provide that a member line may, with the mutual consent of all the parties, represent a vessel in this trade other than one operated for the account of a signatory thereto.

Dated: January 28, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-1237; Filed, Feb. 3, 1966; 8:48 a.m.]

SALONIKA (YUGOSLAV CARGO)/U.S. ATLANTIC RATE AGREEMENT

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. P. J. Warmstein, American Export Isbrandtsen Lines, Inc., 26 Broadway, New York, N.Y., 10004.

Agreement 9461-1, between the parties to the Salonika (Yugoslav Cargo)/U.S. Atlantic Rate Agreement, modifies the basic agreement to provide for the employment of an issuing agent who shall be responsible for the filing of a common tariff, supplements, changes and reissues thereof with the Commission, pursuant to section 18(b) of the Shipping Act, 1916.

Dated: January 28, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-1238; Filed, Feb. 3, 1966; 8:48 a.m.]

[Docket No. 66-4; Independent Ocean Freight Forwarder License 480]

JAMES J. BOYLE & CO. AND WORLD-WIDE SERVICES, INC.

Notice of Hearing Regarding Denial and Revocation of Independent Ocean Freight Forwarder Licenses

By letters dated August 6, 1965, James J. Boyle & Co., 507 Washington Street, San Francisco, Calif., was notified that the Commission intended to deny its application for an independent ocean freight forwarder license, and World-Wide Services, Inc., 152-70 Rockaway Boulevard, Jamaica, N.Y., was notified that the Commission intended to revoke its license unless the parties requested the opportunity to show at a hearing that such action is unwarranted.

The ground for denial of the application of James J. Boyle & Co., is information before the Federal Maritime Commission indicated that the firm is not fit or willing to operate as an ocean freight forwarder in accordance with section 44(b), Shipping Act, 1916 (46 U.S.C. 841b), because it appears to have operated as an ocean freight forwarder without a license or other lawful authorization in violation of section 44(a), Shipping Act, 1916, under the pretext of being

a branch office of World-Wide Services, Inc.

The grounds for revocation of the license of World-Wide Services, Inc., are that information before the Federal Maritime Commission indicates that it may have conspired with James J. Boyle & Co., to circumvent section 44(a), Shipping Act, 1916, and that it may have violated § 510.23(a) of Federal Maritime Commission General Order 4 (46 CFR 510.23(a)) by permitting its license to be used by James J. Boyle & Co., a person not employed by it, for the performance of ocean freight forwarding services.

Both James J. Boyle & Co., and World-Wide Services, Inc., have now requested the opportunity to show at a hearing that the respective denial and revocation would be unwarranted.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821, 841b) that a proceeding is hereby instituted to determine whether James J. Boyle & Co., qualifies for a license and whether the license of World-Wide Services, Inc., should be revoked pursuant to the provisions of section 44 of the Shipping Act, 1916.

It is further ordered, That James J. Boyle & Co., and World-Wide Services, Inc., be made respondents in this proceeding and that the matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be announced by the Chief Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondents, James J. Boyle & Co., and World-Wide Services, Inc.

It is further ordered, That any persons, other than respondents, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C., 20573, with a copy to respondents, on or before February 11, 1966, and;

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 66-1236; Filed, Feb. 3, 1966; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CS66-47, etc.]

THOMPSON & CONE ET AL.

Notice of Applications for "Small Producer" Certificates [1]

JANUARY 26, 1966.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the applications 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 February 14, 1966.

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 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.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

Docket No.	Date filed	Name of applicant
CS66-47	12-27-65	Thompson & Cone, Box 871, Lubbock, Tex., 79408.
CS66-50	1-17-66	E. G. Rodman, 1206 ABC Bldg., Odessa, Tex., 79760.
CS66-52	1-17-66	Rodman Petroleum Corp., 1206 ABC Bldg., Odessa, Tex., 79760.
CS66-58	1- 3-66	J. T. Langham, Box 763, Hobbs, N. Mex., 88240.
CS66-59	1- 3-66	Brooks Gas Corp., Post Office Box 6862, Houston, Tex., 77005.
CS66-60	1- 3-66	Curtis R. Inman, Post Office Box 737, Midland, Tex., 79701.
CS66-61	1- 3-66	Dolton H. Cobb, 906 Vaughn Bldg., Midland, Tex.
CS66-62	1- 3-66	Wolfson Oil Co., 3206 Republic National Bank Tower, Dallas, Tex.
CS66-63	1- 3-66	Claud E. Aikman, Post Office Box 2090, San Angelo, Tex., 76902.
CS66-64	1- 3-66	Leland Davison, Post Office Box 1146, Midland, Tex., 79701.
CS66-65	1- 3-66	John L. Cox, 305 V & J Tower, Midland, Tex.
CS66-66	1- 3-66	Roy E. Kimsey, Jr., 305 V & J Tower, Midland, Tex.
CS66-67	1- 3-66	French M. Robertson & J. P. Bryan, Post Office Box 519, Abilene, Tex., 79604.
CS66-68	1- 7-66	Southwestern-Greer Estate, No. 1 Limited, 500 North Big Spring, Midland, Tex., 79704.
CS66-69	12-27-65	J. R. Cone, Box 871, Lubbock, Tex., 79408.
CS66-70	12-27-65	Markham, Cone & Redfern, Box 871, Lubbock, Tex., 79408.
CS66-71	12-27-65	S. E. Cone by: J. R. Cone, Operator, Box 871, Lubbock, Tex., 79408.
CS66-72	10-18-65	Reserve Oil & Gas Co., 64 Pine St., San Francisco, Calif., 94111.
CS66-73	1-12-66	Brooks Gas Corp., Post Office Box 6862, Houston, Tex., 77005.
CS66-74	12-30-65	G. Scott Hammonds, 1111 Fidelity Union Life Bldg., Dallas, Tex., 75201.
CS66-75	12-30-65	Doris A. Beard, 5146 Kelsey Road, Dallas, Tex.

[F.R. Doc. 66-1204; Filed, Feb. 3, 1966; 8:45 a.m.]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

[Docket No. CP66-231]

MONTANA-DAKOTA UTILITIES CO.

Notice of Application

JANUARY 26, 1966.

Take notice that on January 19, 1966, Montana-Dakota Utilities Co. (Applicant), 831 Second Avenue South, Minneapolis, Minn., 55402, filed in Docket No. CP66-231 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(c) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate certain gas sales and transmission facilities for the purpose of making direct sales of natural gas to consumers for seasonal industrial purposes and authorization for the transportation and sale of volumes of natural gas to existing customers, at rates on file with the Commission, for resale in existing market areas.

The application states that deliveries to any one consumer through the facilities to be installed pursuant to the authorization requested by the instant application will not exceed 100,000 Mcf per year and none of the gas delivered will be used by any such consumer for boiler fuel purposes as defined by the Commission.

The total estimated cost of Applicant's proposed facilities is not to exceed $300,000, and will be financed with internally generated funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before February 16, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a

grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-1205; Filed, Feb. 3, 1966; 8:45 a.m.]

[Docket No. CP66-232]

MONTANA-DAKOTA UTILITIES CO.

Notice of Application

JANUARY 26, 1966.

Take notice that on January 19, 1966, Montana-Dakota Utilities Co. (Applicant), 831 Second Avenue South, Minneapolis, Minn., 55402, filed in Docket No. CP66-232 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7 (b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct during the calendar year 1966, and operate various natural gas facilities necessary for the connection of additional supplies of gas contiguous to its system which may become available during the year 1966 and which will be purchased from the producers thereof and to make extensions and revisions to connect additional wells in existing producing areas.

The total estimated cost of Applicant's proposed construction is not to exceed $1,370,000, with no single project to exceed $342,500. Applicant proposes to finance the proposed facilities with internally generated funds.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before February 16, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-1206; Filed, Feb. 3, 1966; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 16909]

MONTREAL/TORONTO-TAMPA/MIAMI CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in connection with proposals for the establishment of air service between Tampa/Miami, Fla., and Toronto, Canada, and between Tampa/Miami, Fla., and Montreal, Canada, covered by the Air Transport Agreement signed January 17, 1966, between the Government of Canada and the Government of the United States is to be held on February 23, 1966, at 10 a.m., e.s.t., in Room 726, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner James S. Keith.

The Board intends to proceed expeditiously with a proceeding relating to the implementation of the operating rights granted under this agreement. The instant proceeding will be limited to consideration of: (1) Whether the public convenience and necessity require a route between Tampa/Miami and Toronto to be operated by a U.S. carrier, and, if so, which air carrier should be authorized to provide the service; and (2) whether the public convenience and necessity require a route between Tampa/Miami operated by a U.S. air carrier, and, if so, which carrier should be authorized to provide the service. This proceeding will not consider any application for new or improved domestic route authority.

In order to facilitate the conduct of the conference, interested parties are instructed to submit on or before February 11, 1966, (1) applications conforming to the agreement and motions requesting consolidation of such applications into this proceeding; (2) proposed statements of issues; (3) proposed stipulations; (4) request for evidence; (5) statements of position of parties; and (6) proposed procedural dates. Answers shall be submitted on or before February 18, 1966.

The motions referred to in (1) above, and any answers thereto, shall be filed with the Docket Section in accordance with the Board's rules of practice in economic proceedings and copies thereof shall be served on the parties and the Examiner. The balance of the written submissions called for by this notice shall be made to the Examiner, with copies served on interested parties, but shall not be filed with the Docket Section.

Dated at Washington, D.C., January 28, 1966.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 66-1234; Filed, Feb. 3, 1966; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3991]

ASSOCIATED OIL & GAS CO.

Order Suspending Trading

JANUARY 28, 1966.

The common stock, $.01 par value, of Associated Oil & Gas Co., being listed and registered on the American Stock Exchange and having unlisted trading privileges on the Detroit Stock Exchange, and the 6 percent convertible subordinated debentures due July 1, 1975, and 6 percent convertible subordinated debentures due July 1, 1977, being listed and registered on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15 (c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange, the Detroit Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 29, 1966, through February 8, 1966, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66-1217; Filed, Feb. 3, 1966; 8:46 a.m.]

[811-1039]

AMCAP INVESTMENTS, INC.

Notice of Proposal To Terminate Registration

JANUARY 28, 1966.

Notice is hereby given that the Securities and Exchange Commission ("Commission") on its own motion proposes to declare by order, pursuant to section 8 (f) of the Investment Company Act of 1940 ("Act"), that AMCAP Investments, Inc. ("AMCAP"), 105 South La Salle Street, Chicago 3, Ill., an Illinois corporation, has ceased to be an investment company.

AMCAP registered under section 8(a) of the Act as a closed-end nondiversified management company by filing a notification of registration on March 30, 1961.

It is also licensed as a small business investment company under the Small Business Investment Act of 1958.

By letter to the Commission dated July 1, 1963, Howard D. Baum, then President of AMCAP, stated that he had purchased all of the outstanding stock of AMCAP. The Secretary of State of the State of Illinois has advised the Commission that AMCAP was involuntarily dissolved on November 12, 1965.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, 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 February 17, 1966, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon AMCAP Investments, Inc., at the address set forth above. 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 said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter may be issued by the Commission upon the basis of information stated in this notice, unless an order for hearing upon this matter 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. 66–1218; Filed, Feb. 3, 1966; 8:46 a.m.]

[812–1766]

B. C. MORTON FUND, INC.

Order for Hearing on Application for Order Exempting Transactions

JANUARY 24, 1966.

Notice is hereby given that B. C. Morton Fund, Inc. ("applicant"), 141 Milk Street, Boston 9, Mass., registered under the Investment Company Act of 1940 ("Act") as a diversified open-end investment company, has filed an application pursuant to section 6(c) of the Act for an order (i) exempting from the prohibitions of section 17(a) of the Act the sale of shares of other registered investment companies by B. C. Morton Organization, Inc. ("Dealer"), to applicant for the portfolio of its Growth Series and (ii) exempting such sales from the prohibitions of section 22(d) insofar as such section may be deemed to be applicable thereto. All interested persons are referred to the application on file with the Commission for a statement of the representations which are summarized below.

Applicant is currently offering publicly for sale securities of three series: Growth, Insurance, and Income Series. The assets of Growth Series, which currently have an aggregate market value of approximately $5,326,000, are invested in a diversified list of shares of common stock consisting principally of shares of industrial companies. Upon shareholder approval, applicant proposes to change the investment policy of Growth Series to concentrate its investments in shares of other investment companies whose primary investment objective is long term growth of capital and income. The policy of the Growth Series will be to invest not more than 15 percent of its total assets in the shares of any one investment company, subject to the further limitations that it will not acquire more than 5 percent of the voting securities of any investment company which concentrates its investments in any particular industry or group of industries or more than 3 percent of the voting securities of any other investment company.

In order to minimize the sales charges, management fees and administrative expenses to which investors will be subject directly through the purchase and holding of shares of the Growth Series, and indirectly through the Growth Series purchases and holding of shares of other investment companies, it is proposed that: (i) The existing sales charges for the Growth Series shares will be reduced from a maximum 8¾ percent to 8 percent; (ii) portfolio investment company stocks will be purchased in at least the quantities necessary to obtain the lowest price at which such stocks are publicly offered; (iii) the management agreement between applicant and All States Management Co. ("All States") will be changed to provide that to the extent that the average sales load which the Growth Series may pay in any one year for all portfolio securities acquired by it during that year exceeds 1 percent of the purchase price of such securities, All States will reimburse Growth Series for such excess, first, out of the advisory fees paid by the Growth Series, second, out of the advisory fees paid to All States by the other two series issued by applicant, and third, out of future management fees from these sources; and (iv) the management agreement will also be changed to reduce All States' annual management fee from three-fourths of 1 percent to one-half of 1 percent, with graduated reductions of the fee when the value of Growth Series' assets exceeds specified levels.

Applicant proposes to purchase the shares of other investment companies from the Dealer as principal, who in turn will purchase such shares pursuant to selling agreements with the principal underwriters of the shares. Such shares will be purchased at their respective net asset values plus a graduated sales load dependent upon the quantity of shares being purchased.

Dealer and All States are wholly owned subsidiaries of B. C. Morton Financial Corp., and Dealer is an affiliated person of an affiliated person (All States) of applicant, a registered investment company. Section 17(a) prohibits Dealer as an affiliated person of an affiliated person of a registered investment company from selling, as principal, any security to such investment company. Section 22(d), insofar as it here may be applicable, prohibits any dealer from selling any redeemable security issued by a registered investment company except at a current offering price described in the prospectus.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application;

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and of the rules of the Commission thereunder be held on the 24th day of February 1966 at 10 a.m. in the offices of the Commission, 425 Second Street NW., Washington, D.C., 20549. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in the proceedings is directed to file with the Secretary of the Commission, Washington, D.C., 20549, on or before the 19th day of February 1966 his application as provided by Rule 9 of the Commission's rules of practice. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address noted above, and proof of service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with such request.

It is further ordered, That any officer or officers of the Commission to be designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under section 41 and 42(b) of the Investment Company Act, and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the amount of the sales charges to be paid by investors in the Growth Series directly for such investment, and indirectly from time to time thereafter, for their interests in the shares of other investment companies, will be unconscionable or grossly excessive.

(2) Whether, in light of the agreement of All States to reimburse Growth Series for sales load paid by Growth Series during any one year in excess of 1 percent of the total purchase price of the shares of other investment companies acquired by it during that year, and to utilize the management fees received from the Fund for such reimbursement,

(a) The sale of any or all of such shares by Dealer will be made, as required by section 22(d), at the public offering price described in the prospectus relating thereto, and

(b) The interests of investors in the three series of the Fund will tend to be affected in a manner consistent with the protections and the purposes fairly intended by the policy and provisions of the Act.

(3) Whether the selection of shares of other investment companies for purchase for the investment portfolio of Growth Series will or will not tend to be affected.

(a) By the amount and availability to the Dealer of discounts from the public offering price of such shares, and

(b) By the agreement between All States and Growth Series for reimbursement of sales loads as described in paragraph (2) above

so as to be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

(4) Whether the terms of the proposed sales by Dealer to Growth Series of shares of other investment companies, including the consideration to be paid or received will be reasonable and fair and will not involve overreaching on the part of any person concerned.

(5) Whether it is practicable and feasible for the Growth Series to fulfill its purposes and, if so, whether the direct and indirect sales and administrative expenses and management fees to be incurred by investors are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

(6) Whether the Growth Series is a "person" to whom Dealer is permitted under Rule 22d–1 to allow a quantity discount in the purchase of portfolio company shares.

(7) Whether Growth Series' proposed investment policy of investing in shares of other investment companies would be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of section 12(d)(1).

(8) Whether in buying shares of other investment companies, Growth Series would be an underwriter of such shares and required to deliver the prospectuses of its portfolio companies to its shareholders.

(9) Whether in view of Growth Series' intention of purchasing shares of investment companies at prices which include realized and unrealized appreciation, its proposed transactions would be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

(10) Generally, whether the grant of the exemptions is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act and, if so, what conditions, if any, in the public interest and for the protection of investors should be imposed.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this Notice and Order by certified mail to B. C. Morton Fund, Inc., and B. C. Morton Organization, Inc., and that notice to all persons shall be given by publication of this notice and order in the FEDERAL REGISTER; and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

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

[F.R. Doc. 66–1219; Filed, Feb. 3, 1966; 8:46 a.m.]

[File No. 70–4347]

NEW ENGLAND ELECTRIC SYSTEM ET AL.

Issue and Sale of Promissory Notes by Subsidiary Companies to Banks and/or to Holding Company

JANUARY 27, 1966.

Notice is hereby given that a joint application-declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), by New England Electric System ("NEES"), a registered holding company, 441 Stuart Street, Boston, Mass., 02116, and certain of its public-utility subsidiary companies ("the borrowing companies"), namely, Central Massachusetts Gas Co. ("Central"), Granite State Electric Co. ("Granite"), Lawrence Gas Co. ("Lawrence"), Lynn Gas Co. ("Lynn Gas"), Massachusetts Electric Co. ("Massachusetts"), Mystic Valley Gas Co. ("Mystic Valley"), New England Power Co. ("NEPCO"), Northampton Gas Light Co. ("Northampton Gas"), North Shore Gas Co. ("North Shore"), Norwood Gas Co. ("Norwood"), and Wachusett Gas Co. ("Wachusett"). NEES and the borrowing companies have designated sections 6(a), 7, 9(a), 10, and 12(f) of the Act and Rules 42(b)(2), 45(b)(1), and 50(a)(2) thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration for a statement of the transactions therein proposed, which are summarized as follows:

The borrowing companies propose to issue, from time to time through December 31, 1966, unsecured short-term promissory notes to banks and/or to NEES in the maximum aggregate amount of $72,430,000 to be outstanding at any one time. The proceeds of the proposed borrowings are to be used by each borrowing company to pay its then outstanding notes payable to banks and/or to NEES at or prior to maturity thereof, and to provide new money for construction expenditures or reimburse its treasury therefor. At January 1, 1966, such outstanding notes of the borrowing companies aggregated $60,830,000.

Each proposed note will bear interest at not in excess of the prime rate (presently 5 percent per annum) in effect at the time of issue, will mature in less than 1 year from the date of issue and in any event not later than March 31, 1967, and will be prepayable at any time, in whole or in part, without premium.

The following table shows for each borrowing company the estimated maximum amount of notes to be outstanding with banks and/or with NEES at any one time.

Borrowing company	Estimated maximum short-term notes to be outstanding (in thousands)	
	Banks	Banks or NEES
Central	[1] $1,580	
Granite		[2] $4,000
Lawrence	[3] 4,000	
Lynn Gas	[3] 3,325	
Massachusetts		[2] 20,300 [3] 1,000 [4] 400 [5] 450 [6] 450 [7] 500
Mystic Valley	[1] 8,700	
NEPCO		[2] 19,750
North Shore	[1] 3,500	
Northampton Gas		[2] 1,235
Norwood		[6] 1,605
Wachusett	[1] 1,635	
Total	22,740	49,690

[1] First National City Bank, New York, N.Y.
[2] The First National Bank of Boston, Mass.
[3] Worcester County National Bank, Worcester, Mass.
[4] Guaranty Bank & Trust Co., Worcester, Mass.
[5] The Mechanics National Bank of Worcester, Mass.
[6] South Shore National Bank, Quincy, Mass.
[7] Middlesex County National Bank, Everett, Mass.
[8] NEES only.

NEES also proposes to acquire, from time to time during 1966, unsecured promissory notes to be issued by its subsidiary company, The Narragansett Electric Co. ("Narragansett"), in a principal amount not exceeding an aggregate of $6,200,000 at any one time outstanding. The filing states that such notes will be issued pursuant to the exemption afforded by the first sentence of section 6(b) of the Act. The total amount of loans by NEES to all of its subsidiary companies to be outstanding at any one time will not exceed $35,000,000.

The borrowing companies, as well as Narragansett, may prepay their notes to NEES, in whole or in part, with borrowings from banks, or vice versa. Any note issued to NEES for such prepayment of a note to a bank will bear interest at the prime rate or the interest rate on the note being prepaid, whichever is lower,

but at the prime rate after the maturity date of the note being prepaid. In the case of a note issued to a bank for such prepayment of a note to NEES, if the interest rate on the new note being issued exceeds that of the note being prepaid, NEES will credit the company involved with an amount equal to the difference between such interest payments for the period from the date of the issuance of such new note to the maturity date of the note being prepaid.

In the event of any permanent financing by any of the borrowing companies (other than the issue of additional common stock by Massachusetts authorized by order of the Commission dated January 14, 1966 (Holding Company Act Release No. 15380)) the proceeds therefrom, in excess of amounts used for refunding other securities at par or the principal amount thereof, will be applied to payment of its short-term note indebtedness then outstanding, and the maximum of short-term note indebtedness to be outstanding at any one time proposed herein will be reduced by the amount of such payment.

Incidental services in connection with the proposed note issues will be performed, at cost, by New England Power Service Co., an affiliated service company; such cost is estimated not to exceed $400 for each applicant-declarant, an aggregate of $4,800.

Appropriate action has been taken by the Public Utilities Commission of New Hampshire with respect to the notes proposed to be issued by Granite. It is represented that no further action by any regulatory commission, other than this Commission, is necessary to carry out the proposed transactions.

Notice is further given that any interested person may, not later than February 21, 1966, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should 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 New England Electric System at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the joint application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 66-1220; Filed, Feb. 3, 1966; 8:46 a.m.]

PINAL COUNTY DEVELOPMENT ASSOCIATION

Order Suspending Trading

JANUARY 28, 1966.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the 5⅞ percent Industrial Development Revenue Bonds of Pinal County Development Association due April 15, 1989, otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934 that trading in such bonds be summarily suspended, this order to be effective for the period January 29, 1966, through February 7, 1966.

By the Commission.

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

[F.R. Doc. 66-1221; Filed, Feb. 3, 1966; 8:46 a.m.]

[File No. 70-4348]

SOUTHERN CO. ET AL.

Proposed Issue and Sale of Notes to Banks by Holding Company and Subsidiary Companies and Issue and Sale of Common Stock by Subsidiary Companies to Holding Company

JANUARY 28, 1966.

Notice is hereby given that The Southern Co. ("Southern"), 3390 Peachtree Road, NE., Atlanta, Ga., 30326, a registered holding company, and its subsidiary companies, Alabama Power Co. ("Alabama"), Georgia Power Co. ("Georgia"), and Mississippi Power Co. ("Mississippi"), have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10, and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration, on file at the office of the Commission, for a statement of the transactions proposed therein which are summarized below.

Southern proposes to issue, from time to time in 1966, its unsecured promissory notes to a group of banks in an aggregate amount of up to $18,000,000. The notes will be dated when issued, will mature not later than March 15, 1967, and will bear interest at the prime rate (currently 5 percent per annum) on the date of issue. Southern may prepay the notes, in whole or in part, without penalty or premium. A list of the lending banks, setting forth the maximum amount to be borrowed from each, is to be filed by amendment.

Southern proposes to use the proceeds of such notes, together with treasury funds, to acquire, from time to time in 1966, additional shares of common stock (without par value) of the following subsidiary companies, which propose to issue and sell such shares:

	Number of shares	Price
Alabama	50,000	$5,000,000
Georgia	140,000	14,000,000
Mississippi	20,000	2,000,000
Total		21,000,000

The filing states that Southern presently intends to pay the principal of its proposed notes and the unpaid balance of $23,000,000 of its notes to banks issued in 1965, at or before maturity, out of the proceeds of the sale of additional shares of its common stock in 1967, which will be the subject of a later filing with this Commission. The most recent sale of common stock by Southern was made in February 1964, at which time 510,000 shares were sold to underwriters for $27,522,150.

In addition, Georgia proposes to issue, from time to time prior to August 1, 1966, its unsecured promissory notes to a number of banks in an aggregate amount of up to $45,000,000 outstanding at any one time; and Mississippi proposes to issue, from time to time prior to September 1, 1966, its unsecured promissory notes to a number of banks in an aggregate amount of up to $10,000,000 outstanding at any one time. Included within the respective amounts of $45,000,000 and $10,000,000 are the notes which each company may issue pursuant to the 5 percent exemptive provision of section 6(b) of the Act. The notes will be dated in each case on the date of issue, will mature not more than 9 months thereafter, and will bear interest at the prime rate in effect on the date of issue. It is intended that all of such notes will be paid during 1966 through the sales of long-term securities, subject to approval of the Commission. Lists of the lending banks, setting forth the maximum amount to be borrowed from each, are to be filed by amendment to the joint application-declaration.

Alabama, Georgia, and Mississippi will apply the proceeds from their proposed sales of additional shares of common stock and, in the case of Georgia and Mississippi, from their proposed sales of notes, to finance their respective 1966 construction programs, to reimburse their treasuries for monies previously expended for construction purposes or for the retirement of previously outstanding bonds, to pay their short-term bank loans incurred for such purposes, and for other lawful purposes. Their total construction expenditures for 1966 are estimated

as follows: Alabama, $89,594,000; Georgia, $108,631,000; and Mississippi, $20,535,000.

It is further stated that the proposed issuances and sales of common stock by Alabama and Georgia require express authorization by the State commission of the State in which each company is organized and doing business, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over any of the proposed transactions.

Fees and expenses incident to the proposed transactions are estimated at $2,000 for Southern, and $500 each for Alabama, Georgia, and Mississippi.

Notice is further given that any interested person may, not later than February 21, 1966, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the joint application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 66-1222; Filed, Feb. 3, 1966; 8:46 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), and Administrative Order 579 (28 F.R. 11524) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods, for certificates issued under general learner regulations (29 CFR 522.1 to 522.9), and the principal product manufactured by the employer are as indicated below. Conditions provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

The Arrow Co., Industrial Park, Huntingdon, Pa.; effective 1-20-66 to 1-19-67 (men's sport shirts).

Big Dad Manufacturing Co., Inc., Starke, Fla.; effective 1-23-66 to 1-22-67 (work pants).

Big Yank Corp., Central Street, Water Valley, Miss.; effective 1-28-66 to 1-27-67 (men's and boys' pants).

Blount Manufacturing Co., Blountsville, Ala.; effective 1-14-66 to 1-13-67 (children's pants, shirts and outerwear jackets).

C & J Manufacturing Co., Eastman, Ga.; effective 1-22-66 to 1-21-67 (boys' dress and sport shirts).

Carthage Garment Corp., Carthage, Miss.; effective 1-22-66 to 1-21-67 (boys' sport shirts).

Henson, Inc., Lawrenceville, Ga.; effective 1-5-66 to 1-4-67 (men's and boys' trousers).

Hicks Ponder Co., 100 Avenue T, Del Rio, Tex.; effective 1-13-66 to 1-12-67 (work clothes and wash slacks).

Imperial Reading Corp., Lynchburg, Va.; effective 1-6-66 to 1-5-67. Learners may not be employed at special minimum wages in the production of skirts (ladies' and misses' slacks and blouses, boys' dress pants).

L. & H. Shirt Co., Cochran, Ga.; effective 1-22-66 to 1-21-67 (boys' dress and sport shirts).

The Manhattan Shirt Co., Charleston Heights, S.C.; effective 1-11-66 to 1-10-67 (men's dress shirts).

Mid South Manufacturing Co., Richton, Miss.; effective 1-19-66 to 1-18-67 (men's work shirts and work pants).

New Castle Manufacturing Co., Inc., New Castle, Va.; effective 1-6-66 to 1-5-67 (women's and children's nightwear).

Oakley Fashions, Inc., 240 Novy Street, Jackson, Tenn.; effective 1-25-66 to 1-24-67 (women's and misses' dresses).

Publix Tenn Corp., Huntingdon, Tenn.; effective 1-6-66 to 1-5-67 (men's and boys' sport shirts).

Salant and Salant Inc., First Street, Lawrenceburg, Tenn.; effective 1-20-66 to 1-19-67 (men's work shirts).

School-Timer Frocks, Inc., 5806 Campbell Street, North Charleston, S.C.; effective 1-17-66 to 1-16-67 (children's dresses).

Spartans Industries, Inc., Dunlap, Tenn.; effective 1-18-66 to 1-17-67 (ladies' blouses and dresses).

Swirl, Inc., 508 Greenville Road, Easley, S.C.; effective 1-13-66 to 1-12-67 (women's dresses).

The Warner Bros. Co., Moultrie, Ga.; effective 1-5-66 to 1-4-67 (corsets and brassieres).

Wilker Bros. Co., Inc., McKenzie, Tenn.; effective 1-17-66 to 1-16-67 (men's and boys' cotton pajamas).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Klos Manufacturing Co., Inc., Muskogee, Okla.; effective 1-8-66 to 1-7-67; 10 learners (children's clothing).

Marshall Clothing Manufacturing Co., Inc., and King Vi-Dor, Inc., 1602 South Wayne Street, Auburn, Ind.; effective 1-6-66 to 1-5-67; 10 learners (work jackets and sportswear).

Princess Kent, Inc., Fort Kent Mills, Maine; effective 1-14-66 to 1-13-67; 10 learners (children's nightwear).

Society Lingerie Co., Inc., Springland & Roeske Avenues, Michigan City, Ind.; effective 1-5-66 to 1-4-67; 10 learners (women's pajamas and nightgowns).

Arnold Stretchmates Corp., c/o White Mountain Industries, Campton, N.H.; effective 1-6-66 to 1-5-67; 10 learners (infants' coveralls and crawlers).

W. E. Stephens Manufacturing Co., Inc., Watertown, Tenn.; effective 1-14-66 to 1-13-67; 10 learners (men's and boys' work and sport shirts).

Stitchcraft, Inc., 393 Oconee Street, Athens, Ga.; effective 1-10-66 to 1-9-67, 10 learners (ladies' dresses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Caraway Apparel Co., Caraway, Ark.; effective 1-13-66 to 7-12-66; 30 learners (ladies' dresses).

Henson, Inc., Lawrenceville, Ga.; effective 1-11-66 to 7-10-66; 40 learners (men's and boys' trousers).

F. Jacobson & Sons, Inc., Middlesboro, Ky.; effective 1-16-66 to 7-15-66; 80 learners (men's dress shirts).

Marshall Clothing Manufacturing Co., Inc., and King Vi-Dor, Inc., 1602 South Wayne Street, Auburn, Ind.; effective 1-6-66 to 7-5-66; 20 learners (work jackets and sportswear).

Pecos Garment Co., Pecos, Tex.; effective 1-10-66 to 7-9-66; 50 learners (men's and boys' denim pants).

San Benito Manufacturing Co., 2400 West Expressway, San Benito, Tex.; effective 1-6-66 to 7-5-66; 20 learners (men's and boys' jeans).

Levi Strauss and Co., Blackstone, Va.; effective 1-17-66 to 7-16-66; 25 learners (men's work pants and boys' pants).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.60 to 522.65, as amended).

Indianapolis Glove Co., Inc., Mount Ida, Ark.; effective 1-22-66 to 1-21-67; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Knoxville Glove Co., 819 McGhee Street, Knoxville, Tenn.; effective 1-15-66 to 1-14-67; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Mountain City Glove Co., Inc., Post Office Box 397, Conover, N.C.; effective 1-10-66 to 7-9-66; 20 learners for plant expansion purposes (work gloves).

Wells Lamont Corp., Post Office Box 599, Oak Grove, La.; effective 1-17-66 to 7-16-66; 25 learners for plant expansion purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 to 522.43, as amended).

Durham Hosiery Mills, Plant No. 14, 109 South Corcoran Street, Durham, N.C.; effective 1–25–66 to 1–24–67; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

U.S. Industries, Inc., Grenada Industries Division, Grenada, Miss.; effective 1–25–66 to 1–24–67; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned, seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

The H. W. Gossard Co., Artemis Division, Troy, Mo.; effective 1–27–66 to 1–26–67; 5 percent of the total number of factory production workers for normal labor turnover purposes (women's underwear and nightwear).

The H. W. Gossard Co., Lingerie Division, Bristow, Okla.; effective 1–20–66 to 1–19–67; 5 percent of the total number of factory production workers for normal labor turnover purposes. Learners may not be employed at special minimum wage rates in the manufacture of robes (women's knit and woven underwear and nightwear).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.9, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employed, are indicated.

Anasco Sports Co., Inc., Post Office Box 595, San German, P.R.; effective 1–3–66 to 7–2–66; 50 learners for plant expansion purposes in the occupation of handsewing of baseballs and softballs, for a learning period of 320 hours at the rates of 68 cents an hour for the first 160 hours and 78 cents an hour for the remaining 160 hours (baseballs and softballs).

Bayuk International, Inc., Apartado 417, Ciales, P.R.; effective 12–6–65 to 12–5–66; 16 learners for normal labor turnover purposes in the occupation of sorting, sizing and tying, grading, each for a learning period of 240 hours at the rate of 80 cents an hour (wrapper type tobacco).

Del Sur Manufacturing Corp., Barrio Las Magas Km. 3.9, Guayanilla, P.R.; effective 12–1–65 to 5–31–66; 20 learners for plant expansion purposes in the occupation of sewing machine operator, for a learning period of 320 hours at the rate of 77 cents an hour (infants' and children's dresses).

General Electric Circuit Breakers, Inc., Post Office Box 96, Palmer, P.R.; effective 12–2–65 to 6–1–66; 20 learners for normal labor turnover purposes in the occupations of: (1) molding; press operating, each for a learning period of 480 hours at the rates of $1.10 an hour for the first 240 hours and $1.20 an hour for the remaining 240 hours; and (2) calibrating, welding, assembling, plastic finishing, press operating (secondary) light machine operating, each for a learning period of 240 hours at the rate of $1.10 an hour (circuit breakers).

Hamlin International, El Tuque, Carretera No. 2, Apartado "H", Ponce, P.R.; effective 12–6–65 to 5–19–66; 10 learners for normal labor turnover purposes in the occupation of white room assembling, resistive welding, tool and die making; electroplating, final inspecting, each for a learning period of 480 hours at the rates of $1.05 an hour for the first 240 hours and $1.15 an hour for the remaining 240 hours (miniature reed switches).

Isabel Products, Inc., Apartado 816, Santa Isabel, P.R.; effective 12–6–65 to 3–15–66; 20 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of 92 cents an hour (girdles and brassieres).

Jo-Ann Embroidery, M–655–64 Urb. Industrial Minillas, Star Route No. 2–91, Bayamon, P.R.; effective 12–15–65 to 12–14–66; 5 learners for normal labor turnover purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of 75 cents an hour (women's lingerie).

Matsushita Electric of P.R., Inc., Villa Blanca Industrial Development, Post Office Box 184, Caguas, P.R.; effective 12–21–65 to 5–30–66; 15 learners for plant expansion purposes in the occupation of assembling, inspecting, each for a learning period of 480 hours at the rates of $1.00 an hour for the first 240 hours and $1.10 an hour for the remaining 240 hours (radios and phonographs).

Orocovis Manufacturing Corp., State Road No. 155, Km. 27.6, Orocovis, P.R.; effective 12–15–65 to 6–14–66; 50 learners for plant expansion purposes in the occupation of sewing machine operating, for a learning period of 320 hours at the rate of 75 cents an hour (women's and children's underwear).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 21st day of January 1966.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 66–1214; Filed, Feb. 3, 1966; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[S.O. 973; Pfahler's Car Distribution Direction 8]

NEW YORK CENTRAL RAILROAD CO. AND CHICAGO & NORTH WESTERN RAILWAY CO.

Freight Car Distribution

Pursuant to section I (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 973.

It is ordered, That:

(1) The New York Central Railroad Co. and the Chicago & North Western Railway Co. shall observe, enforce, and obey the following directions, rules, regulations, and practices with respect to freight car distribution.

(a) The New York Central Railroad Co. shall deliver to the Chicago & North Western Railway Co. a weekly total of 350 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be carded to the Chicago & North Western Railway Co. and each car shall be identified by the New York Central Railroad Co. on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(2) No common carrier by railroad subject to the Interstate Commerce Act shall intercept, appropriate, or divert any empty cars moving under the provisions of this direction.

(a) The New York Central Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m., to the Chicago & North Western Railway Co.

(b) The Chicago & North Western Railway Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars received, as requested by this order, during the preceding week.

(3) Application: The provisions of this direction shall apply to intrastate, interstate, and foreign commerce.

(4) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(5) Effective date: This direction shall become effective at 12:01 a.m., January 30, 1966.

(6) Expiration date: This direction shall expire at 11:59 p.m., April 30, 1966, unless otherwise modified, changed or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the Office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 28, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66–1240; Filed, Feb. 3, 1966; 8:48 a.m.]

[S.O. 973; Pfahler's Car Distribution Direction 9]

LOUISVILLE & NASHVILLE RAILROAD CO. AND CHICAGO & EASTERN ILLINOIS RAILROAD CO.

Freight Car Distribution

Pursuant to section I (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 973.

It is ordered, That:

(1) The Louisville & Nashville Railroad Co. and the Chicago & Eastern Illinois Railroad Co. shall observe, enforce, and obey the following directions, rules, regulations, and practices with respect to freight car distribution:

(a) The Louisville & Nashville Railroad Co. shall deliver to the Chicago & Eastern Illinois Railroad Co. a weekly total of 350 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be carded to Chicago & Eastern Illinois Railroad Co. and each car shall be identified by the Louisville & Nashville Railroad Co. on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(2) No common carrier by railroad subject to the Interstate Commerce Act shall intercept, appropriate, or divert any empty cars moving under the provisions of this direction.

(a) The Louisville & Nashville Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m., to the Chicago & Eastern Illinois Railroad Co.

(b) The Chicago & Eastern Illinois Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars received, as requested by this order, during the preceding week.

(3) Application: The provisions of this direction shall apply to intrastate, interstate, and foreign commerce.

(4) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(5) Effective date: This direction shall become effective at 12:01 a.m., February 1, 1966.

(6) Expiration date: This direction shall expire at 11:59 p.m., April 30, 1966, unless otherwise modified, changed or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 28, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-1241; Filed, Feb. 3, 1966; 8:48 a.m.]

[S.O. 973; Pfahler's Car Distribution Direction 10]

READING CO. ET AL.

Freight Car Distribution

Pursuant to section I (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Service Order No. 973.

It is ordered, That:

(1) The Reading Co., Erie-Lackawanna Railroad Co., Chicago, Burlington & Quincy Railroad Co. and the Northern Pacific Railway Co. shall observe, enforce, and obey the following directions, rules, regulations, and practices with respect to freight car distribution:

(a) The Reading Co. shall deliver to the Erie-Lackawanna Railroad Co. a weekly total of 350 empty plain serviceable boxcars with inside length less than 44 feet 8 inches and doors less than 8 feet wide. Exception: Canadian ownerships.

(b) Cars received by the Erie-Lackawanna Railroad Co. shall be delivered to the Chicago, Burlington & Quincy Railroad Co.

(c) Cars received by the Chicago, Burlington & Quincy Railroad Co. shall be delivered to the Northern Pacific Railway Co.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be carded to the Northern Pacific Railway Co. and each car shall be identified by the Reading Co., Erie-Lackawanna Railroad Co., and Chicago, Burlington & Quincy Railroad Co. on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(2) No common carrier by railroad subject to the Interstate Commerce Act shall intercept, appropriate, or divert any empty cars moving under the provisions of this direction.

(a) The Reading Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m., to the Erie-Lackawanna Railroad Co.

(b) The Erie-Lackawanna Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars received and delivered, as requested by this order, during the preceding week.

(c) The Chicago, Burlington & Quincy Railroad Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars received and delivered, as requested by this order, during the preceding week.

(d) The Northern Pacific Railway Co. must advise Agent R. D. Pfahler each Wednesday as to the number of cars, covered by this direction, received during the preceding week, ending each Sunday at 11:59 p.m.

(3) Application: The provisions of this direction shall apply to intrastate, interstate, and foreign commerce.

(4) Regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(5) Effective date: This direction shall become effective at 12:01 a.m., February 1, 1966.

(6) Expiration date: This direction shall expire at 11:59 p.m., April 30, 1966, unless otherwise modified, changed or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the Office of the Secretary of the Commission in Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 28, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-1242; Filed, Feb. 3, 1966; 8:48 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 31, 1966.

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. 40270—*Joint motor-rail rates—Central States.* Filed by Central States Motor Freight Bureau, Inc., agent (No. 102), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Central States territory.

Grounds for relief—Motortruck competition.

Tariff—Supplement 5 to Central States Motor Freight Bureau, Inc., agent, tariff MF-ICC 1163.

FSA No. 40271—*Joint motor-rail rates—Central States.* Filed by Central States Motor Freight Bureau, Inc., agent, (No. 101), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Central States territory.

Grounds for relief—Motortruck competition.

Tariff—Supplement 5 to Central States Motor Freight Bureau, Inc., agent, tariff MF–ICC 1163.

FSA No. 40272—*Soda ash from Baton Rouge and North Baton Rouge, La.* Filed by O. W. South, Jr., agent (No. A4836), for interested rail carriers. Rates on soda ash, in carloads, from Baton Rouge and North Baton Rouge, La., to Howells Transfer, Ga., Asheville, Bessemer City, Plymouth, Skyland, and Sylva, N.C., also Hartsville, S.C., and Port Rayon, Tenn.

Grounds for relief—Market competition.

Tariff—Supplement 87 to Southern Freight Association, agent, tariff ICC S–397.

By the Commission.

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

[F.R. Doc. 66–1243; Filed, Feb. 3, 1966; 8:48 a.m.]

[Notice 1295]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 1, 1966.

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–68393. By order of January 28, 1966, the Transfer Board approved the transfer to Chester E. Johnson, doing business as Wm. Wittmers Truck Line, Albert Lea, Minn., of the certificate in No. MC–29860, issued June 20, 1949, to Albert LeRoy Jensen and Whilma Irene Jensen, a partnership, doing business as Wm. Wittmers Truck Line, Albert Lea, Minn., authorizing the transportation of: Household goods, between points in Minnesota within 25 miles of Albert Lea, Minn., on the one hand, and, on the other, points in Iowa, Nebraska, Illinois, and South Dakota. Jack F. C. Gillard, Post Office Box 947, Albert Lea, Minn., 56007, attorney for applicants.

No. MC–FC–68423. By order of January 26, 1966, the Transfer Board approved the transfer to Hiawatha Transfer, Inc., 207 Hickory Street, Red Wing, Minn., 55066, of certificate in No. MC–125836, issued August 5, 1964, to William O. Evans, doing business as Hiawatha Transfer, 207 Hickory Street, Red Wing, Minn., 55066; authorizing the transportation of: Household goods, and boats up to 22 feet in length, from points in Goodhue County, Minn., to points in Minnesota and Wisconsin.

No. MC–FC–68425. By order of January 26, 1966, the Transfer Board approved the transfer to Blackwood's Motor Service, Inc., Montgomery, Ill.; of certificate of registration in No. MC–85454 (Sub-No. 1), issued April 24, 1964, to Robert E. Blackwood, doing business as Blackwood Motor Service, Montgomery, Ill.; authorizing the transportation of commodities general within a 50-mile radius of 848 Charles Street, Aurora, Ill., and to transport such property to or from any point outside of such area of operation for shippers within the area. N. Vance McCay, 104 East Downer Place, Aurora, Ill., 60505, attorney for applicants.

No. MC–FC–68429. By order of January 28, 1966, the Transfer Board approved the transfer to Avino Bros., Inc., New York, N.Y., of certificate in No. MC–124222, issued June 28, 1962, to Thomas Avino, Frank Avino, Joseph Avino, and Patrick Avino, a partnership, doing business as Avino Bros., New York, N.Y., authorizing the transportation of: Printed matter (not including newspapers and periodicals), printers' materials and supplies, and stationery, between New York, N.Y., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, N.J. William D. Traub, 10 East 40th Street, New York, N.Y., 10016, counsel for applicants.

No. MC–FC–68431. By order of January 28, 1966, the Transfer Board approved the transfer to East Express, Inc., 401 Parrish Avenue, High Point, N.C., of the certificate in No. MC–111057, issued November 27, 1957, to David V. Miller, doing business as Interstate Motor Lines, 401 Parrish Avenue, High Point, N.C., authorizing the transportation of: New furniture, uncrated, from High Point and Thomasville, N.C., to Chicago, Ill., and Indianapolis, Ind., and points in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland (except Baltimore and Annapolis), Mississippi, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia (except Richmond), West Virginia, and the District of Columbia, and from Chicago, Ill., to High Point and Thomasville, N.C.; and paper or fiber boxes, from points in Guilford County, N.C., within 6 miles of High Point, N.C., to points in Georgia, South Carolina, Tennessee, Virginia, and West Virginia.

No. MC–FC–68440. By order of January 28, 1966, the Transfer Board approved the transfer to Paul F. Daley, doing business as Daley Trucking Co., West Newton, Mass., of the operating rights issued October 30, 1963, in Certificate of Registration No. MC–57779 (Sub-No. 1), to Eugene P. Daley, doing business as Daley Trucking Co., West Newton, Mass., authorizing the transportation, over irregular routes, of general commodities within the Commonwealth of Massachusetts. George C. O'Brien, 33 Broad Street, Boston, Mass., 02109, attorney for applicants.

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

[F.R. Doc. 66–1244; Filed, Feb. 3, 1966; 8:48 a.m.]

CUMULATIVE LIST OF CFR PARTS AFFECTED—FEBRUARY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during February.