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Volume 79

UNITED STATES STATUTES AT LARGE

[89th Cong., 1st Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1965, reorganization plans, a proposed amendment to the Constitution, and Presidential proclamations. Also included are: a subject index, tables of prior laws affected, a numerical listing of bills enacted into public and private law, and a guide to the legislative history of bills enacted into public law.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1966, and specifies how they are affected.

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

General Services Administration

Section 213.3337 is amended to show that the provisions of the Commissioners of the Defense Materials Service and the Utilization and Disposal Service are no longer expected under Schedule C, and that the position of Commissioner, Property Management and Disposal Service, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraphs (e) and (g) of § 213.3337 are revoked and paragraph (h) is added to that section as set out below.

§ 213.3337 General Services Administration.

* * * * *

(e) [Revoked]

* * * * *

(g) [Revoked]

(h) *Property Management and Disposal Service.* (1) Commissioner.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218).

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

[F.R. Doc. 66-11434; Filed, Oct. 18, 1966; 8:49 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1967 Crop of Upland Cotton; Acreage Allotments and Marketing Quotas

NATIONAL MARKETING QUOTA REFERENDUM

Basis and purpose. Section 722.472 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section fixes the period for holding the national marketing quota referendum under section 343 of the act.

Notice that the Secretary was preparing to fix the period for holding the referendum was published in the FEDERAL REGISTER on July 2, 1966 (31 F.R. 9138), in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). No written submissions were received in response to such notice. It will serve no purpose to delay the effective date of this section and accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and § 722.472 shall be effective upon publication of this document in the FEDERAL REGISTER.

§ 722.472 National marketing quota referendum for the 1967 crop of upland cotton.

The national marketing quota referendum for the 1967 crop of upland cotton shall be held during the referendum period December 5 to 9, 1966, each inclusive, by mail ballot in accordance with Part 717 of this chapter (§ 717.17, 31 F.R. 12011). It is hereby determined that such referendum shall not be conducted by voting at polling places.

(Secs. 343, 375, 63 Stat. 670, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1343, 1375)

Effective date. Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 14, 1966.

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

[F.R. Doc. 66-11352; Filed, Oct. 18, 1966; 8:47 a.m.]

PART 722—COTTON

Subpart—1967 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

NATIONAL MARKETING QUOTA REFERENDUM

Basis and purpose. Section 722.556 is issued pursuant to the Agricultural Adjustment Act of 1938 as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section fixes the period for holding the national marketing quota referendum under section 343 of the act.

Notice that the Secretary was preparing to fix the period for holding the referendum was published in the FEDERAL REGISTER on July 2, 1966 (31 F.R. 9138), in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). No written submissions were received in response to such notice. It will serve no purpose to delay the effective date of this section and accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and § 722.556 shall be effective upon publication of this document in the FEDERAL REGISTER.

§ 722.556 National marketing quota referendum for the 1967 crop of extra long staple cotton.

The national marketing quota referendum for the 1967 crop of extra long staple cotton shall be held during the referendum period December 5 to 9, 1966, each inclusive, by mail ballot in accordance with Part 717 of this chapter (§ 717.17, 31 F.R. 12011). It is hereby determined that such referendum shall not be conducted by voting at polling places.

(Secs. 343, 375, 63 Stat. 670, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1343, 1375).

Effective date. Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 14, 1966.

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

[F.R. Doc. 66-11351; Filed, Oct. 18, 1966; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS

Change in List of Public Stockyards

Pursuant to the provisions of sections 4, 5, and 13 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.14(a) of Part 78, Title 9, Code of Federal Regulations, is hereby amended by adding to the list of public stockyards set forth herein, the name and address "Burlington Producers Livestock Market—Burlington" under "Colorado" in alphabetical order.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended; 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The foregoing amendment adds the name of the Burlington Producers Livestock Market, Burlington, Colo., to the list of public stockyards set forth in 9 CFR 78.14(a), as such stockyard is now

operating as a public stockyard where Federal inspection is maintained.

Inasmuch as notice and other public procedure regarding the amendment would not make additional information available to the Department and since interested persons should be informed promptly of such change, it is found upon good cause under the provisions in 5 U.S.C., § 553, that notice and other public procedure regarding the amendment are impracticable and contrary to the public interest, and the amendment should be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of October 1966.

G. H. WISE,
Acting Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 66-11334; Filed, Oct. 18, 1966; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 66-CE-78]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the North Platte, Nebr., control zone.

The North Platte, Nebr., control zone is presently designated as that airspace within a 5-mile radius of Lee Bird Field Municipal Airport, North Platte, Nebr. (latitude 41°07'41" N., longitude 100°41'58" W.); and within 2 miles each side of the North Platte VOR 028° radial, extending from the 5-mile radius zone to the VOR; and within 2 miles each side of the 184° bearing from the North Platte RBN, extending from the 5-mile radius zone to 8 miles S of the RBN.

The ADF approach procedures for Lee Bird Field Municipal Airport have recently been modified. Therefore, the present control zone does not adequately protect these modified procedures. The modification contained herein will provide controlled airspace protection for aircraft executing the prescribed ADF approach procedures at Lee Bird Field Municipal Airport during descent below 1,000 feet above the surface.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 8, 1966, as hereinafter set forth:

In § 71.171 (31 F.R. 2065), the North Platte, Nebr., control zone is amended to read:

NORTH PLATTE, NEBR.

Within a 5-mile radius of the Lee Bird Field Municipal Airport, North Platte, Nebr. (latitude 41°07'41" N., longitude 100°41'58" W.); and within 2 miles each side of the North Platte VOR 028° radial, extending from the 5-mile radius zone to the VOR; and within 2 miles each side of the 186° bearing from the North Platte RBN, extending from the 5-mile radius zone to 8 miles S of the RBN.

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

Issued in Kansas City, Mo., on October 4, 1966.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 66-11322; Filed, Oct. 18, 1966; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter V—Bureau of Employment Security, Department of Labor

PART 602—COOPERATION OF U.S. EMPLOYMENT SERVICE AND STATES IN ESTABLISHING AND MAINTAINING A NATIONAL SYSTEM OF PUBLIC EMPLOYMENT OFFICES

Foreign Agricultural Labor

Pursuant to regulations issued by the Commissioner of Immigration and Naturalization (8 CFR 214.2(h); 29 F.R. 11959) implementing provisions of the Immigration and Nationality Act (8 U.S.C. 1184(c)), I hereby amend footnote 2 of Schedule B of 20 CFR 602.10(d) by changing the date appearing therein from September 1, 1965, to September 1, 1966.

Because this section sets forth general statements of agency procedure and policy, notice of proposed rule making, public participation, and delay in effective date are not required by section 4 of the Administrative Procedure Act (5 U.S.C. 1003). I do not believe such procedures will serve a useful purpose here. Accordingly, this amendment shall become effective immediately.

As amended, this footnote reads as follows:

§ 602.10 Certification and use of temporary foreign labor for agricultural and logging industry employment.

* * * * *

(d) * * *

[2] Effective September 1, 1966, and for 1 year thereafter the wage rate in Florida for pickers in the citrus industry shall be a piece rate designed to produce an average wage of not less than $1.50 per hour in lieu of the $1.15 per hour minimum rate provided above. The average wage shall be computed by dividing the total amount paid by an employer to all of his employees engaged in such picking during each biweekly period by the total number of hours worked by all such employees during such biweekly period. Whenever the average so computed is less than $1.50 the wages paid to each employee so engaged will be supplemented by the percentage required to bring such average up to $1.50. (8 CFR 214.2(h))

Signed at Washington, D.C., this 11th day of October 1966.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 66-11330; Filed, Oct. 18, 1966; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER G—REGULATIONS UNDER TAX CONVENTIONS

[T.D. 6898]

PART 507—UNITED KINGDOM

Exemption From, or Reduction in Rate of, Withholding of U.S. Tax at Source on Income Derived by Residents of United Kingdom and Certain Rules Applicable to U.S. Withholding Agents

In order to provide rules for the exemption from, or reduction in rate of, withholding of U.S. tax, and release of excess tax withheld, on income derived by residents of the United Kingdom, and for additional withholding of United Kingdom tax by certain U.S. withholding agents, the following regulations are prescribed. These amendments shall be effective for taxable years beginning after December 31, 1965, or with respect to dividends paid on or after January 1, 1966.

PARAGRAPH 1. The table of contents in Part 507 is amended—

(a) By revising the heading immediately following "Subpart—Withholding of Tax" to read "Taxable Years Beginning After December 31, 1944, and Before January 1, 1966, or Dividends Paid Before January 1, 1966"; and

(b) By inserting after "507.12 Canadian withholding agents" the following new item:

Sec.
507.13 Effective date.

(c) By inserting after "507.13 Effective date" (as added by subparagraph (b) of this paragraph) the following new index:

TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1965, OR DIVIDENDS PAID ON OR AFTER JANUARY 1, 1966

Sec.
507.21 Text of convention and definitions.
507.22 Dividends.
507.23 Additional withholding of tax by persons not owners of income.
507.24 Interest.
507.25 Royalties.
507.26 Private pensions and life annuities.
507.27 Other income covered by convention.
507.28 Beneficiaries of domestic estates or trusts.
507.29 Release of excess tax withheld at source.
507.30 Refund of excess tax paid to Director, Office of International Operations.
507.31 Information furnished in ordinary course.
507.32 Return required when liability not satisfied by withholding.
507.33 Effective date.

PAR. 2. Part 507 is amended—

(a) By revising the phrase immediately following "Subpart—Withholding of Tax" to read "Taxable Years Beginning After December 31, 1944, and Before January 1, 1966, or Dividends Paid Before January 1, 1966"; and

(b) By inserting after § 507.12 the following new section:

§ 507.13 Effective date.

The provisions of §§ 507.1 through 507.12 shall be effective with respect to taxable years of residents of the United Kingdom entitled to the benefits of such sections beginning after December 31, 1944, and before January 1, 1966, or dividends paid before January 1, 1966.

(c) By inserting after § 507.13 (as added by subparagraph (a) of this paragraph) the following heading and new sections:

TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1965, OR DIVIDENDS PAID ON OR AFTER JANUARY 1, 1966

§ 507.21 Text of convention and definitions.

(a) *Text of convention.* The income tax convention between the United States and the United Kingdom of Great Britain and Northern Ireland, signed April 16, 1945, as amended by the protocols signed June 6, 1946, May 25, 1954, August 19, 1957, and March 17, 1966, referred to in §§ 507.21 to 507.33 as the convention, provides in part as follows, effective for taxable years beginning after December 31, 1965, or with respect to dividends paid on or after January 1, 1966:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the case of the United States of America: The Federal income taxes, including surtaxes (hereinafter referred to as "United States tax");

(b) In the case of the United Kingdom of Great Britain and Northern Ireland: The income tax (including surtax), the corporation tax, and the capital gains tax (hereinafter referred to as "United Kingdom tax").

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequent to the date of signature of the present Convention or by the government of any territory to which the present Convention is extended under Article XXII.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires:

(a) The term "United States" means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man.

(c) The terms "territory of one of the Contracting Parties" and "territory of the other Contracting Party" mean the United States or the United Kingdom as the context requires.

(d) The term "United States corporation" means a corporation, association or other like entity created or organized in or under the laws of the United States.

(e) The term "United Kingdom corporation" means any kind of juridical person created under the laws of the United Kingdom.

(f) The terms "corporation of one Contracting Party" and "corporation of the other Contracting Party" mean a United States corporation or a United Kingdom corporation as the context requires.

(g) The term "resident of the United Kingdom" means any person (other than a citizen of the United States or a United States corporation) who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in the United States for the purposes of United States tax. A corporation is to be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom.

(h) The term "resident of the United States" means any individual who is resident in the United States for the purposes of United States tax and not resident in the United Kingdom for the purposes of United Kingdom tax, and any United States corporation and any partnership created or organized in or under the laws of the United States, being a corporation or partnership which is not resident in the United Kingdom for the purposes of United Kingdom tax.

(i) The term "United Kingdom enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom.

(j) The term "United States enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of the United States.

(k) The terms "enterprise of one of the Contracting Parties" and "enterprise of the other Contracting Party" mean a United States enterprise or a United Kingdom enterprise, as the context requires.

(l) The term "permanent establishment" when used with respect to an enterprise of one of the Contracting Parties means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the Contracting Parties shall not be deemed to have a permanent establishment in the territory of the other Contracting Party merely because it carries on business dealings in the territory of such other Contracting Party through a *bona fide* commission agent, broker or custodian acting in the ordinary course of his business as such. The fact tha an enterprise of one of the Contracting Parties maintains in the territory of the other Contracting Party a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one Contracting Party has a subsidiary corporation which is a corporation of the other Contracting Party or which is engaged in trade or business in the territory of such other Contracting Party (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(2) For the purposes of Articles VI, VII, VIII, IX and XIV a resident of the United Kingdom shall not be deemed to be engaged in trade or business in the United States in any taxable year unless such resident has a permanent establishment situated therein in such taxable year. The same principle shall be applied, *mutatis mutandis*, by the United Kingdom in the case of a resident of the United States.

(3) In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are the subject of the present Convention.

(4) Where under Articles VI, VII and VIII of the present Convention income from a source in one of the territories is relieved from tax in that territory, and, under the law in force in the other territory an individual, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other territory and not by reference to the full amount thereof, then the relief to be allowed under those Articles of the present Convention in the first-mentioned territory shall apply only to so much of the income as is remitted to or received in the other territory.

* * * * *

ARTICLE VI

(1) The rate of United States tax on dividends beneficially owned by a resident of the United Kingdom which are derived by such a resident from a United States corporation, or are otherwise treated as being from sources within the United States shall not exceed 15 per cent of the gross amount of the dividends.

(2) The rate of United Kingdom tax on dividends beneficially owned by a resident of the United States which are derived by such a resident from a corporation which is a resident of the United Kingdom, or are otherwise treated as being from sources within the United Kingdom, shall not exceed 15 per cent of the gross amount of the dividends.

(3) Subject to the provisions of paragraph (5) of Article VII and of paragraph (4) of Article VIII of the present Convention:

(a) The term "dividends" in the case of the United Kingdom includes any item which under the law of the United Kingdom is treated as a distribution of a company except that this term does not include any redeemable share capital or security issued by a corporation in respect of shares in the corporation otherwise than wholly for new consideration, or such part of any redeemable share capital or security so issued as is not properly referable to new consideration.

(b) The term "dividends" in the case of the United States includes any item which under the law of the United States is treated as a distribution out of earnings and profits.

(4) The provisions of paragraph (1) of this Article shall not apply if the recipient of the dividends, being a resident of the United Kingdom and not a corporation, has in the United States a permanent establishment and the holding giving rise to the dividends is effectively connected with such permanent establishment.

5) The provisions of paragraph (2) of this Article shall not apply if the recipient of the dividends, being a resident of the United States, has in the United Kingdom a permanent establishment and the holding giving rise to the dividends is effectively connected with a trade carried on through such permanent establishment and, in the case of a corporation, the trade is such that a profit on the sale of the holding would be a trading receipt.

(6) Either of the Contracting Parties may terminate this Article by giving written notice of termination to the other Contracting Party, through diplomatic channels, on or before the thirtieth day of June in any year after the year 1965, and in such event paragraph (1) of this Article shall cease to be effective as to United States tax on and after the first day of January, and paragraph (2) of this Article shall cease to be effective as

to United Kingdom tax on and after the sixth day of April, in the year next following that in which such notice is given.

ARTICLE VII

(1) Interest (on bonds, securities, debentures, or on any other form of indebtedness) derived and beneficially owned by a resident of the United Kingdom shall be exempt from tax by the United States.

(2) Interest (on bonds, securities, debentures, or on any other form of indebtedness) derived and beneficially owned by a resident of the United States shall be exempt from tax by the United Kingdom.

(3) Paragraphs (1) and (2) of this Article shall not apply if the recipient of the interest, being a resident of the territory of one of the Contracting Parties, has in the territory of the other Contracting Party a permanent establishment and the indebtedness giving rise to the interest is effectively connected with such permanent establishment.

(4) Subject to paragraph (5) of this Article, the provisions of paragraphs (1) and (2) of this Article shall not apply to any payment of interest which under the law of either Contracting Party is treated as a distribution.

(5) Any provision in the law of either Contracting Party relating only to interest paid to a non-resident corporation shall not operate so as to require such interest paid to a resident of the other Contracting Party to be treated as a distribution by the corporation paying such interest. The preceding sentence shall not apply to interest paid to a corporation of one Contracting Party in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons resident in the territory of the other Contracting Party.

(6) Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the interest paid exceeds the amount which would have been agreed upon by the payer and recipient in the absence of such relationship, the provisions of this Article shall only apply to the last-mentioned amount.

ARTICLE VII A

Neither Article VI nor Article VII of the present Convention shall apply if the recipient of the dividend or interest is exempt from tax on such income in the territory of the Contracting Party in which it is resident, and either—

(a) In the case of a dividend to which Article VI applies, such recipient owns 10 per cent or more of the class of shares in respect of which the dividend is paid and the dividend is paid in such circumstances that, if the recipient were a resident of the United Kingdom exempt from United Kingdom tax, the exemption would be limited or removed; or

(b) In the case of interest to which Article VII applies, such recipient sells (or makes a contract to sell) the holding from which such interest is derived within three months of the date such recipient acquired such holding.

ARTICLE VIII

(1) Royalties derived and beneficially owned by a resident of the United Kingdom shall be exempt from tax by the United States.

(2) Royalties derived and beneficially owned by a resident of the United States shall be exempt from tax by the United Kingdom.

(3) Paragraphs (1) and (2) of this Article shall not apply if the recipient of the royalty, being a resident of the territory of one of the Contracting Parties, has in the territory of the other Contracting Party a permanent establishment and the right or property giving rise to the royalties is effectively connected with such permanent establishment.

(4) Royalties paid by a corporation of one Contracting Party to a resident of the other Contracting Party shall not be treated as a distribution by such corporation. The preceding sentence shall not apply to royalties paid to a corporation of one Contracting Party where (a) the same persons participate directly or indirectly in the management or control of the corporation paying the royalties and the corporation deriving the royalties, and (b) more than 50 per cent of the voting power in the corporation deriving the royalties is controlled, directly or indirectly, by a person or persons resident in the territory of the other Contracting Party.

(5) The term "royalties" as used in this Article:

(a) Means any royalties, rentals or other amounts paid as consideration for the use of, or the right to use, copyrights of literary, artistic or scientific works (including motion picture films, or films or tapes for radio or television broadcasting), patents, designs or models, plans, secret processes or formulae, trade-marks or other like property or rights, or for industrial, commercial or scientific equipment, or for knowledge, experience or skill (know-how), and

(b) Shall include gains derived from the sale or exchange of any right or property giving rise to such royalties.

(6) Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the royalties paid exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall only apply to the last-mentioned amount.

ARTICLE IX

(1) The rate of United States tax on royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and on rentals from real property or from an interest in such property, derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax with respect to such royalties or rentals and not engaged in trade or business in the United States, shall not exceed 15 per cent: Provided that any such resident may elect for any taxable year to be subject to United States tax on such income on a net basis as if such resident were engaged in trade or business in the United States.

(2) Royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and rentals from real property or from an interest in such property, derived from sources within the United Kingdom by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such royalties and rentals, and (c) not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom surtax.

ARTICLE X

(1) Any salary, wage, similar remuneration, or pension, paid by the Government of the United States to an individual (other than a British subject who is not also a citizen of the United States) in respect of services rendered to the United States in the discharge of governmental functions, shall be exempt from United Kingdom tax.

(2) Any salary, wage, similar remuneration, or pension, paid by the Government of the United Kingdom to an individual (other than a citizen of the United States who is not also a British subject) in respect of services rendered to the United Kingdom in the discharge of governmental functions, shall be exempt from United States tax.

(3) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Parties for purposes of profit.

ARTICLE XI

(1) An individual who is a resident of the United Kingdom shall be exempt from United States tax upon compensation for personal (including professional) services performed during the taxable year within the United States if (a) he is present within the United States for a period or periods not exceeding in the aggregate 183 days during such taxable year, and (b) such services are performed for or on behalf of a person resident in the United Kingdom.

(2) An individual who is a resident of the United States shall be exempt from United Kingdom tax upon profits, emoluments or other remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and (b) such services are performed for or on behalf of a person resident in the United States.

ARTICLE XII

(1) Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within the United States by an individual who is a resident of the United Kingdom shall be exempt from United States tax.

(2) Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within the United Kingdom by an individual who is a resident of the United States shall be exempt from United Kingdom tax.

(3) The term "life annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in consideration of money paid.

* * * * *

ARTICLE XIV

(1) A resident of the United Kingdom shall be exempt from United States tax on gains from the sale or exchange of capital assets.

(2) A resident of the United States shall be exempt from United Kingdom tax on chargeable gains accruing to him on the disposal of assets.

(3) Paragraph (1) or paragraph (2) of this Article shall not apply if the person deriving the gain has a permanent establishment in the United States, for purposes of paragraph (1), or the United Kingdom, for purposes of paragraph (2) and the gain is derived from an asset which is effectively connected with such permanent establishment.

(4) Paragraph (1) of this Article shall not apply if the person deriving the gain is an individual who is a resident of the United Kingdom and who is present in the United States for a period equal to or exceeding an aggregate of 183 days during the taxable year.

ARTICLE XV

Dividends and interest paid by a corporation of one Contracting Party shall be exempt from tax by the other Contracting Party except where the recipient is a citizen, resident, or corporation of that other Contracting Party. This exemption shall not apply if the corporation paying such dividend or interest is a resident of the other Contracting Party.

* * * * *

ARTICLE XVIII

A professor or teacher from the territory of one of the Contracting Parties who visits the

territory of the other Contracting Party for the purpose of teaching, for a period not exceeding two years, at a university, college, school or other educational institution in the territory of such other Contracting Party shall be exempted by such other Contracting Party from tax on his remuneration for such teaching for such period.

ARTICLE XIX

A student or business apprentice from the territory of one of the Contracting Parties who is receiving full-time education or training in the territory of the other Contracting Party shall be exempted by such other Contracting Party from tax on payments made to him by persons within the territory of the former Contracting Party for the purposes of his maintenance, education or training.

ARTICLE XIX A

(1) Each of the Contracting Parties will endeavour to collect on behalf of the other Contracting Party, such amounts as may be necessary to ensure that relief granted by the present Convention from taxation imposed by such other Contracting Party does not enure to the benefit of persons not entitled thereto. The United Kingdom will be regarded as fulfilling this obligation by the continuation of its existing arrangements for ensuring that relief from taxation imposed by the laws of the United States does not enure to the benefit of persons not entitled thereto.

(2) Paragraph (1) of this Article shall not impose upon either of the Contracting Parties the obligation to carry out administrative measures which are of a different nature from those used in the collection of its own tax, or which would be contrary to its sovereignty, security, or public policy. In determining the administrative measures to be carried out each Contracting Party may take into account the administrative measures and practices of the other Contracting Party in recovering taxes on behalf of the first-mentioned Contracting Party.

(3) The competent authorities of the Contracting Parties shall consult with each other for the purpose of co-operating and advising in respect of any action to be taken in implementing this Article.

* * * * *

ARTICLE XXIV

(1) The present Convention shall continue in effect indefinitely but either of the Contracting Parties may, on or before the 30th June in any year after the year 1966, give to the other Contracting Party, through diplomatic channels, notice of termination and, in such event, the present Convention shall cease to be effective:

(a) As respects United States tax, for the taxable years beginning on or after the 1st January in the year next following that in which such notice is given;

(b) (i) As respects United Kingdom income tax and surtax, for any year of assessment beginning on or after the 6th April in the year next following that in which such notice is given;

(ii) As respects United Kingdom corporation tax, for any financial year beginning on or after the 1st April in the year next following that in which such notice is given; and

(iii) As respects United Kingdom capital gains tax, for any year of assessment beginning on or after the 6th April in the year next following that in which such notice is given.

(2) The termination of the present Convention or any Article thereof shall not have the effect of reviving any treaty or arrangement abrogated by the present Convention or by treaties previously concluded between the Contracting Parties.

(b) *Meaning of terms.* As used in this subpart—

(1) *In general.* Any term defined in the convention or this subpart shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

(2) *Resident of the United Kingdom.* The term "resident of the United Kingdom" means any person (other than a citizen of the United States or a U.S. corporation) who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in the United States for the purposes of U.S. tax. A corporation is to be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom.

§ 507.22 Dividends.

(a) *Reduction in rate of U.S. tax*—(1) *Paid by a United Kingdom corporation.* Dividends paid after December 31, 1965, by a United Kingdom corporation are exempt from U.S. tax under Article XV of the convention if the recipient is not a citizen, resident, or corporation of the United States. Dividends so paid are not subject to withholding of U.S. tax at source.

(2) *Other dividends from U.S. sources.* Except as provided in subparagraphs (3) through (5) of this paragraph, the rate of U.S. tax imposed upon dividends derived from sources within the United States and received by a resident of the United Kingdom (as defined in paragraph (b)(2) of § 507.21) on or after January 1, 1966, shall not exceed 15 percent under Article VI of the convention.

(3) *Dividends effectively connected with a permanent establishment.* The reduction in rate of tax provided in subparagraph (2) of this paragraph shall not apply if the recipient of the dividends, being a resident of the United Kingdom and not a corporation, maintains a permanent establishment in the United States and the holding giving rise to the dividend is effectively connected with such permanent establishment.

(4) *Tax-exempt organizations.* Under Article VIIA of the convention, the reduction in rate of tax provided in subparagraph (2) of this paragraph shall not apply if the recipient—

(i) Is exempt from tax on dividends in the United Kingdom,

(ii) Owns at least 10 percent of the class of shares in respect of which the dividend is paid, and

(iii) The dividend is paid in such circumstances that, if the recipient were a resident of the United Kingdom exempt from United Kingdom tax, such exemption from United Kingdom tax would be limited or removed.

(5) *Persons taxed on a remittance basis.* Under Article II(4) of the convention, if an individual is subject to tax in the United Kingdom on dividends by reference to the amount of such dividends remitted to or received in the United Kingdom, the reduction in rate of tax provided in subparagraph (2) of this paragraph shall apply to only so much of such dividends as is remitted to or received in the United Kingdom.

(6) *Personal services.* The reduction in rate of U.S. tax described in subparagraph (2) of this paragraph is available to an individual resident of the United Kingdom who performs personal services in the United States but does not have a permanent establishment in the United States to which the holding giving rise to the dividend is effectively connected although, under section 871(c) of the Internal Revenue Code, such individual is treated as engaged in business in the United States by reason of his having performed such services.

(b) *Withholding of U.S. tax from dividends*—(1) *15-percent rate.* Withholding of U.S. tax at source after December 31, 1965, in the case of dividends derived from sources within the United States by a person whose address is in the United Kingdom shall, to the extent withholding of U.S. tax is required, be at the rate of 15 percent in every case except that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue or the owner of the dividends has notified the withholding agent that the reduced rate of withholding shall not apply.

(2) *Reduced rate applicable only to owner.* The reduced rate described in this paragraph is available only to the actual owner of the capital stock from which the dividend is derived. As to action by a United Kingdom addressee who is not the actual owner of the capital stock, see § 507.23(c).

(3) *Evidence of rate of tax withheld.* The rate at which U.S. tax has been withheld from a dividend paid after November 15, 1966, to a person whose address is in the United Kingdom at the time the dividend is paid shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

§ 507.23 Additional withholding of tax by persons not owners of income.

(a) *In general.* Article XIXA of the convention provides that each Contracting Party will endeavor to collect on behalf of the other Contracting Party such amounts as may be necessary to ensure that relief granted by the convention from taxation imposed by such other Contracting Party does not inure to the benefit of persons not entitled to such relief.

(b) *Additional United Kingdom tax to be withheld in the United States*—(1) *By a nominee or representative.* The recipient in the United States of income from sources within the United Kingdom which has received a reduction in rate of, or exemption from, withholding of United Kingdom tax who is a nominee or representative through whom such income is received by a person who is not a resident of the United States shall withhold an additional amount of United Kingdom tax equivalent to the United Kingdom tax which would have been withheld if the convention had not been

in effect (41.25 percent as of the date of approval of this Treasury decision) minus the tax which has been withheld at the source.

(2) *By a fiduciary or partnership.* A fiduciary or partnership in the United States which receives, otherwise than as a nominee or representative, income from sources within the United Kingdom which has been exempt from or subject to a reduced rate of United Kingdom tax shall withhold an additional amount of United Kingdom tax from the portion of such income included in the gross income from sources within the United Kingdom of any beneficiary or partner as the case may be, who is not entitled to the reduced rate of tax in accordance with the applicable provisions of the convention. The amount of the additional tax is to be calculated in the same manner as under subparagraph (1) of this paragraph.

(3) *Withholding additional United Kingdom tax from amounts released or refunded.* If any amount of United Kingdom tax is released by the withholding agent in the United Kingdom, or is otherwise received by a nominee, representative, fiduciary, or partnership in the United States, with respect to income from sources within the United Kingdom, the recipient shall withhold from such released amount any additional amount of United Kingdom tax otherwise required to be withheld from such income by the provisions of subparagraph (1) or (2) of this paragraph in the same manner as if at the time of payment, such income had received a reduction in rate of, or exemption from, withholding of United Kingdom tax.

(4) *Return of United Kingdom tax by United States withholding agents*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, amounts of United Kingdom tax withheld pursuant to this paragraph by withholding agents in the United States should be deposited in U.S. dollars with the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225, on or before March 15 of the year following the year in which the withholding occurs. Such withhold agent shall also submit such appropriate forms as may be prescribed by the Commissioner.

(ii) *Withholding agents undertaking to remit United Kingdom tax directly to the United Kingdom.* If a withholding agent furnishes an undertaking to the United Kingdom Inland Revenue Department to remit the amounts referred to in subdivision (i) of this subparagraph directly to such Department, such withholding agent shall, to the extent such amounts are so remitted, be exempt from the requirements of subdivision (i) of this subparagraph. Such withholding agent shall before the 16th day after the close of the quarter of the calendar year in which the withholding occurs file a statement with the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225, setting forth the fact that such undertaking exists and the amount of United Kingdom tax remitted directly to the United Kingdom Department of Inland Revenue during such quarter in accordance with the undertaking.

(c) *Additional U.S. tax to be withheld in the United Kingdom*—(1) *By a nominee or representative.* The recipient in the United Kingdom of any dividend from which U.S. tax has been withheld at the reduced rate of 15 percent pursuant to § 507.22(b)(1), who is a nominee or representative through whom the dividend is received by a person not entitled under § 507.22(a) to the reduced rate, shall withhold an additional amount of U.S. tax equivalent to the U.S. tax which would have been withheld if the convention had not been in effect (30 percent as of the date of approval of this Treasury decision) minus the 15 percent which has been withheld at the source.

(2) *By a fiduciary or partnership.* A fiduciary or a partnership with an address in the United Kingdom which receives, otherwise than as a nominee or representative, a dividend from which U.S. tax has been withheld at the reduced rate of 15 percent pursuant to § 507.22(b)(1) shall withhold an additional amount of U.S. tax from the portion of the dividend included in the gross income from sources within the United States of any beneficiary or partner, as the case may be, who is not entitled to the reduced rate of tax in accordance with § 507.22(a). The amount of the additional tax is to be calculated in the same manner as under subaparagraph (1) of this paragraph.

(3) *Withholding additional U.S. tax from amounts released.* If any amount of U.S. tax is released pursuant to § 507.29(a)(1) by the withholding agent in the United States with respect to a dividend received by a nominee, representative, fiduciary, or partnership with an address in the United Kingdom, the recipient shall withhold from such released amount any additional amount of U.S. tax otherwise required to be withheld from the dividend by the provisions of subparagraph (1) or (2) of this paragraph in the same manner as if at the time of payment of the dividend U.S. tax at the rate of only 15 percent had been withheld at source.

(4) *Return of U.S. tax by United Kingdom withholding agents.* The amounts of U.S. tax withheld pursuant to this paragraph by any withholding agent in the United Kingdom should be deposited, without converting the amounts into U.S. dollars, with the United Kingdom Inland Revenue Department before the 16th day after the close of the quarter of the calendar year in which the withholding in the United Kingdom occurs. The withholding agent making the deposit should also submit such appropriate United Kingdom forms as may be prescribed by the Inland Revenue Department. Copies of such forms should be forwarded by the Inland Revenue Department, along with the amounts so deposited, to the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225, U.S.A., in accordance with arrangement made by the competent authorities.

§ 507.24 Interest.

(a) *Exemption from United States tax*—(1) *Paid by a United Kingdom corporation.* Interest paid after December 31, 1965, by a United Kingdom corporation is exempt from United States tax under Article XV of the convention if the recipient is not a citizen, resident, or corporation of the United States. Interest so paid is not subject to withholding of United States tax at source.

(2) *Other interest from United States sources.* Except as provided in subparagraphs (3) through (5) of this paragraph, interest (on bonds, securities, debentures, or on any other form of indebtedness, including interest on obligations of the United States and its instrumentalities and on mortgages or bonds secured by real property) derived from sources within the United States and received by a resident of the United Kingdom (as defined in paragraph (b)(2) of § 507.21), in a taxable year of the recipient beginning after December 31, 1965, shall be exempt from U.S. tax under Article VII of the convention.

(3) *Interest effectively connected with a permanent establishment.* The exemption from tax provided in subparagraph (2) of this paragraph shall not apply if the recipient of the interest maintains a permanent establishment in the United States and the indebtedness giving rise to the interest is effectively connected with such permanent establishment.

(4) *Tax exempt organization selling indebtedness.* Under Article VIIA of the convention, the exemption from tax provided in subparagraph (2) of this paragraph shall not apply if the recipient of the interest is exempt from tax on such interest in the United Kingdom and such recipient sells (or makes a contract to sell) the holding from which such interest is derived within 3 months of the date such recipient acquired such holding.

(5) *Persons taxed on remittance basis.* Under Article II(4) of the convention, if an individual is subject to tax in the United Kingdom on interest by reference to the amount of such interest remitted to or received in the United Kingdom, the exemption from tax provided in subparagraph (2) of this paragraph shall apply to only so much of such interest as is remitted to or received in the United Kingdom.

(6) *Personal services.* The exemption from U.S. tax for interest described in subparagraph (2) of this paragraph is available to an individual resident of the United Kingdom who performs personal services in the United States and does not have a permanent establishment in the United States to which the indebtedness giving rise to such interest is effectively connected although, under section 871 of the Internal Revenue Code, such individual is treated as engaged in business in the United States by reason of his having performed such services.

(b) *Exemption from withholding of U.S. tax*—(1) *Coupon bond interest*—(i) *Form to use.* To avoid withholding of U.S. tax at source during taxable years

of the recipient beginning after December 31, 1965, in the case of coupon bond interest exempt from tax under paragraph (a) of this section, such recipient shall, for each issue of bonds, file Form 1001–UK–2 in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, or by his trustee or agent, and shall show the information required by paragraph (d) of § 1.1461–1 of this chapter. Form 1001–UK–2 shall contain a statement that, at the time the income is derived, the owner (*a*) if an individual, is neither a citizen nor a resident of the United States, but is a resident of the United Kingdom or, if a corporation, is a foreign corporation whose business is managed or controlled in the United Kingdom, (*b*) does not have a permanent establishment in the United States or, if the owner does have such a permanent establishment, a statement that the indebtedness giving rise to the income is not effectively connected with such permanent establishment, (*c*) is not exempt from tax on such income in the United Kingdom or, if the owner is exempt from tax on such income, the date of acquisition of the holding from which such income is derived and a statement that the owner has not sold (or made a contract to sell), and does not intend to sell (or make a contract to sell) such holding within 3 months of such date of acquisition, (*d*) is not subject to tax in the United Kingdom on investment income by reference to the amount of such income remitted to or received in the United Kingdom or, if subject to tax on such basis, a statement of the amount of income to which the form relates which is remitted to or received in the United Kingdom, and (*e*) is the actual owner of the income.

(ii) *Exemption applicable only to owner.* The exemption from U.S. tax granted by Article VII of the convention is applicable only to the owner of the interest. The person presenting the interest coupon, or on whose behalf it is presented, shall, for purposes of the exemption from withholding of U.S. tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001–UK–2, shall be used, and U.S. tax shall be withheld at the statutory rate.

(iii) *Disposition of Form 1001–UK–2.* The original and duplicate of Form 1001–UK–2 shall be forwarded by the withholding agent to the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225, in accordance with paragraph (b)(2) of § 1.1461–2 of this chapter.

(2) *Other interest*—(i) *Letter of notification.* To avoid withholding of U.S. tax at source during taxable years of the taxpayer beginning after December 31, 1965, in the case of interest (other than coupon bond interest) exempt from tax under paragraph (a) of this section, the resident of the United Kingdom (as defined in paragraph (b)(2) of § 507.21) shall notify the withholding agent by letter in duplicate that the interest is exempt from U.S. tax under Article VII of the convention. The letter of notification shall be signed by the owner of the interest, or by his trustee or agent, shall show the name and address of the obligor and the name and address of the owner of the interest, and shall indicate the dates on which the taxable years of the taxpayer to which the letter is applicable begin and end. The letter shall contain the statement required by subparagraph (1)(i) of this paragraph. If the interest qualifies for the exemption from tax, the letter of notification may also authorize the release, pursuant to § 507.29(a)(3), of excess tax withheld from the interest concerned.

(ii) *Manner of filing letter.* The letter of notification, which shall constitute authorization for the payment of the income without withholding of U.S. tax at source, shall be filed with the withholding agent as soon as practicable for each successive 3-calendar-year period during which the income is paid. Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the owner of the interest. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from U.S. tax granted by Article VII of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of U.S. tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(iii) *Disposition of letter.* The original of each letter of notification filed pursuant to this subparagraph shall be retained by the withholding agent and the duplicate shall be immediately forwarded by the withholding agent to the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225.

(3) *Change in circumstances.* If a taxpayer acquires a permanent establishment in the United States after filing a Form 1001–UK–2 or a letter of notification referred to in subparagraph (2) of this paragraph, such taxpayer shall file a new form or a new letter even though the indebtedness giving rise to the income to which such document relates is not effectively connected to such permanent establishment.

§ 507.25 Royalties.

(a) *Exemption from U.S. tax*—(1) *In general.* Except as provided in subparagraphs (2) and (3) of this paragraph, royalties (as defined in paragraph (c) of this section) derived from sources within the United States by a resident of the United Kingdom (as defined in paragraph (b)(2) of § 507.21) and received in a taxable year of the recipient beginning after December 31, 1965, shall be exempt from U.S. tax under Article VIII of the convention.

(2) *Royalties effectively connected with a permanent establishment.* The exemption from tax provided in subparagraph (1) of this paragraph shall not apply if the recipient of the royalties, rentals, or similar payments maintains a permanent establishment in the United States and the right or property giving rise to such amounts is effectively connected with such permanent establishment.

(3) *Persons taxed on a remittance basis.* Under Article II(4) of the convention, if an individual is subject to tax in the United Kingdom on royalties, rentals, or similar payments by reference to the amount of such income remitted to or received in the United Kingdom, the exemption from tax provided in subparagraph (1) of this paragraph shall apply to only so much of such income as is remitted to or received in the United Kingdom.

(4) *Personal services.* The exemption from U.S. tax for royalties, rentals, or similar payments described in subparagraph (1) of this paragraph is available to an individual resident of the United Kingdom who performs personal services in the United States and does not have a permanent establishment in the United States to which the right or property giving rise to such income is effectively connected although, under section 871 of the Internal Revenue Code, such individual is treated as engaged in business in the United States by reason of his having performed such services.

(b) *Exemption from withholding of tax*—(1) *Letter of notification.* To avoid withholding of U.S. tax during taxable years of a taxpayer beginning after December 31, 1965, from a royalty, rental, or other amount which is exempt from U.S. tax in accordance with paragraph (a) of this section, the taxpayer shall notify the withholding agent by a letter in duplicate that such amount is exempt from U.S. tax under Article VIII of the convention.

(2) *Manner of filing letter of notification.* The provisions of § 507.24(b)(1)(i) relating to the content, § 507.24(b)(2) relating to the filing, effective period, and disposition, of the letter of notification prescribed therein, and § 507.24(b)(3) relating to change in circumstances, shall also apply mutatis mutandis to the letter of notification prescribed in this paragraph, except that the letter need not contain the statement prescribed in paragraph (b)(1)(i)(*c*) of § 507.24.

(c) *Definition.* As used in this subpart, the term "royalties"—

(1) Means any royalties, rentals, or other amounts paid as consideration for the use of, or the right to use—

(i) Copyrights of literary, artistic, or scientific works (including motion picture films, or films or tapes for radio or television broadcasting), patents, designs, or models, plans, secret processes or formulae, trademarks, or other like property; or

(ii) Industrial, commercial, or scientific equipment, or knowledge, experience, or skill (know-how); and

(2) Includes gains derived from the sale or exchange of any right or property giving rise to such royalties.

§ 507.26 Private pensions and life annuities.

(a) *Exemption from U.S. tax*—(1) *Requirements.* Any pension (other than one paid by one of the Contracting States to an individual in respect of services rendered that Contracting State in the discharge of governmental functions) or life annuity derived from sources within the United States by an individual resident of the United Kingdom (as defined in paragraph (b)(2) of § 507.21) and received in a taxable year of the recipient beginning after December 31, 1965, shall be exempt from U.S. tax under the provisions of Article XII of the convention.

(2) *Definitions.* As used in this subpart, the term "pension" means a periodic payment made in consideration for services rendered, or by way of compensation for injuries received, in connection with past employment, and the term "life annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in consideration of money paid.

(b) *Exemption from withholding of tax*—(1) *Use of letter of notification.* To avoid withholding of U.S. tax during taxable years of the recipient beginning after December 31, 1965, from a pension or life annuity which is exempt from U.S. tax in accordance with paragraph (a) of this section, the individual resident of the the United Kingdom (as defined in paragraph (b)(2) of § 507.21) shall notify the withholding agent by letter in duplicate that the pension or annuity is exempt from U.S. tax under Article XII of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that, at the time the income is received, the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of the United Kingdom for purposes of United Kingdom tax.

(2) *Manner of filing letter.* The letter of notification shall constitute authorization for the payment of the pension or life annuity without withholding of U.S. tax at the source or for the release, pursuant to § 507.29(a)(3), of excess tax withheld from a pension or life annuity, unless the Commissioner of Internal Revenue notifies the withholding agent thereafter to withhold the tax from such items of income. If, after filing a letter of notification, the owner of the income ceases to be eligible under the convention for the exemption from U.S. tax on such items of income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of U.S. tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(3) *Disposition of the letter of notification.* The original of each letter of notification filed pursuant to this paragraph shall be retained by the withholding agent and the duplicate shall be forwarded immediately by the withholding agent to the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225

§ 507.27 Other income covered by convention.

(a) *Exemption from tax*—(1) *Request for ruling.* If a taxpayer who is a resident of the United Kingdom (as defined in paragraph (b)(2) of § 507.21 claims or contemplates claiming that an item of income (other than income referred to in §§ 507.22 through 507.26) is exempt from, or subject to a reduced rate of, U.S. tax under the convention, such taxpayer may request a ruling to that effect from the Commissioner of Internal Revenue, Washington, D.C. 20224, by filing a statement setting forth all the facts pertinent to a determination of the question.

(2) *Notification of taxpayer.* As soon as practicable after such information is filed, the Commissioner will determine whether the income concerned qualifies under the convention for exemption from, or a reduced rate of, U.S. tax and will notify the taxpayer of his ruling. If income qualifies for such benefit, this notification may also authorize the release, pursuant to § 507.29(a)(3), of excess tax withheld from the income concerned.

(b) *Exemption from, or reduction in rate of, withholding*—(1) *Notification of withholding agent.* If the Commissioner rules that income received by a taxpayer qualifies for exemption from, or reduction in rate of, U.S. tax under the convention, and the taxpayer sends a copy of such ruling to the withholding agent, the income designated in such ruling shall be exempt from, or subject to a reduced rate of, withholding of U.S. tax unless the Commissioner or the taxpayer notifies the withholding agent that such income ceases to qualify for such benefit.

(2) *Change in circumstances.* If, during the period covered by the ruling letter, any fact upon which the ruling letter is based materially changes, the taxpayer shall immediately notify the withholding agent and the Commissioner of such change.

§ 507.28 Beneficiaries of domestic estates or trusts.

A nonresident alien individual who is a resident of the United Kingdom and a beneficiary of a domestic estate or trust shall be entitled to the exemption from, or reduction in the rate of, U.S. tax granted by Articles VI, VII, VIII and XII of the convention with respect to dividends, interest, royalties, and rentals, and pensions and annuities, if he otherwise satisfies the requirements for exemption or reduction specified in the Articles concerned, to the extent that (a) any amount paid, credited, or required to be distributed by the estate or trust to the beneficiary is deemed to consist of those items and (b) the items so deemed to be included in such amount would, without regard to the convention, be includible in his gross income. However, such beneficiary is not entitled to the exemption from, or reduction in rate of, U.S. tax granted by such Articles to the extent that the trust conduit rules are not applicable to any payment received by the beneficiary such as, for example, a payment made out of the income of a trust established for the support and maintenance of a wife pursuant to a divorce decree. To obtain the exemption from, or reduction in the rate of, withholding of U.S. tax where permitted by this section, the beneficiary must, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate letter of notification prescribed in § 507.24(b)(2), §507.25(b)(1), or § 507.26(b)(1).

§ 507.29 Release of excess tax withheld at source.

(a) *Release of tax withheld*—(1) *From dividends.* If U.S. tax has been withheld at the statutory rate after December 31, 1965, from dividends described in § 507.22(a)(2) received by a resident of the United Kingdom (as defined in paragraph (b)(2) of § 507.21) whose address at the time of payment was in the United Kingdom, the withholding agent shall release and pay over to such resident an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 507.22(b)(1).

(2) *From coupon bond interest*—(i) *Substitute ownership certificate.* If a taxpayer furnishes the withholding agent a Form 1001–UK–2 clearly marked "Substitute" and executed in accordance with § 507.24(b)(1)(i), where U.S. tax has been withheld from coupon bond interest at the statutory rate during a taxable year of the taxpayer beginning after December 31, 1965, the withholding agent shall release and pay to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(ii) *Filing and disposition of substitute ownership certificate.* One substitute Form 1001–UK–2 shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which the excess is released. Such forms shall be disposed of in accordance with the rules of § 507.24(b)(1)(ii).

(3) *Tax withheld from other income.* If a taxpayer furnishes to the withholding agent the letter of notification prescribed in § 507.24(b)(2), § 507.25(b), or § 507.26(b), or the authorization for release of tax prescribed in § 507.27(a)(2), and U.S. tax has been withheld at the statutory rate during taxable years of the taxpayer beginning after December

31, 1965, from the income to which such letter or authorization is applicable, the withholding agent shall release and pay to the person from whom the tax was withheld an amount which is equal to the tax so withheld from such income.

(b) *Amounts not to be released.* The provisions of this section do not apply to any excess tax withheld at the source which has been paid by the withholding agent to the Director, Office of International Operations.

(c) *Statutory rate.* As used in this subpart, the term "statutory rate" means the rate of tax (30 percent as of the date of approval of this Treasury decision) prescribed by subchapter A of chapter 3 (relating to the withholding of tax on nonresident aliens and foreign corporations) of the Internal Revenue Code as though the convention has not come into effect.

§ 507.30 Refund of excess tax paid to Director, Office of International Operations.

(a) *In general.* Where U.S. tax withheld at the source on items of income covered by the convention is in excess of the tax imposed under subtitle A (relating to the income tax) of the Internal Revenue Code, as modified by the convention, and such withheld amounts have been paid to the Director, Office of International Operations, a claim by the taxpayer for refund of any resulting overpayment may be made under section 6402 of such Code, and the regulations thereunder.

(b) *Form of claim—(1) Where return previously filed.* If the taxpayer has previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 843 or an amended return.

(2) *Where no return previously filed.* If the taxpayer has not previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 1040NB, Form 1040NB–a, Form 1040B, or Form 1120–F, whichever is applicable, showing the overpayment. Such return will serve as a claim for refund, and it is not necessary for the taxpayer to file Form 843.

(c) *Information required.* If the taxpayer's total gross income (including every item of capital gain subject to tax) from sources within the United States for the taxable year in which such overpayment resulted has not been disclosed in an income tax return filed with the Internal Revenue Service prior to the time the claim for refund is made, the taxpayer shall disclose such total gross income with his claim. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and address of such person shall be furnished with the claim. In addition to such other information as may be required to establish the overpayment, there shall also be included in such claim for refund:

(1) A statement that, at the time when the items of income were received from which the excess tax was withheld, the taxpayer was neither a citizen nor a resident of the United States but was a resident of the United Kingdom, or, in the case of a corporation, was a foreign corporation whose business was managed or controlled in the United Kingdom; and

(2) If the taxpayer's claim is based on exemption from, or reduction in rate of, tax for dividends, interest, or royalties, a statement that the taxpayer does not have a permanent establishment in the United States, or, if the taxpayer does have such a permanent establishment, that the holding from which such income was derived was not effectively connected with such permanent establishment.

§ 507.31 Information furnished in ordinary course.

For provisions relating to the exchange of information under Article XX of the convention, see paragraph (d) of § 1.1461–2 of this chapter.

§ 507.32 Return required when liability not satisfied by withholding.

For action by a nonresident alien individual who is a resident of the United Kingdom or by a foreign corporation whose business is managed or controlled in the United Kingdom in a case where such individual's or corporation's U.S. income tax liability is not satisfied by withholding of U.S. tax at source, see paragraph (b) of § 1.6012–1 of this chapter and paragraph (g) of § 1.6012–2 of this chapter.

§ 507.33 Effective date.

(a) *In general.* Except as provided in paragraph (b) of this section, the provisions of §§ 507.21 through 507.32 shall be effective with respect to taxable years of residents of the United Kingdom entitled to the benefits of such sections beginning after December 31, 1965, and with respect to dividends paid on or after January 1, 1966.

(b) *Withholding of additional United Kingdom tax.* The provisions of § 507.23 (b) shall be effective with respect to income from sources within the United Kingdom received on or after April 6, 1966.

Because it is necessary to provide at the earliest practicable date the rules of this Treasury decision, it is hereby found that it is impracticable to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

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

Approved: October 14, 1966.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 66–11335; Filed, Oct. 18, 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 4094]

[Montana 073084]

MONTANA

Withdrawal for National Forest Administrative Sites

Correction

In F.R. Doc. 66–10467 appearing in the issue for Saturday, September 24, 1966, at page 12600, under "*Condon Range Station Administrative Site and Landing Field*", line 2, "W½NE½" should read "W½NE¼".

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 66–906]

PART 0—COMMISSION ORGANIZATION

Action on Requests for Extension of Time

Order. At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 12th day of October 1966:

Requests for extension of time for filing pleadings in rule making proceedings are generally routine in nature and do not warrant Commission consideration. They can most expeditiously be acted on by the staff. The rules and regulations presently authorize staff action on requests for extension of time relating to briefs and comments, but do not specifically authorize action on requests relating to other pleadings which may be filed in rule making proceedings. The rules and regulations are hereby amended, therefore, to make it clear that the staff is authorized to act on extension requests relating to such other pleadings.

Authority for these amendments is set forth in sections 4(i), 5(d) and 303(r) of the Communications Act of 1934, as amended. Because they pertain to agency management and organization, compliance with the notice and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary.

In view of the foregoing: *It is ordered,* Effective October 21, 1966, that Part 0 of the rules and regulations is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; sec. 5, 66 Stat. 713; 47 U.S.C. 303, 155)

Released: October 13, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[1] Commissioner Wadsworth dissenting.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 0.251(b) is amended to read as follows:

§ 0.251 Authority delegated.

* * * * *

(b) Insofar as authority is not delegated to any other Bureau or Office, and with respect only to matters which are not in hearing status, the General Counsel is delegated authority to act upon requests for extension of time within which briefs, comments or pleadings may be filed.

* * * * *

2. Section 0.281(d)(8) is amended to read as follows:

§ 0.281 Authority delegated.

* * * * *

(d) * * *

(8) For extension of time within which to file briefs, comments and pleadings in rule-making proceedings.

* * * * *

3. Section 0.303(c) is amended to read as follows:

§ 0.303 Authority concerning extension of time and waivers.

* * * * *

(c) For the extension of time within which briefs, comments and pleadings may be filed in common carrier rule-making proceedings.

* * * * *

4. Section 0.331(b)(4) is amended to read as follows:

§ 0.331 Authority delegated.

* * * * *

(b) * * *

(4) Requests for extension of time within which briefs, comments and pleadings may be filed in rule-making proceedings.

* * * * *

[F.R. Doc. 66-11370; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket No. 16749; FCC 66-916]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations; Fayetteville, Ark.

Report and order. In the matter of the amendment of the table of assignments for television broadcast stations in § 73.606 of the Commission rules and regulations to add a channel to Fayetteville, Ark.; Docket No. 16749, RM-926.

1. On July 7, 1966, the Commission adopted a notice of proposed rule making in the above entitled matter (FCC 66-613) pursuant to a petition (RM-926) by H. Weldon Stamps. Interested parties were afforded an opportunity to comment on or before August 15, 1966, and to reply to such comments on or before August 25, 1966.

2. Comments were received from the petitioner and from a group of local citizens: E. J. Bell, Paul W. Milam, Sr., Paul W. Milam, Jr., and Hal C. Douglas. Both comments supported the proposed assignment. The petitioner reaffirmed his intention to apply for the channel if it were assigned and to proceed diligently with the construction and operation of a new UHF television broadcast station in Fayetteville if authorized to do so. The group of local citizens recited economic facts about Fayetteville and the surrounding area and also stated that it was their intention to apply for authority to construct and operate a new UHF television broadcast station in Fayetteville. It thus appears that there is a demand for a commercial UHF channel to serve Fayetteville and the proposed assignment should be adopted. As we noted in the notice of proposed rule making, there is an ample number of channels available for assignment to cities in that area of the country. Fayetteville, with a 1960 Census population of 20,274, is the largest city in Washington County and ranks eighth in population in Arkansas.

3. In the light of the foregoing and pursuant to the authority contained in sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That, effective November 21, 1966, the table of assignments in § 73.606 (b) of the Commission rules is amended, insofar as the city listed below is concerned, to read as follows:

City	*Channels*
Fayetteville, Ark.	*13-, 36

NOTE: Offset for Channel 36 will be supplied in a subsequent order.

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

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 303, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

Adopted: October 12, 1966.

Released: October 13, 1966.

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

[F.R. Doc. 66-11371; Filed, Oct. 18, 1966; 8:49 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

CALCIUM STEARYL-2-LACTYLATE

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 6A1911) filed by the Pillsbury Co., 608 Second Avenue South, Minneapolis, Minn. 55402, and other relevant material, has concluded that the food additive regulations should be amended to prescribe the safe use of calcium stearyl-2-lactylate as a conditioning agent in potato flakes. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), § 121.1047(c) is amended by adding thereto a new subparagraph (3), as follows:

§ 121.1047 Calcium stearyl-2-lactylate.

* * * * *

(c) * * *

(3) As a conditioning agent in potato flakes in an amount not to exceed 0.5 percent by weight of the potato flakes.

* * * * *

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

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

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

Dated: October 4, 1966.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 66-11358; Filed, Oct. 18, 1966; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ZINC CARBONATE

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 7R2069) filed by Continental Can Co., Inc., 633 Third Avenue, New York, N.Y. 10017, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of zinc carbonate as a pigment in resinous and polymeric food-contact coatings. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), § 121.2514(b)(3) is

amended by alphabetically inserting a new item in the list in subdivision (xxvi), as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxvi) Pigments and colorants:

* * * * *

Zinc carbonate.

* * * * *

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

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

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

Dated: October 10, 1966.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 66-11360; Filed, Oct. 18, 1966; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SURFACE LUBRICANTS USED IN MANUFACTURE OF METALLIC ARTICLES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 6B1974) filed by Yawata Iron & Steel Co., Ltd., 375 Park Avenue, New York, N.Y. 10022, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of di-*n*-octyl sebacate in surface lubricants used in the manufacture of metallic food-contact articles under conditions such that the total residual lubricant does not exceed 0.015 milligram per square inch of food-contact surface. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), § 121.2531(a)(2) is amended by inserting alphabetically in the list of substances a new item, as follows:

§ 121.2531 Surface lubricants used in the manufacture of metallic articles.

* * * * *

(a) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Di-*n*-octyl sebacate.	----------
* * *	* * *

* * * * *

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

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

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

Dated: October 12, 1966.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 66-11359; Filed, Oct. 18, 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

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 32—HUNTING

PART 33—SPORT FISHING

Flint Hills National Wildlife Refuge, Kans.

On page 11987 of the FEDERAL REGISTER of September 13, 1966, there was published a notice of a proposed amendment to § 32.31 and 33.4 of Title 50, Code of Federal Regulations. The purpose of this amendment is to provide public hunting of big game and sport fishing on the Flint Hills National Wildlife Refuge, as legislatively permitted.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received. The proposed amendment is hereby adopted without change.

Since this amendment benefits the public by relieving existing restrictions on hunting and fishing, it shall become effective upon publication in the FEDERAL REGISTER.

Sec. 10, 45 Stat. 1224, 16 U.S.C. 715i; sec. 4, 48 Stat. 451, 16 U.S.C. 718d; and sec. 4, 48 Stat. 402, 16 U.S.C. 664).

1. Section 32.31 is amended by the addition of the following area as one where hunting of big game is authorized.

§ 32.31 List of open areas; big game.

* * * * *

KANSAS

Flint Hills National Wildlife Refuge.

* * * * *

2. Section 33.4 is amended by the addition of the following area as one where sport fishing is authorized.

§ 33.4 List of open areas; sport fishing.

* * * * *

KANSAS

Flint Hills National Wildlife Refuge.

* * * * *

JOHN S. GOTTSCHALK,
Director.

OCTOBER 17, 1966.

[F.R. Doc. 66-11414; Filed, Oct. 18, 1966; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1103]

[Docket No. AO-346-A3]

MILK IN MISSISSIPPI MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Mississippi marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 5th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. 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 agreement and to the order as amended, were formulated, was conducted at Jackson, Miss., on September 13, 1966, pursuant to notice thereof which was issued August 18, 1966 (31 F.R. 11153).

The material issues on the record of the hearing relate to:

1. Qualifying standards for pool plants.
2. Diversion provisions and producer status of new dairy farmers entering the market.
3. Inventory classification.
4. Classification of transfers from pool plants to nonpool plants.
5. An appropriate Class I price level after October 1966.
6. Location differentials.
7. Miscellaneous and conforming changes.

The hearing notice indicated that since the Class I milk price provisions expire at the end of October 1966, a separate decision on the issue of Class I pricing was contemplated. To assure the continuation of an appropriate Class I milk price beyond that date, this decision deals only with Issue No. 5 and reserves the remaining issues for a later decision.

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

5. *Class I milk price.* The Class I differential should be $2.35 for the months of November 1966 through and including February 1967, and beginning in March 1967 should be $2.27 each month. The Class I price should be subject to a supply-demand adjustment based on the relationship of producer milk supplies and Class I sales of handlers.

Producers through their cooperative associations proposed that the Class I differential be $2.35 in all months of the year. While seasonal differentials stated in the order average $2.267, annually, proponents supported the higher level based on economic conditions in the market. In favor of the higher price they cited (1) the upward trend of milk sales in Mississippi in recent years, (2) higher costs for milk production, (3) increased economic activity in the State, which would support an upward trend in milk sales, and (4) increased opportunities for farmers to move into other enterprises.

Proponents would also eliminate the seasonal variation of the Class I differentials. They contended that the base plan provides sufficient encouragement for more level production.

The Mississippi milk order was made effective May 1, 1965. The marketing area is constituted of marketing areas previously regulated by the prior Mississippi Delta and Central Mississippi orders and part of the area which was regulated by the Gulf Coast order. The Class I differentials in the new order expire at the end of October 1966, which is the end of the initial 18-month period. It is necessary at this time, therefore, to establish a price level after October so as to maintain an adequate, but not excessive, supply of quality milk for the market.

The milk supply for the Mississippi market is produced primarily within the State. For the first 6 months of 1966, State milk production, including both Grade A and manufacturing grade milk, increased 1.6 percent compared to a year before. A producer witness testified that Grade A milk production in the State increased 4.5 percent in the first 6 months of 1966 over the same period last year. While these data reflect production in the State, not all of such milk production is associated as producer milk with this market.

Producer milk supply under the order increased 2.5 percent during the May–August period in 1966 compared with the same period last year. These are the only months for which comparison can be made under the new order.

Class I sales under the Mississippi order this year in the May–August period were 4.1 percent higher than last year. The percentage of producer milk used in Class I increased slightly, from 65.4 percent to 66.4 percent for the two periods. At no time since the order was made effective has the supply been less than fully adequate. Class I sales tend to change seasonally being highest in the school months of September through May. In 6 of these months, the percent of producer milk used in Class I exceeded 77 percent, the highest being 81 percent in February.

The milk supply situation for the Mississippi market is significantly related to the supply situation of the New Orleans market. The southern part of the production area for the market joins the production area for the New Orleans market. To a considerable degree, the milk supplies in this area are interchangeable between the two markets.

A producer representative, whose members primarily supply handlers regulated by the New Orleans order, testified that he shifts producers between the Mississippi and New Orleans markets in response to differences in blend prices between the markets. At times during the past year, the movement has been into the Mississippi market. The supply of reserve milk in the New Orleans market, therefore, is an important factor relating to the supply available for the Mississippi market.

The proportion of reserve milk in the New Orleans market has been greater than in the Mississippi market in each of the 12 months ending August 1966. For that period, the Class I utilization averaged 69 percent, 4 percentage points lower than the Class I utilization of the Mississippi market.[1]

The competition of the Memphis market for milk supplies in the State of Mississippi is evident in some northern areas of the State. A considerable portion of the Memphis marketing area lies within the State of Mississippi and joins the northern boundary of the Mississippi marketing area. The competition for supplies has been relatively local, and total milk supply throughout the Mississippi marketing area is sufficiently mobile to assure that adequacy of supply in this area is not jeopardized.

In view of the foregoing considerations, it is concluded that the milk supply available for the market is adequate both currently and prospectively.

The Class I price in the Mississippi order is established at Gulf Coast locations, with appropriate adjustments for

[1] Official notice is hereby taken of the "Statistical Summary and Comparison of Milk Receipts and Utilization" issued monthly by the New Orleans market administrator for the period September 1965 through August 1966.

other locations in the market. The price levels at the particular locations represent a continuation of the price levels of the former Gulf Coast, Central Mississippi, and Mississippi Delta orders. The Class I differentials at the Gulf Coast locations are $2.15 per hundredweight for the months of March through July and $2.35 in other months. The price is reduced 10 cents and 26 cents, respectively, for areas corresponding to the prior Central Mississippi and Mississippi Delta marketing areas.

Modifications of the Class I price formula for temporary periods since the inception of the order were made to reflect particular situations. For the first 3 months of the order, May, June, and July 1965, the lower seasonal differential was not used, so as to provide proper transitional pricing for the Delta area, which had not had seasonal pricing. For the period March 1966 through July of this year, the seasonal decline was abated due to emergency action of the Department on a national basis.

Since that time, the Class I formula has provided a higher level of prices due to the action of the basic formula price. The Class I price of $6.61 for September exceeds the Class I price of a year earlier by $1.01.[2] This price represents a higher level than any prior period of regulation. In view of the advance in the price produced by the Class I formula of the order, and the adequacy of supply, it is concluded that the higher price requested would not be appropriate.

The action of the basic formula price, which presently is well above the Department's support price for manufacturing milk, further sustains the Class I price level by the provision that such basic formula price shall be not less than $4 for the months through March 1967.

The Class I price differential should be continued at the present seasonal differential of $2.35 for the period November 1966 through February 1967. Beginning in March 1967 the Class I price each month should be established by adding a level differential of $2.27 to the basic formula price. The latter differential approximates the average, on an annual basis, of the seasonal differentials now in the order. It will provide, as near as is possible to determine, the same returns to producers as the seasonal differentials now stated in the order, and thus would establish a level of pricing which will assure the market of an adequate supply of milk. Producer representatives asserted that level Class I pricing rather than seasonal pricing would facilitate the marketing of their milk. They stated that level pricing would not present any problem in matters of relationship with other markets. Seasonal pricing has not applied in actual prices under Federal orders in Mississippi in recent years.

Supply-demand adjustor. It is anticipated that the Class I price provisions proposed herein will continue to assure the market of an adequate supply of quality milk. It is conceivable, however, that changes may occur in the relationship of milk supply to Class I sales. Thus, when milk supplies are more than adequate in relation to Class I sales, the Class I price should be lowered. Conversely, when the milk supply is less than adequate in relation to Class I sales, the Class I milk price should be increased.

A supply-demand adjustor is provided herein to make appropriate adjustments in relation to changes in supples and sales. It will make price adjustments promptly and automatically without the need for a public hearing each time an adjustment is warranted. Such adjustment is consistent with the criteria of the Agricultural Marketing Agreement Act, which requires that the prices established under the Act be reasonable in view of market supply and demand conditions, assure a sufficient quantity of pure and wholesome milk and be in the public interest. The automatic adjustment of Class I milk prices in response to changes in the relation between milk supplies and Class I sales is designed to carry out, in the market, the price objective of the Act through encouragement of supplies at the levels needed for fluid requirements.

The supply-demand adjustor provided herein:

(1) Reflects the pattern of production related to Class I sales for the market during the 15 months ending July 1966.

(2) Limits the monthly changes in the supply-demand adjustment, in specified months, to prevent contraseasonal price changes.

(3) Bases the adjustments on production and Class I sales data for the most recent three 2-month periods.

The contraseasonal provision was requested by a producer representative to prevent substantial price adjustments which are contrary to the usual seasonal movement of prices. This is a proper modification of the supply-demand adjustment to assure that any temporary adjustment is not inconsistent with normal seasonal movement of prices. In addition, the provision basing the adjustments on three 2-month periods will reflect current changes in the relationship between milk supplies and Class I sales. At the same time, it will provide a basis for identifying persistent changes from the "normal" relationship between milk supplies and Class I sales. In general, the mechanics provided herein are similar to those provided in the supply-demand adjustors of a number of other Federal milk orders.

The adjustor provides for a "current utilization percentage" by dividing the total pounds of producer milk in the second and third months preceding the pricing month by the total pounds of Class I milk. This computation, however, excludes interhandler transfers, and any intermarket transfers that would result in the same milk being accounted for the second time as Class I milk. In the operation of the supply-demand adjustor, the deviation of the current utilization percentage from a "standard utilization percentage" is the basis for price adjustment. The standard utilization percentage is based on the relationship of milk supplies to sales since the inception of the order.

Any amount by which the current utilization percentage is less than the "minimum standard utilization percentage" specified in the order is a "minus deviation percentage". Conversely, any amount by which the current utilization percentage exceeds the "maximum standard utilization percentage" specified in the order is a "plus deviation percentage". The range between the maximum and minimum standard utilization percentages is centered on utilization percentages for each month, which are computed from receipts of producer milk and total Class I sales for 2-month periods since the inception of the order.

For a minus deviation percentage, the Class I price should be increased, and for a plus deviation percentage it is decreased. The rate of adjustment for variations from the standard utilization percentages provided herein would be nominal when such variations first appear, but would be increased progressively as a variation of like direction and amount persisted through two or three consecutive 2-month periods. Such provision will avoid substantial price changes based on minor or nonrecurring deviations from the established norms.

Substantial price adjustment will, however, occur when undersupply or oversupply representing significant deviations from the established norms persist for a period of time. An exception to this is provided for the months of September, October, and November when the supply-demand adjustment for any of those months shall not be lower by more than 5 cents, than such adjustment for the immediately preceding month. For any month of April, May, or June, the supply-demand adjustment would not be higher, by more than 5 cents, than such adjustment for the immediately preceding month. This will avoid abrupt contraseasonal swings in the amount of the supply-demand adjustment.

The adjustment provisions are accomplished by providing that for each unit of deviation from the standard range the price shall be adjusted by 1 cent, plus 1 cent for each such percentage point for which there was a deviation of like extent and character in each of the first and second 2-month periods next preceding. Thus, the effect of the departure from the stated norms would be cumulative. The proposed adjustor would also bring the adjustment back to zero promptly, whenever the ratio of supply to sales again falls within the normal range.

Since the standard utilization percentages are based on actual data since May 1965, the proposed supply-demand adjustor would have made no adjustment in the Class I price since the inception of the order if it had been effective.

The attached order provides the adjustment would not be effective until October 1967. This will allow a period of observation of its action before its effective time.

[2] Official notice is hereby taken of the September 1966 Class I price announcement issued by the market administrator in which the basic formula price for August 1966 is reported as $4.26.

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

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

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

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

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

Recommended marketing agreement and order amending the order. The following order amending the order, as amended, regulating the handling of milk in the Mississippi marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

Section 1103.51(a) is revised to read as follows:

§ 1103.51 Class prices.

* * * * *

(a) *Class I milk price.* The minimum Class I milk price for the month shall be the basic formula price for the preceding month, plus $2.27 each month, plus or minus a supply-demand adjustment beginning in October 1967 computed pursuant to subparagraphs (1), (2), and (3) of this paragraph: *Provided,* That the Class I price for each of the months of November and December 1966 and January and February 1967 shall be the basic formula price for the preceding month plus $2.35.

(1) Divide the total pounds of producer milk in the second and third month preceding by the total pounds of Class I milk (excluding interhandler transfers and including any net intermarket transfers) in the same months of handlers fully regulated under this part, multiply the results by 100, and round to the nearest whole number. The result shall be known as the "current utilization percentage".

(2) Compute a "deviation percentage" as follows:

(i) If the current utilization percentage is neither less than the minimum standard utilization percentage specified below nor in excess of the maximum standard utilization percentage specified below, the deviation percentage is zero;

(ii) Any amount by which the current utilization percentage is less than the minimum standard utilization percentage specified below is a "minus deviation percentage";

(iii) Any amount by which the current utilization percentage exceeds the maximum standard utilization percentage specified below is a "plus deviation percentage".

Month for which price applies	Months used in computation	Standard utilization percentages	
		Minimum	Maximum
January	October-November	124	128
February	November-December	129	133
March	December-January	130	134
April	January-February	123	127
May	February-March	123	127
June	March-April	131	135
July	April-May	141	145
August	May-June	150	154
September	June-July	148	152
October	July-August	147	151
November	August-September	135	139
December	September-October	124	128

(3) For a "minus deviation percentage" the Class I price shall be increased and for a "plus deviation percentage" the Class I price shall be decreased as follows: *Provided,* That the supply-demand adjustment for any month of September, October, or November shall not be lower, by more than 5 cents, than such adjustment for the immediately preceding month; and for any month of April, May, or June of each year shall not be higher, by more than 5 cents, than such adjustment for the immediately preceding month:

(i) One cent times each such percentage unit of deviation; plus

(ii) One cent times the lesser of:

(*a*) Each percentage unit of deviation, or

(*b*) Each percentage unit of deviation of like direction (plus or minus, with any deviation percentage of opposite direction considered to be zero for purposes of computations of this subparagraph) computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; plus

(iii) One cent times the least of:

(*a*) Each percentage unit of deviation;

(*b*) Each percentage unit of deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; or

(*c*) Each percentage unit of deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the second preceding month.

* * * * *

Signed at Washington, D.C., on October 14, 1966.

S. R. SMITH,
Administrator.

[F.R. Doc. 66-11355; Filed, Oct. 18, 1966; 8:47 a.m.]

[7 CFR Part 1205]

COTTON RESEARCH AND PROMOTION

Procedure for Conduct of Referenda

Notice is hereby given that the Department of Agriculture, under the authority contained in section 15 of the Cotton Research and Promotion Act (80 Stat. 279), is considering the addition of a new subpart to Part 1205 of Title 7 of the Code of Federal Regulations, as set forth below.

This proposed new subpart would establish regulations for holding referenda among cotton producers to determine whether the issuance by the Secretary of Agriculture of a cotton research and promotion order, or the termination or suspension of such an order, is approved or favored by producers.

The Department now has under consideration a proposed cotton research and promotion order. A public hearing on the proposed order was completed on September 2, 1966, and a decision recommending establishment of the order was published in the FEDERAL REGISTER dated October 5 (31 F.R. 12956). A final decision on the order will not be made until the period for filing comments and exceptions on the recommended decision has expired and consideration has been given to any such comments and exceptions. If it is concluded in this final decision that the order should be issued, the Department will then announce a referendum among cotton producers.

Section 8 of the Cotton Research and Promotion Act provides that the Secretary shall conduct a referendum among persons who, during a representative period determined by the Secretary, have been engaged in the production of cotton for the purpose of ascertaining whether the issuance of an order is approved or favored by producers. It further provides that no order issued pursuant to this Act shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by the producers of not less than two-

thirds of the cotton produced during the representative period by producers voting in such referendum and by not less than a majority of the producers voting in such referendum.

All persons who desire to submit written data, views, or arguments in connection with the proposed regulations may file the same in quadruplicate with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 28, 1966. 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)).

Dated: October 14, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

Subpart—Procedure for the Conduct of Referenda in Connection With Cotton Research and Promotion Orders

Sec.

AUTHORITY: The provisions of this subpart issued under sec. 15, Cotton Research and Promotion Act (sec. 15, 80 Stat. 285).

§ 1205.200 General.

Referenda for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a cotton research and promotion order, or the termination or suspension of such an order, is approved or favored by producers shall, unless supplemented or modified by the Secretary, be conducted in accordance with this subpart.

§ 1205.201 Definitions.

(a) "Act" means the Cotton Research and Promotion Act (80 Stat. 279).

(b) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead and "Department" means the U.S. Department of Agriculture.

(c) "Consumer and Marketing Service" means the Consumer and Marketing Service of the Department.

(d) "Agricultural Stabilization and Conservation Service", also referred to as ASCS, means the Agricultural Stabilization and Conservation Service of the Department.

(e) "Administrator" means the Administrator of the Consumer and Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(f) "Deputy Administrator" means the Deputy Administrator or the Acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service.

(g) "State committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State Committee.

(h) "County committee" means the persons elected within a county as the county committee, pursuant to the regulations governing the selection and functions of the Agricultural Stabilization and Conservation county and community committees.

(i) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the Agricultural Stabilization and Conservation Service county office, or the person acting in such capacity.

(j) "State executive director" means the person employed by the State committee to execute the policies of the State committee and to be responsible for the day-to-day operations of the Agricultural Stabilization and Conservation Service State Office, or the person acting in such capacity.

(k) "Order" means the order (including an amendatory order) with respect to which the Secretary has directed that a referendum be conducted.

(l) "Representative period" means the period designated by the Secretary pursuant to section 8 of the act.

(m) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable, a State, political subdivision of a State, the Federal Government, or any agency thereof.

(n) "Upland cotton" means any cotton other than extra long staple cotton.

(o) "Engaged in the production." The term "engaged in the production" shall include planting an upland cotton crop even though the crop is not harvested if such failure to harvest is not caused by the neglect of the farmer. In addition,

(1) Except for a landlord of a standing rent, cash rent, or fixed rent tenant, each person sharing in an upland cotton crop, or proceeds thereof, on a farm as an owner, cash tenant, landlord of a share tenant, share tenant or sharecropper shall be considered engaged in the production of such crop.

(2) Each person who was either the owner or operator of a farm for which an acreage allotment for a crop of upland cotton was established pursuant to the Agricultural Adjustment Act of 1938, as amended, but on which such crop was not produced shall be deemed to be engaged in the production of such crop in the year in which such crop, if produced, would have been harvested if any acreage of such crop was deemed devoted to the crop for history purposes under applicable provisions of such law and he would have shared in such crop if it had been produced.

(p) "Producer" means any person engaged in the production of upland cotton.

§ 1205.202 Agencies through which a referendum shall be conducted.

(a) *Consumer and Marketing Service.* The Administrator shall:

(1) Determine the referendum period.

(2) Give reasonable advance notice of the referendum (i) by utilizing without advertising expense available media of public information (including, but not being limited to, press and radio facilities) serving the upland cotton producing areas, announcing the dates, places, or methods of voting, and other pertinent information, and (ii) by such other means as he may deem advisable.

(3) Provide ballots and related material to be used in the referendum to ASCS. The ballot (i) shall provide for recording essential information for ascertaining whether the person voting is an eligible voter, and (ii) may provide for recording the total amount of upland cotton produced by the producer during the representative period.

(4) Make available to producers through ASCS county committee instructions on voting, an appropriate ballot and, except in the case of a referendum on the termination or suspension of an order, a summary of the terms and conditions of the order. The instructions on voting shall explain the method to be used in determining the amount of upland cotton produced during the representative period and shall specify whether such amount is to be entered on the ballot by the voter, subject to the following terms and conditions:

(i) If a current production year for which harvesting has not been completed is designated as the representative period, the amount of upland cotton produced shall be determined by the office of the county committee on the basis of the acreage planted on the farm and projected lint yield per acre for the farm.

(ii) On farms in which more than one eligible voter is engaged in production, the vote cast by each voter shall represent only the amount of upland cotton that is his share of the crop, or proceeds thereof.

(iii) If an eligible voter is engaged in production of upland cotton on more than one farm he is entitled to only one vote but any vote cast by such voter shall represent the total amount of upland cotton that is his share of the crop, or proceeds thereof, on all such farms: *Provided*, That only farms for which records are maintained by the ASCS county office designated as the voter's polling place shall be considered unless the voter, prior to the referendum, establishes to the satisfaction of such county office his share of the crop, or proceeds thereof, on any additional farm or farms.

(iv) A person who is eligible to vote in the referendum and who did not have any planted acreage of upland cotton during the representative period, regardless of reason for not planting, may vote "yes" or "no" with respect to the order but such person's volume of production will be considered as zero (0).

(b) *Agricultural Stabilization and Conservation Service.* Except for the functions specified in paragraph (a) of this section, the Deputy Administrator shall be in charge of and responsible for conducting each referendum. Each State committee shall be in charge of and responsible for conducting such referendum in its State. Each county committee shall be responsible for the proper holding of such referendum in its county. It shall be the duty of each committee to conduct each referendum in a fair, unbiased and impartial manner in accordance with the regulations in this subpart.

§ 1205.203 Voting eligibility.

(a) *Special eligibility requirements.* Each person who was engaged in the production of upland cotton during the representative period shall be eligible to vote in a referendum.

(b) *General eligibility requirements.* (1) A person may qualify as an eligible voter by meeting the eligibility requirements, but no such person shall be entitled to more than one vote regardless of the number of upland cotton farms in which the person is interested or the number of communities, counties, or States in which are located farms in which such person is interested: *Provided, however,* That the individual members of a qualified partnership shall each have one vote, but the partnership as such shall not have a vote and an individual who qualifies as an eligible voter by reason of his separate farming operations will be entitled to one vote even though he is interested in an organization such as (but not limited to) a corporation which is also eligible as a voter and entitled to one vote. A person who, as a guardian, administrator, executor, or trustee engages in the production of upland cotton will be eligible to vote in such fiduciary capacity if, in such capacity, he qualifies as an eligible voter. In such cases the person for whom he is acting in a fiduciary capacity will not be eligible to vote. An individual may, if otherwise eligible, cast a ballot in his individual capacity although he may also cast a ballot as a guardian, administrator, executor, or trustee. An individual who holds more than one fiduciary position may vote as a fiduciary in each case in which he is otherwise eligible, as for example, if John Doe is administrator of estate X, he may cast a ballot as administrator of estate X, and if he is also administrator of estate Y, he may cast another ballot as administrator of estate Y.

(2) Where a group of several persons, such as husband, wife, and children, are engaged in the production of upland cotton under the same lease or cropping agreement only the person or persons who signed or entered into the lease or cropping agreement shall be eligible to vote. In the event two or more persons are engaged in the production of upland cotton as joint tenants, tenants in common, or owners of community property, each such person shall be entitled to one vote if otherwise qualified. Whether a husband or wife is entitled to vote does not depend upon whether the other spouse is eligible to vote. Eligibility to vote applies to each one individually. A wife is eligible to vote if she shares in the proceeds of the required crop as an owner, cash tenant, landlord of a share tenant, share tenant, or sharecropper. If a husband and wife are tenants or sharecroppers on a farm, jointly responsible under the rental or sharecropping agreement, both are eligible to vote. This is true whether the rental or sharecropping agreement is written, signed by both parties, or oral, provided both husband and wife made the oral agreement. A minor is not disqualified from voting solely because of his minority if otherwise eligible and he is not less than 18 years of age.

(c) *Voting by proxy prohibited.* There shall be no voting by proxy or agent but a duly authorized officer of a corporation, association, or other legal entity, may cast its vote.

§ 1205.204 Voting.

(a) *Place of voting.* The ASCS county office serving the county in which the producer's farm is located shall be his polling place.

(b) *Register of eligible voters.* The county committee shall establish a register of known eligible voters prior to the referendum.

(c) *Mailing of ballot to eligible voters.* The county committee shall furnish each eligible voter a ballot suitable for mailing back to the office of the county committee. If an eligible voter does not receive a ballot, he may obtain one during the referendum period from the office of the county committee for the county in which he is eligible to vote.

(d) *Returning ballot to office of the county committee.* Each person to whom a ballot is issued by mail or in person may vote in the referendum by completing and signing his ballot, placing it in the return postage-and-fees paid indicia envelope furnished by the county committee, and delivering or mailing it to the office of the county committee for the county in which he is eligible to vote. In order to be eligible for tabulation by the county committee, voted ballots must be received by the county committee of the county in which the voter is eligible to vote during the period established for holding the referendum. A ballot shall be considered to have been received during the referendum period if (1) in the case of a ballot delivered to the county committee, it was received in the office prior to the close of the work day on the final day of the referendum period, or (2) in the case of a mailed ballot, it was postmarked not later than midnight of the final day of the referendum period and was received in the county office prior to the start of canvassing the ballots.

(e) *Placing of ballots in ballot box.* Notwithstanding the fact that a ballot(s) may be later challenged by the county committee, envelopes containing ballots received at the ASCS county office during the referendum period shall remain unopened and shall be placed immediately in a ballot box provided by the county office manager. Such ballot box shall be arranged so that ballots cannot be read or moved without breaking the seal on the container.

§ 1205.205 Canvass of ballots.

(a) *Canvassing procedure.* Canvassing of returned ballots shall take place as soon as possible after the opening of the county office on the fifth day following the close of the referendum period. Such canvassing shall be in the presence of at least two members of the county committee. The county committee shall supervise the opening of the sealed ballot box, the opening of the envelopes containing the ballots and a determination as to (1) the number of eligible voters favoring the order and, where necessary, the amount of upland cotton represented by them, (2) the number of eligible voters disapproving the order and, where necessary, the amount of upland cotton represented by them, (3) the number of ballots cast by voters found to be ineligible to vote in the referendum, and (4) number of spoiled ballots.

(b) *Spoiled ballots.* A ballot shall be considered as a spoiled ballot if (1) it is mutilated or marked in such a way that it is not possible to determine with certainty how the ballot was intended to be counted, or (2) it does not contain the signature of the voter, or his properly witnessed mark.

(c) *Challenge of ballots.* A ballot may be challenged by any member of the county committee. Before a challenged ballot is either counted or declared invalid, a determination shall be made by the county committee as to the eligibility of the voter to vote in the referendum.

§ 1205.206 Reporting results of referendum.

(a) Each county committee shall transmit a written county summary of ballots showing the results of the referendum in its county to its State committee.

(b) Each State committee shall transmit a written summary of the referendum results from the county committees within its State to the Director, Cotton Division, Consumer and Marketing Service, Washington, D.C. 20250, and maintain one copy of the summary in the office of the State committee where it will be available for public inspection for a period of 5 years following the end of the referendum period.

(c) The Director of the Cotton Division shall prepare and submit to the Secretary a report as to the results of the referendum. The Secretary shall then publicly proclaim the results of the referendum.

§ 1205.207 Challenge of correctness of county summary of ballots.

The State committee shall make a prompt investigation and decision in case of any dispute or challenge regarding the correctness of the county summary of ballots in any county: *Provided,* That no dispute or challenge shall be investigated unless it is brought to the at-

tention of the State committee within 3 days after receipt by the State committee of the county summary of ballots from such county.

§ 1205.208 Disposition of ballots and records by county committee.

The county committee shall seal the voted ballots, challenged ballots found to be ineligible, spoiled ballots, register sheets, and summary sheets for the county in one or more envelopes or packages, plainly marked with the identification of the referendum, the date, and the names of the county and State, and place them under lock and key in a safe place under the custody of the county office manager for a period of 45 calendar days after the referendum period. If no notice to the contrary is received by the end of such time, and after the ballots and other records have been examined by a representative of the State committee, the voted ballots and challenged ballots shall be destroyed, but the registers and county summary sheets shall be filed for a period of 5 years in the office of the county committee.

§ 1205.209 Confidential information.

All ballots cast and the contents thereof shall be treated as confidential.

§ 1205.210 Additional instructions and forms.

The Deputy Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart for the use of State and county committees in conducting a referendum. Such additional instructions may include procedures for county and State committees to report and announce the results of the preliminary count of the votes in the county and the State.

[F.R. Doc. 66-11354; Filed, Oct. 18, 1966; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71]

[Airspace Docket No. 66-WA-7]

POSITIVE CONTROL AREA

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations which would raise the upper vertical extent of existing positive control area from flight level 600 to flight level 1,500.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. All communications received within 60 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed amendment. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments.

Positive control area is presently designated within the continental control area from flight level 240 to and including flight level 600 over the 48 conterminous States, excluding portions of the States of Texas, Washington, North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, New Hampshire, and Maine, and excluding some of the islands and keys in the coastal waters of the United States.

Flight operations above flight level 600 are presently conducted only by the military services and a limited number of civil operators under contract to the military services. The Department of Defense has expressed a need for air traffic control service above FL 600 to ensure the increased degree of safety which is provided within the positive control area. Safety considerations clearly require that military and civil supersonic aircraft operating above flight level 600 be provided individual separation from each other. Aircraft speeds, pilots' preoccupation with cockpit duties and limited visibility in this strata preclude the use of "see and avoid" type of separation. Further, the advent of the supersonic civil jet transport and the increasing military activity manifest the requirement to provide a positive control environment.

The experience gained by the provision of separation to the military and test flights which will operate above flight level 600 before the civil supersonic transports are in use will be invaluable in providing a high altitude traffic control service capable of supporting these aircraft as well as military supersonic operations.

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

Issued in Washington, D.C., on October 11, 1966.

WILLIAM E. MORGAN,
Acting Director, Air Traffic Service.

[F.R. Doc. 66-11323; Filed, Oct. 18, 1966; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 16927; FCC 66-915]

TABLE OF ASSIGNMENTS TV Broadcast Stations, Mount Clemens, Mich.

In the matter of amendment of § 73.606, Table of Assignments, TV Broadcast Stations, Mount Clemens, Mich., Docket No. 16927, RM-698.

1. On December 11, 1964, Wright and Maltz, Inc., filed a petition for rule making (RM-698) requesting the assignment of Channel 22 to Mount Clemens, Mich., by deleting it from Flint, Mich., and substituting Channel 76 in Flint. The petition contained no showing as to the petitioner's intention to apply for authority to construct and operate a TV station on the channel if the assignment were made. This petition was treated as a comment in Docket No. 14229 which was concerned with an overall revision of the assignment plan for UHF television broadcast channels but through inadvertence it was not disposed of formally in the fourth report and order in Docket No. 14229, adopted June 4, 1965 (FCC 65-504).

2. In the fourth report and order in Docket No. 14229, the Commission announced that new commercial assignments would not be made in cities of less than 25,000 population except where a prospective applicant had made an affirmative showing that it was prepared to go forward promptly with the construction and operation of a new UHF television broadcast station if a channel were made available and it were authorized to do so. Mount Clemens, with a population of only 21,016, was not included in the assignment plan adopted in the fourth report and order nor in the corrected assignment plan adopted in the fifth report and memorandum opinion and order in Docket No. 14229 adopted February 9, 1966 (2 FCC 2d 527). Channel 22 was assigned to Pontiac, Mich.

3. In the normal course of events, we would merely take action to dispose formally of the aforesaid petition. However, on April 26, 1966, the Commission authorized Station WJMY, Channel 20, Detroit, Mich., to move its transmitter site to a point north of the center of Detroit and in so doing reduced the geographic separation between the Channel 20 site and the Pontiac standard reference point to slightly over 12½ miles. The required geographic separation between stations on Channels 20 and 22 is 20 miles. Channel 22 will not meet the required separations if used at Pontiac. It has been found that Channel 22 may be used in an area to the east and northeast of Pontiac in full compliance with the geographic separation requirements. Mount Clemens lies in this area. Therefore, it is possible to salvage the use of this very valuable assignment for service to the Pontiac-Mount Clemens area by assigning it to Mount Clemens.

4. Accordingly, pursuant to the authority contained in sections 4 (i) and (j), 303, and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the Table of Assignments in § 73.606(b) of the Commission's rules and regulations in the following manner:

City	Delete	Add
Mount Clemens, Mich.		22
Pontiac, Mich.	22	

5. Pursuant to applicable procedures set out in § 1.415 of the Commission rules, interested parties may file com-

ments on or before November 21, 1966, and reply comments on or before December 1, 1966. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

6. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all written comments, replies, pleadings, briefs, or other documents shall be furnished the Commission.

Adopted: October 12, 1966.

Released: October 13, 1966.

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

[F.R. Doc. 66-11372; Filed, Oct. 18, 1966; 8:49 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MISSISSIPPI AND MICHIGAN

Designation and Extension of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Mississippi and Michigan natural disasters have caused a need for agricultural credit not readily avaliable from commercial banks, cooperative lending agencies, or other responsible sources.

MISSISSIPPI

Kemper.	Monroe.

MICHIGAN

Alcona.	Missaukee.
Antrim.	Montmorency.
Alpena.	Otsego.
Charlevoix.	Presque Isle.
Crawford.	Roscommon.
Huron.	Wexford.
Lake.	

It also has been determined that in the hereinafter-named counties in the State of Michigan natural disasters have caused a continuing need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Michigan	Original designation	Present extension
Arenac	30 F.R. 11735	
Cheboygan	30 F.R. 2414	30 F.R. 11735
Clare	30 F.R. 11735	
Emmet	30 F.R. 2414	30 F.R. 11735
Gladwin	30 F.R. 11735	
Iosco	30 F.R. 11735	
Kalkaska	30 F.R. 11735	
Lenawee	29 F.R. 13838	30 F.R. 11735
Monroe	29 F.R. 13838	30 F.R. 11735
Ogemaw	30 F.R. 7048	30 F.R. 11735
Oscoda	30 F.R. 11735	
Washtenaw	29 F.R. 13838	30 F.R. 11735

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1967, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 14th day of October, 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-11356; Filed, Oct. 18, 1966; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEVADA

Notice of Termination of Proposed Classification of Public Lands

The notice of proposed classification of public lands appearing as F.R. Doc. 66-7973, in the issue of July 22, 1966 (31 F.R. 10000-10002), is hereby terminated in so far as it relates to the following described lands:

MOUNT DIABLO MERIDIAN

T. 14 N., R. 19 E.,
Sec. 1, SE¼NE¼, E½SE¼.
T. 14 N., R. 20 E.,
Sec. 6, W½W½SE¼NE¼;
Sec. 7, NW¼NE¼, E½NE¼NW¼, SW¼NE¼NW¼, W½NW¼NE¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, N½SE¼SE¼NW¼, SE¼SE¼SE¼NW¼, lot 2 of SW¼.

The areas aggregate approximately 287 acres.

BOYD L. RASMUSSEN,
Director.

OCTOBER 13, 1966.

[F.R. Doc. 66-11329; Filed, Oct. 18, 1966; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-96; NDA No. 14-228]

ABBOTT LABORATORIES

Stendin Tablets; Notice of Opportunity for Hearing

Notice is hereby given to the applicant, Abbott Laboratories, North Chicago, Ill., that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 14-228 and all approved amendments and supplements thereto held by Abbott Laboratories for the drug Stendin Tablets (sustained-release tablets; 2.5 grains sodium salicylate and 7.5 grains aspirin per tablet) on the grounds that:

1. New information before the Food and Drug Administration with respect to such drug evaluated together with the evidence available when the application was approved show that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof, in that: new evidence concerning the clinical investigations of Stendin Tablets reported by Cass Research Associates, Inc., Cambridge, Mass., conducted under the sponsorship of and submitted by the applicant as evidence in said application of the effectiveness of the drug, and which were pertinent to the approval of said new-drug application, shows the presence of irregularities in the reports of these investigations of sufficient magnitude that such studies are not adequate as a basis on which it can fairly and responsibly be concluded, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

2. The new-drug application contains untrue statements of material fact. Specifically, the report of clinical investigations reported by Cass Research Associates, Inc., identified by Project Code No. 64-5-D dated November 3, 1964, and submitted by the applicant in said application as evidence of the effectiveness of the drug, contains untrue statements of material fact in that:

a. It contains the identification of a number of persons reported as being treated with the drug during the period of said investigations who in fact were not so treated. During all or part of the time pertinent to these investigations a significant number of these persons were not hospitalized at the institution where the investigations were allegedly conducted. Some of the persons reported as being treated were actually deceased.

b. It contains the identification of clinical conditions for which a number of persons were being treated with the drug, which conditions are not verified by the records of the institution where the investigations were allegedly conducted.

c. It omits full information concerning other relevant treatments, evidenced by the records of the institution where the investigations were allegedly conducted, given concurrently to patients reportedly being treated with the drug.

d. It omits full information on all relevant clinical conditions of the persons reported as being treated with the drug during these investigations.

e. It contains statements of adverse effects and useful results observed in a number of persons being treated with the drug, which observations for reasons specified in paragraphs a, b, c, and d above could not have been made.

In accordance with the provisions of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and the regulations appearing in Title 21, Code of Federal Regulations, Part 130, the Commissioner will give the applicant named above, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new-drug application No. 14-228 should not be withdrawn.

Within 30 days from the date of publication of this notice in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food and Drug Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application.

Failure of such persons to file such a written appearance of election within 30 days following the date of publication of this notice in the FEDERAL REGISTER will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public, except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued under the authority contained in the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052, as amended, 1055, as amended; 21 U.S.C. 355, 371) and delegated by the Secretary of Health, Education, and Welfare to the Commissioner (21 CFR 2.120; 31 F.R. 3008).

Dated: October 13, 1966.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 66-11361; Filed, Oct. 18, 1966; 8:48 a.m.]

B. F. GOODRICH CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 7B2096) has been filed by B. F. Goodrich Co., 500 South Main Street, Akron, Ohio 44318, proposing the issuance of a regulation to provide for the safe use of 2,2'-di-*tert*-butyl-4,4'-isopropylidenediphenol bis(*p*-nonylphenyl) phosphite as an antioxidant and/or stabilizer in certain polymers for food-contact use.

Dated: October 10, 1966.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 66-11362; Filed, Oct. 18, 1966; 8:48 a.m.]

DOW CHEMICAL CO.

Amended Notice of Filing of Petition for Food Additives

In the FEDERAL REGISTER of August 9, 1966 (31 F.R. 10616), notice was given that a petition had been filed by the Dow Chemical Co., Post Office Box 512, Midland, Mich. 48641, proposing the issuance of a regulation to provide for the safe use of meticlorpindol (3,5-dichloro-2,6-dimethyl-4-pyridinol) as an aid in the prevention of coccidiosis in growing chickens.

Notice is given, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), that said petition proposed the issuance of a regulation also to provide for the safe use for growing chickens of meticlorpindol in combination with arsanilic acid or 3-nitro-4-hydroxyphenyl arsonic acid, as an aid in the prevention of coccidiosis, and in either case, with or without penicillin, bacitracin, or a penicillin-bacitracin combination added for growth promotion and feed efficiency.

Dated: October 12, 1966.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 66-11363; Filed, Oct. 18, 1966; 8:48 a.m.]

DOW CHEMICAL CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 7B2097) has been filed by the Dow Chemical Co., Biochemical Research Laboratory, 1803 Building, Midland, Mich. 48640, proposing an amendment to § 121.2520 *Adhesives* to provide for the safe use of 1,2-dichloroethylene (mixed isomers) in the formulation of food-packaging adhesives.

Dated: October 10, 1966.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 66-11364; Filed, Oct. 18, 1966; 8:48 a.m.]

HAWAIIAN COCONUT PRODUCTS, INC.

Notice of Withdrawal of Petition for Food Additive Sorbitan Monostearate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Hawaiian Coconut Products, Inc., 5441 Opihi Street, Honolulu, Hawaii 96821, has withdrawn its petition (FAP 3A1131), notice of which was published in the FEDERAL REGISTER of September 11, 1964 (29 F.R. 12852), proposing the issuance of a regulation to provide for the safe use of sorbitan monostearate in combination with polysorbate 60(polyoxyethylene (20) sorbitan monostearate) as an emulsifier in coconut milk drink, whereby the level of each additive does not exceed 1,000 parts per million in the finished drink.

The withdrawal of this petition is without prejudice to a future filing.

Dated: October 12, 1966.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 66-11365; Filed, Oct. 18, 1966; 8:48 a.m.]

HOPCON INC.

Notice of Filing of Petition for Food Additive Methyl Alcohol

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 6A2038) has been filed by Hopcon Inc., 274 Madison Avenue, New York, N.Y. 10016, proposing that § 121.1044 *Methyl alcohol* be amended to provide for the safe use of methyl alcohol as a solvent in the extraction of hops. The methyl alcohol will not exceed 1.0 percent by weight of the hops extract for use in beer production.

Dated: October 10, 1966.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 66-11366; Filed, Oct. 18, 1966; 8:49 a.m.]

PACIFIC RESINS & CHEMICALS, INC.

Notice of Filing of Petition for Food Additive Triethylenetetramine

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 6B2048) has been filed by Pacific Resins & Chemicals, Inc., 3400 13th Avenue SW., Seattle, Wash. 98134, proposing an amendment to § 121.2542 *Polyamide-epichlorohydrin resins* to provide for use of triethylenetetramine to replace all or part of the diethylenetriamine used in formulating polyamide-epichlorohydrin resins used as components of articles intended for food-contact use.

Dated: October 10, 1966.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 66-11367; Filed, Oct. 18, 1966; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 16737, 16738; FCC 66M-1379]

ADIRONDACK TELEVISION CORP. AND NORTHEAST TV CABLEVISION CORP.

Order Continuing Hearing

In re applications of Adirondack Television Corp., Albany, N.Y.; Docket No. 16737, File No. BPCT-3511; Northeast TV Cablevision Corp., Albany, N.Y.; Docket No. 16738, File No. BPCT-3635; for construction permit for new television broadcast station (Channel 23).

It is ordered, This 12th day of October 1966, by the Hearing Examiner on his own motion, that the hearing in the above-entitled matter now scheduled for 10 a.m., October 17, 1966, is hereby rescheduled to commence at 10 a.m., Oc-

tober 20, 1966, in the Commission's offices, Washington, D.C.

Released: October 13, 1966.

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

[F.R. Doc. 66-11373; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket No. 16922; FCC 66-908]

AMERICAN HOMES STATIONS, INC. (WVCF)

Order Designating Application for Hearing on Stated Issues

In re application of American Homes Stations, Inc. (WVCF), Windermere, Fla.; Docket No. 16922, File No. BP-16643; Has: 1480 kc, 1 kw, Day, Class II; Requests: 1480 kc, 5 kw, DA-Day, Class III; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 12th day of October 1966;

1. The Commission has before it the above-captioned and described application for an increase in power for Station WVCF, Windermere, Fla., from 1 kw to 5 kw, daytime operation. The applicant also requests a site change from its present location to a location approximately 4 miles closer to Orlando, Fla.

2. According to the 1960 census, Windermere has a population of 576, and is located approximately 10.5 miles from the city limits of Orlando, Fla., population 88,135. The applicant's proposed 5 mv/m contour penetrates the geographic boundary of Orlando, thus raising a presumption that the applicant is realistically proposing to serve that city rather than Windermere. Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, adopted December 22, 1965, 2 FCC 2d 190, 6 RR 2d 1901.

3. In an amendment filed on April 7, 1966, the applicant submitted data and arguments in support of a grant of his proposal notwithstanding the above policy. However, after careful study of this material, the Commission finds that substantial and material questions are raised under the "Policy Statement" and that a hearing must be held to explore the matter further.

4. Except as indicated by the issues specified below, the applicant is qualified to construct, own, and operate as proposed but, in view of the foregoing, the Commission is unable to find that a grant of the application would serve the public interest, convenience, and necessity, and is of the opinion that it must be designated for hearing on the issues set forth below.

It is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WVCF and the availability of other primary service to such areas and populations.

2. To determine whether the proposal of WVCF will realistically provide a local transmission facility for Windermere or for Orlando, in the light of all the relevant evidence, including, but not limited to, the showing with respect to:

(a) The extent to which Windermere, Fla., has been ascertained by the applicant to have separate and distinct pro-

(b) The extent to which the needs of graming needs;

Windermere, Fla., are being met by existing standard broadcast stations;

(c) The extent to which the applicant's program proposal will meet the specific, unsatisfied programing needs of Windermere, Fla.; and

(d) The extent to which the projected sources of the applicant's advertising revenues within Windermere, Fla., are adequate to support the proposed station as compared with the projected sources from all other areas.

3. To determine, in the event that it is concluded pursuant to Issue 2 above, that the proposal of WVCF will not realistically provide a local transmission service for Windermere, Fla., whether the proposal meets all of the technical provisions of the rules, including §§ 73.30, 73.31, and 73.188(b) (1) and (2), for standard broadcast stations assigned to Orlando, Fla.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience, and necessity.

It is further ordered, That, in the event of a grant of the above application, the construction permit shall contain the following condition:

Pending a final decision in Docket No. 14419 with respect to presunrise operation with daytime facilities, the present provisions of § 73.87 of the Commission's rules are not extended to this authorization, and such operation is precluded.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Released: October 14, 1966.

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

[F.R. Doc. 66-11374; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket Nos. 16879-16881; FCC 66M-1380]

AUDUBON BROADCASTING CORP. ET AL.

Order Scheduling Hearing

In re applications of Audubon Broadcasting Corp., Westwego, La.; Docket No. 16879, File No. BP-17113; Holmes Broadcasting, Inc., Westwego, La.; Docket No. 16880, File No. BP-17114; West Jefferson Broadcasting, Inc., Gretna, La.; Docket No. 16881, File No. BP-17115; for construction permits.

A prehearing conference having been held on October 13, 1966;

It is ordered, This 13th day of October 1966, that this hearing shall be governed by the agreements and rulings appearing on the record of the said conference, and that hearing shall convene on January 9, 1967, at 10 a.m., in the offices of the Commission at Washington, D.C.

Released: October 13, 1966.

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

[F.R. Doc. 66-11375; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket No. 16928; FCC 66-922]

CALIFORNIA WATER AND TELEPHONE CO.

Order Instituting Investigation

In the matter of California Water and Telephone Co.; Docket No. 16928; Tariff FCC No. 1 and Tariff FCC No. 2 applicable to channel service for use by community antenna television systems.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 12th day of October 1966;

1. The Commission has under consideration:

(1) Tariff FCC No. 1 (effective July 29, 1966) and Tariff FCC No. 2 (effective Oct. 15, 1966) of California Water and Telephone Co. applicable to "Channel Service For Use By Community Antenna Television Systems" within the operating territory of the filing company in the State of California; and

(2) A telegraphic petition filed October 3, 1966, by the California Community Television Association requesting suspension and investigation of the aforementioned Tariff FCC No. 2 of California Water and Telephone Co.

[1] Chairman Hyde dissenting.

2. The above-mentioned telegraphic petition was filed with the Commission 12 days before the effective date of the tariff objected to rather than 14 days prior thereto as required by § 1.773 (47 CFR 1.773) of our rules, and will be dismissed for noncompliance therewith.

3. The Commission has reviewed the provisions in Tariff FCC No. 1 and Tariff FCC No. 2 of California Water & Telephone Co. and is of the opinion that there are numerous provisions therein that do not appear to be in conformance with the form and content requirements of Part 61 (47 CFR Part 61) of the Commission's rules and that the provisions of both tariffs present substantive questions as to whether these tariffs are lawful within the meaning of sections 201(b), 202(a), and 203 of the Communications Act of 1934, as amended.

4. The Commission is unable to determine at this time whether or not such tariffs are or will be just and reasonable or otherwise lawful and is concerned that, if the aforementioned Tariff FCC No. 2 of California Water and Telephone Co. is permitted to become effective on the date specified thereon, substantial injury to the public may result therefrom. Pending hearing and decision thereon, the Commission is of the opinion that the proposed Tariff FCC No. 2 should be suspended in order to avoid any substantial injury to the public;

5. In view of the foregoing: *It is ordered*, That pursuant to the provisions of sections 201, 202, 203, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of Tariff FCC No. 1 and Tariff FCC No. 2 of the California Water & Telephone Co.;

6. *It is further ordered*, That pursuant to the provisions of section 204 of the Communications Act of 1934, as amended, the effectiveness of the aforementioned Tariff FCC No. 2 is suspended until January 15, 1967;

7. *It is further ordered*, That, without in anyway limiting the scope of the investigation, it shall include consideration of the following:

(1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of section 201(b) of the Act;

(2) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons, to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of section 202(a) of the Act;

(3) Whether the aforesaid tariffs conform to the requirements of section 203 of the Act and Part 61 of our rules implementing that section;

(4) If any of such charges, classifications, practices, and regulations are found to be unlawful, whether the Commission should prescribe charges, classifications, practices, and regulations for the service governed by the tariffs, and if so, what should be prescribed;

8. *It is further ordered*, That a hearing be held in this proceeding at the Commission's offices in Washington, D.C., at a time to be specified; and that the examiner to be designated to preside at the hearing shall certify the record, without preparation of an initial or recommended decision, and the Chief of the Common Carrier Bureau shall thereafter issue a recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276, and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282;

9. *It is further ordered*, That the petition of the California Community Television Association for suspension and investigation of Tariff FCC No. 2 of California Water and Telephone Co., is dismissed for noncompliance with § 1.773 of the Commission's rules; and

10. *It is further ordered*, That California Water and Telephone Co. is made a party respondent hereto, and that the California Community Television Association shall be granted leave to intervene upon the filing of a notice of intention to appear and participate within 20 days of the release date of this order.

Released: October 13, 1966.

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

[F.R. Doc. 66-11376; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket No. 16928; FCC 66M-1384]

CALIFORNIA WATER AND TELEPHONE CO.

Order Scheduling Hearing

In the matter of California Water and Telephone Co.; Docket No. 16928; Tariff FCC No. 1 and Tariff FCC No. 2, applicable to channel service for use by community antenna television systems.

It is ordered, This 13th day of October 1966, that Charles J. Frederick shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on November 17, 1966, at 10 a.m.; and that a prehearing conference shall be held on October 28, 1966, commencing at 9 a.m.; *And, it is further ordered*, That all proceedings shall be held in the Offices of the Commission, Washington, D.C.[1]

Released: October 13, 1966.

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

[F.R. Doc. 66-11377; Filed, Oct. 18, 1966; 8:49 a.m.]

[1] An expedited hearing in this proceeding is indicated, in view of the following language in the Commission's order of hearing designation: *It is further ordered*, That pursuant to the provisions of section 204 of the Communications Act of 1934, as amended, the aforementioned Tariff FCC No. 2 is suspended until Jan. 15, 1967;

[Docket No. 15668, 15708; FCC 66M-1377]

CHICAGOLAND TV CO. AND CHICAGO FEDERATION OF LABOR AND INDUSTRIAL UNION COUNCIL

Order Scheduling Further Prehearing Conference

In re applications of Frederick B. Livingston and Thomas L. Davis, doing business as Chicagoland TV Co., Chicago, Ill.; Docket No. 15668, File No. BPCT-3116; Chicago Federation of Labor and Industrial Union Council, Chicago, Ill.; Docket No. 15708, File No. BPCT-3439; for construction permit for new television broadcast station.

A hearing conference having been held on October 12, 1966;

It appearing, that certain pleadings are to be filed expeditiously, and that the disposition thereof will clarify the course of further proceedings;

It is ordered, This 12th day of October 1966, that further hearing conference herein shall convene on October 26, 1966, commencing at 9 a.m., in the offices of the Commission at Washington, D.C.

Released: October 12, 1966.

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

[F.R. Doc. 66-11378; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket Nos. 16340, 16341; FCC 66M-1387]

EDGEFIELD-SALUDA RADIO CO. (WJES) AND WQIZ, INC. (WQIZ)

Order After Prehearing Conference

In re applications of Franklin D. R. McClure, Jessie Claude Casey, James H. Satcher, and Van E. Edwards, Jr., doing business as the Edgefield-Saluda Radio Co. (WJES), Johnston, S.C.; Docket No. 16340, File No. BP-16489; WQIZ, Inc. (WQIZ), Saint George, S.C.; Docket No. 16341, File No. BP-16625; for construction permits.

The Hearing Examiner having under consideration the proceedings during today's prehearing conference in the above remand matter;

It is ordered, This 14th day of October 1966, that the further hearing in the instant proceeding will convene at 10 a.m., on Tuesday, October 25, 1966, at the Commission's offices, Washington, D.C.; and

It is ordered further, That the suggestions and requests of the Hearing Examiner as set forth in the transcript of the prehearing conference will be carefully observed by the parties and their attorneys.

Released: October 14, 1966.

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

[F.R. Doc. 66-11379; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket Nos. 16794, 16795; FCC 66M-1385]

LYNN MOUNTAIN BROADCASTING AND WBEJ, INC.

Order Continuing Hearing

In re applications of Roy C. Nelson, Fred P. Davis, William E. Hale, and C. M. Taylor doing business as Lynn Mountain Broadcasting, Elizabethton, Tenn.; Docket No. 16794, File No. BPH-5193; WBEJ, Inc., Elizabethton, Tenn.; Docket No. 16795, File No. BPH-5260; for construction permits.

The Hearing Examiner having under consideration a motion for continuance filed by WBEJ, Inc. on October 12, 1966;

It appearing, that because of illness one of the principals in WBEJ has been unable to assist in preparation of exhibits in order to meet the exchange date of October 12. It is now requested that the Examiner change the schedule to provide for exhibit exchange on November 2, notification of witnesses on November 7, and commencement of hearing on November 15, 1966; and

It further appearing, that counsel for all parties have consented to an immediate grant of this motion;

It is ordered, This 13th day of October 1966, that the motion of WBEJ, Inc. is granted as requested except that the date for commencement of hearing is continued from October 25 to November 17, 1966.

Released: October 14, 1966.

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

[F.R. Doc. 66-11380; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket No. 16867]

TAXICAB RADIO SERVICE

Order Extending Time for Filing Comments

In the matter of inquiry into the requirement of the Taxicab Radio Service for all of the frequencies available within Standard Metropolitan Areas of 50,000 or more population in the 152 and 157 Mc/s bands; Docket No. 16867.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a request filed by the American Taxicab Association and the National Association of Taxicab Owners for extension of time for filing comments in the above-entitled proceeding. The prescribed time for filing comments expires on October 17, 1966. The petitioners have requested that this time be extended to December 1, 1966.

2. In support of their request, the petitioners state that additional time is required to gather the detailed information requested by the Commission concerning the current use of the frequencies allocated to the taxicab industry, and the industry's future requirements.

3. In view of the foregoing: *It is ordered*, This 13th day of October 1966, pursuant to § 0.331(b) (4) and 1.46 of the Commission's rules, that the above-described request of the American Taxicab Association and the National Association of Taxicab Owners is granted and that the time for filing comments in the above-entitled proceeding is extended to December 1, 1966.

Released: October 14, 1966.

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

[F.R. Doc. 66-11381; Filed, Oct. 18, 1966; 8:49 a.m.]

[Docket No. 16612; FCC 66M-1386]

STAR STATIONS OF INDIANA, INC.

Order Following Hearing Conferences

In re applications of Star Stations of Indiana, Inc., Docket No. 16612, File No. BR-1144, BRH-1276; for renewal of licenses of Stations WIFE AM-FM, Indianapolis, Ind.

Since issuance of the Commission's memorandum opinion and order of October 7, 1966, denying applicant's petition for reconsideration (FCC 66-887), two prehearing conferences have been held, one on October 12th and the other on October 13th. On the basis of the discussions held at these conferences, the particulars of which are to be found in the transcripts of the conferences, the Examiner takes the action framed in the ordering clause below. Other matters germane to the forthcoming hearing were discussed at these conferences. To the extent that these discussions resulted in binding agreements and understanding between counsel and the Examiner affecting future course of hearing they will be covered by subsequent order following receipt of transcript.

Accordingly, it is ordered, This 13th day of October 1966, that hearing now scheduled to be held on October 26, 1966, in Indianapolis, Ind., is continued, without change of place, to November 7, 1966.

Released: October 14, 1966.

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

[F.R. Doc. 66-11382; Filed, Oct. 18, 1966; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

SEATRAIN LINES, INC., AND MOORE-McCORMACK LINES, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of Agreement Filed for Approval by:

Mr. Harvey M. Flitter, Assistant Traffic Manager, Seatrain Lines, Inc., 595 River Road, Edgewater, N.J.

Agreement 9583, between Seatrain Lines, Inc., and Moore-McCormack Lines, Inc., establishes a through billing arrangement in the trade from Puerto Rico to Norway, Holland, Denmark, Belgium, Sweden, Poland, and Finland, with transshipment at the port of New York, N.Y., in accordance with the terms and conditions set forth in the agreement.

Dated: October 14, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-11340; Filed, Oct. 18, 1966; 8:46 a.m.]

U.S. FLAG OCEAN CARRIERS 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:

O. W. Koke, Secretary, Pro Tem, 80 Broad Street, 34th Floor, New York, N.Y. 10004.

Agreement No. 9584, which cancels and supersedes Agreement No. 9578, notice of which appeared in the FEDERAL REGISTER of October 1, 1966, provides that the six American Flag lines may from time to time meet, discuss, and agree between

themselves upon rates, terms and conditions, and other matters relating to the carriage of cargoes of military or State Department household goods, personal effects, and unaccompanied baggage originating with the U.S. Department of Defense or U.S. Department of State and moving under Department of Defense or State Department through Government bills of lading executed by trucklines, household movers, railroads and/or regulated or nonregulated freight forwarders operating under rate and service tenders approved by either Department. The Agreement covers movements from and to ports on the U.S. Atlantic, Great Lakes or Gulf of Mexico and ports in the Bordeaux/Hamburg Range in Europe and in the United Kingdom and Eire.

Dated: October 14, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-11341; Filed, Oct. 18, 1966; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-5766, etc.]

CONTINENTAL OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 11, 1966.

Take notice that each of the Applicants listed herein has filed an application or petiton pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 3, 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 or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petiton for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

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

JOSEPH H. GUTRIDE,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-5766 C 8-19-66	Continental Oil Co. (Operator), et al.,[1] Post Office Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., Langlie-Mattix and Cooper-Jal Fields, Lea County, N. Mex.	10.0	14.65
G-12302 E 10-3-66	Grande Oil Co. (successor to Emerald Oil & Carbonic Co. (Operator), et al.), 1920 Alamo National Bldg., San Antonio, Tex. 78205.	Texas Eastern Transmission Corp., Salem Field, Victoria County, Tex.	13.8733	14.65
G-13103 C 10-3-66	Aztec Oil & Gas Co., 2000 First National Bank Bldg., Dallas, Tex. 75202.	Southern Union Gathering Co., Basin Dakota Pool, San Juan County, N. Mex.	13.0	15.025
G-16199 9-30-66 [2]	Banquete Gas Co., a division of Crestmont Oil & Gas Co. (formerly Banquete Gas Co., a division of Crestmont Consolidated Corp.), 2622 Mission St., San Marino, Calif. 91108.	United Gas Pipe Line Co., Plymouth and East Taft Fields, San Patricio County, Tex.	12.0	14.65
G-16218 D 10-3-66	Gulf Oil Corp. (Operator), et al., Post Office Box 1589, Tulsa, Okla. 74102.	Transwestern Pipeline Co., Southeast Gage Field, Ellis County, Okla.	(3)	----
G-17199 9-30-66 [2]	Banquete Gas Co., a division of Crestmont Oil & Gas Co. (formerly Banquete Gas Co., a division of Crestmont Consolidated Corp.).	United Gas Pipe Line Co., Spartan and Odem Fields, San Patricio County, Tex.	13.0	14.65
CI60-444 E 9-23-66	Tri Gas Co. (successor to James H. Helland (Operator), et al., Pettus, Tex. 78146.	Trunkline Gas Co., Bryne Field, Bee County, Tex.	12.25	14.65
CI60-625 9-30-66 [2]	Banquete Gas Co., a division of Crestmont Oil & Gas Co. (formerly Banquete Gas Co., a division of Crestmont Consolidated Corp.).	United Gas Pipe Line Co., acreage in San Patricio County, Tex.	13.0	14.65
CI61-397 D 10-3-66	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Kings Ridge Field, Lafourche Parish, La.	Uneconomical	----
CI61-487 C 8-22-66	Ferrell L. Prior d.b.a. Prior Oil & Gas Co., Post Office Box 590, Spencer, W. Va. 25276.	Equitable Gas Co., West Union District, Doddridge County, W. Va.	25.0	15.325
CI61-1147 C 10-3-66	Sunray DX Oil Co., Post Office Box 2039, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., Various Fields, Alfalfa, Dewey, Major, Woods, and Woodward Counties, Okla.	17.0	14.65
CI62-1219 C 10-3-66	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., Laverne Gas Area, Harper County, Okla.	[4] 18.5	14.65
CI63-875 D 9-29-66 [5]	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001.	Lone Star Gathering Co., Speary Field, Karnes County, Tex.	Assigned [5]	----
CI66-470 C 9-22-66	Sunray D__ Oil Co	Arkansas Louisiana Gas Co., Arkoma Area, LeFlore, Latimer, Pittsburg, and Haskell Counties, Okla.	15.0	14.65
CI66-763 C 9-29-66	Samedan Oil Corp. (Operator), et al., Post Office Box 909, Ardmore, Okla. 73401.	Panhandle Eastern Pipe Line Co., Greensburg Field, Woods County, Okla.	15.0	14.65
CI66-952 C 9-29-66	Joseph S. Gruss (Operator), et al., 30 Broad St., New York, N.Y. 10004.	El Paso Natural Gas Co., Ignacio-Blanco Mesa Verde Field, La Plata County, Colo.	13.0	15.025
CI66-988 C 10-6-66	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	Panhandle Eastern Pipe Line Co., South Feldman Field, Hemphill County, Tex. and South Bishop Field, Ellis County, Okla.	[6] 17.0	14.65
CI67-357 A 9-26-66	J. C. Barnes Oil Co. (Operator), et al.,[7] Post Office Box 505, Midland, Tex. 79701.	Michigan Wisconsin Pipe Line Co., West Campbell Field, Major County, Okla.	15.0	14.65
CI67-358 A 9-27-66	U.S. Natural Gas Corp., 9601 Wilshire Blvd., Beverly Hills, Calif. 90210.	Colorado Interstate Gas Co., Desert Springs Area, Sweetwater County, Wyo.	15.0	14.65
CI67-359 A 9-28-66	Texaco Inc.,[8] Post Office Box 52332, Houston, Tex. 77052.	Michigan Wisconsin Pipe Line Co., Putnam Field, Dewey County, Okla.	[6] 15.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession

See footnotes at end of table.

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

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI67-360 A 9-28-66	Prenalta Corp. (Operator), et al., Post Office Box 2514, Casper, Wyo. 82602.	Colorado Interstate Gas Co., Desert Springs Area, Sweetwater County, Wyo.	15.0	14.65
CI67-361 A 9-28-66	Mesa Petroleum Co., Operator, 1501 Taylor St., Amarillo, Tex. 79105.	Natural Gas Pipeline Co. of America, Upper Morrow Field, Hansford County, Tex.	17.0	14.65
CI67-362 A 9-28-66	Kimbark Exploration, Ltd., 201 University Blvd., Denver, Colo. 80206.	Kansas-Nebraska Natural Gas Co., Inc., Cayuse Field, Logan County, Colo.	10.0	16.4
CI67-363 (CI64-1375) F 9-29-66	Sinclair Oil & Gas Co. (successor to Magna Oil Corp.), Post Office Box 521, Tulsa, Okla. 74102.	Lone Star Gas Co., Delaware Bend Field, Cooke County, Tex.	14.0	14.65
CI67-366 (G-16874) F 9-27-66	Tamarack Petroleum Co., Inc. (successor to Robert K. Kimberlin, Jr.[9]), 413 First Savings & Loan Bldg., Midland, Tex. 79701.	Northern Natural Gas Co., Buckhorn (Ellenburger) Field, Crockett County, Tex.	[10] 11.0	14.65
CI67-367 A 9-29-66	Monsanto Co., 1300 Main St., Houston, Tex. 77002.	Panhandle Eastern Pipe Line Co., Northeast Waynoka Field, Woods County, Okla.	[8] 17.0	14.65
CI67-368 B 9-29-66	Cleary Petroleum, Inc., 310 Kremae Bldg., Oklahoma City, Okla. 73102.	Michigan Wisconsin Pipe Line Co., Laverne Area, Woodward County, Okla.	Uneconomical	----------
CI67-369 B 9-30-66	R. H. Burns (Operator), et al.	Cities Service Gas Co., Canyon Creek Pool, Osage County, Okla.	Uneconomical	----------
CI67-370 A 9-30-66	Graham-Michaelis Drilling Co., 211 North Broadway, Wichita, Kans. 67202.	Michigan Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla.	[8] 17.0	14.65
CI67-371 A 9-30-66	Continental Oil Co.	Natural Gas Pipeline Co. of America, Northeast Fort Supply Area, Harper County, Okla.	[6] 17.0	14.65
CI67-372 A 9-30-66	Pennzoil Co., 54 Boylston St., Bradford, Pa. 16701.	Pennsylvania Gas Co., Cooper Field, Sheffield Township, Warren County, Pa.	27.0	15.025
CI67-373 A 10-3-66	Lock 3 Oil, Coal & Dock Co., et al., 415 Porter Bldg., Pittsburgh, Pa. 15219.	Cumberland and Allegheny Gas Co., Warren District, Upshur County, W. Va.	25.0	15.325
CI67-374 [11] A 10-3-66	Gulf Oil Corp.	Panhandle Eastern Pipe Line Co., Southeast Gage and Tangiers Fields, Ellis and Woodward Counties, Okla.	[12] 17.986	14.65
CI67-375 B 10-3-66	Vincent & Welch, Inc. (Operator), et al., 900 Pioneer Bldg., Lake Charles, La. 70601.	Transcontinental Gas Pipe Line Corp., Grand Coulee Field, Acadia Parish, La.	Depleted	----------
CI67-376 B 10-3-66	Kilroy Co. of Texas, Inc. (Operator), et al., c/o W. H. Drushel, Jr., attorney, Vinson, Elkins, Weems & Searls, First City National Bank Bldg., Houston, Tex. 77002.	Texas Eastern Transmission Corp., Aldine Field, Harris County Tex.	Depleted	----------
CI67-377 B 10-3-66	Kilroy Properties, Inc., c/o W. H. Drushel, Jr., Attorney, Vinson, Elkins, Weems & Searls, First City National Bank Bldg., Houston, Tex. 77002.	Texas Eastern Transmission Corp., Dolly Field, Newton County, Tex.	[13]	----------
CI67-378 B 10-3-66	Southwestern Exploration Consultants, Inc. (Operator), et al., 404 Local Federal Bldg., Oklahoma City, Okla. 73102.	Lone Star Gas Co., acreage in Jefferson County, Okla.	Depleted	----------
CI67-379 B 9-28-66	Sunset International Petroleum Corp., et al., 8920 Wilshire Blvd., Beverly Hills, Calif. 90201.	Kansas-Nebraska Natural Gas Co., Inc., Little Hoot and Cement Fields, Logan County, Colo.	Depleted	----------
CI67-380 B 9-28-66	Sunset International Petroleum Corp.	Cities Service Gas Co., acreage in Lincoln County, Okla.	Depleted	----------
CI67-381 A 10-4-66	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	Northern Natural Gas Co., acreage in Woodward and Ellis Counties, Okla.	[8] 17.0	14.65
CI67-382 B 10-4-66	E. Dunlap, Jr., Post Office Box 1888, Ardmore, Okla. 73401.	Lone Star Gas Co., East Hewitt Field, Carter County, Okla.	Depleted	----------
CI67-383 B 10-3-66	Texaco, Inc.	do	Depleted	----------
CI67-384 A 10-5-66	Slats Honeymon Drilling Co., Post Office Box 94413, Oklahoma City, Okla. 73109.	Northern Natural Gas Co., Fort Supply, Southwest Field, Ellis County, Okla.	[8] 17.0	14.65
CI67-386 A 10-6-66	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Natural Gas Pipeline Co of America, Camrick Field, Beaver and Texas Counties, Okla.	17.0	14.65

[1] Applicant states its willingness to accept authorization for the additional acreage containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[2] Amendment to certificate filed to reflect change in corporate name.
[3] No sales have been made by Applicant to Transwestern from the deleted acreage. Petitioner proposes to dedicate production from the subject acreage to a contract with Panhandle Eastern Pipe Line Co. which is the subject of the application filed in Docket No. CI67-374.
[4] Subject to upward and downward B.t.u. adjustment. Includes 1.5 cents upward adjustment.
[5] Applicant assigned all of its right, title, and interest from the surface to a depth of 9,720 feet to H. D. Bruns who has filed for a certificate covering this interest in Docket No. CI67-246.
[6] Subject to upward and downward B.t.u. adjustment.
[7] Applicant states its willingness to accept permanent certificate conditioned similar to the sales certificated in Opinion No. 353.
[8] Applicant states its willingness to accept permanent certificate conditioned to 15 cents per Mcf at 14.65 p.s.i.a.
[9] Successor in interest to Willets & Craig.
[10] Rate in effect subject to refund in Docket No. RI64-666.
[11] Production from a portion of the subject acreage has heretofore been dedicated to Transwestern Pipeline Co. and sales therefrom have been authorized in Docket No. G-16218 to be made pursuant to Applicant's FPC GRS No. 196. Applicant has filed a petition to amend the order issuing a certificate in Docket No. G-16218 by deleting authorization to sell gas to Transwestern from the subject acreage.
[12] Subject to upward and downward B.t.u. adjustment. Includes 0.986 cent estimated upward adjustment.
[13] Well covered by subject contract has stopped producing gas and has been reclassified as an oil well.

[F.R. Doc. 66-11324; Filed, Oct. 18, 1966; 8:45 a.m.]

[Docket No. G-10181, etc.]

HOUSTON NATURAL GAS PRODUCTION CO. ET AL.

Order Amending Orders

OCTOBER 11, 1966.

Houston Natural Gas Production Co. (a Deleware corporation) (formerly Morgan Minerals Corp.) (successor to Houston Natural Gas Production Co.) (a Texas corporation), Docket No. G-10181, et al.

Order amending orders issuing certificates of public convenience and necessity, redesignating proceedings, redesignating FPC gas rate schedules, and requiring filing of agreements and undertakings.

On July 25, 1966, Houston Natural Gas Production Co., a Delaware corporation (Houston Delaware), formerly Morgan Minerals Corp., filed applications to amend the orders issuing certificates of public convenience and necessity to Houston Natural Gas Production Co., a Texas corporation (Houston Texas), by authorizing Houston Delaware to continue sales of natural gas heretofore authorized to be made by Houston Texas, all as more fully set forth in the applications and in the Appendix below.

Effective July 1, 1966, Morgan Minerals Corp., a Delaware corporation, merged into Houston Texas and simultaneously changed its own name to that of the merged corporation. Houston Delaware has assumed the obligations and responsibilities of Houston Texas and requests that it be authorized to continue those sales heretofore authorized to be made by Houston Texas and that its own certificates and rate schedules be redesignated to reflect the change in name.

After due notice no petition to intervene, notice of intervention or protest to the granting of the applications herein has been received.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates to Houston Texas and Morgan Minerals Corp. should be amended as hereinafter ordered and that the related FPC gas rate schedules and pending proceedings should be redesignated accordingly.

The Commission orders:

(A) The orders issuing certificates of public convenience and necessity to Houston Texas are amended by authorizing Houston Delaware to continue the sales of natural gas therein authorized, and in all other respects said orders shall remain in full force and effect.

(B) The orders issuing certificates to Morgan Minerals Corp. are amended by changing the name of the certificate holder to "Houston Natural Gas Production Company," and in all other respects said orders shall remain in full force and effect.

(C) The FPC gas rate schedules of Houston Texas and Morgan Minerals Corp. are redesignated as those of Houston Delaware, and the notices of

succession to Houston Texas' rate schedules submitted by Houston Delaware are accepted for filing effective as of July 1, 1966.

(D) Those proceedings in which Houston Texas and Morfgan Minerals Corp. are Applicant or Respondent are redesignated to reflect the succession of interest and change of name.

(E) Within 30 days from the issuance of this order Houston Delaware shall execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Docket Nos. RI63–316 and RI65–588 to assure the refunds of any amounts collected, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, said agreements and undertakings shall be deemed to have been accepted for filing.

(F) Houston Delaware shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreements and undertakings filed by Houston Delaware in Docket Nos. RI63–316 and RI65–588 shall remain in full force and effect until discharged by the Commission.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

Certificate docket No.	Former designation	New designation	Rate proceeding docket No.
	Houston Natural Gas Production Co. (a Texas corporation), FPC GRS No.	*Houston Natural Gas Production Co. (a Delaware corporation), FPC GRS No.*	
G–12797	[1] 2	[1] 2	
G–12797	4	4	
CI62–1053	5	5	
CI63–1561	6	6	
G–19546	[1] 7	[1] 7	
G–19546	[1] 8	[1] 8	RI63–316.
G–19546	[1] 9	[1] 9	
G–19546	[1] 10	[1] 10	
G–19546 [2]	[1] 11	[1] 11	
CI61–212	12	12	RI65–588.
CI62–1023	[1] 13	[1] 13	
CI64–1314	14	14	
CI64–1314	15	15	
G–20054	[1] 16	[1] 16	
G–10181	[1] 17	[1] 17	RI63–326.
	Morgan Minerals Corp., FPC GRS No.		
G–12020	2	18	G–17345.[3]
G–12021	3	19	
G–19628	[1] 4	[1] 20	
G–19629	[1] 5	[1] 21	
G–19630	[1] 6	[1] 22	
CI61–648	7	23	
G–20504	8	24	

[1] "(Operator), et al."
[2] The notice issued Aug. 24, 1966, in Docket No. G–3270, et al., incorrectly stated that this sale is made to Transcontinental Gas Pipe Line Corp. from the South Mineral Unit, Mineral Field, Bee County, Tex. The sale is, in fact, made to Texas Eastern Transmission Corp., from the Yoward Field, Bee County, Tex.
[3] Consolidated in the proceeding in Docket No. AR64–2, et al.

[F.R. Doc. 66–11325; Filed, Oct. 18, 1966; 8:45 a.m.]

[Project 2609]

INTERNATIONAL PAPER CO.

Notice of Application for License for Constructed Project

OCTOBER 11, 1966.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by International Paper Co. (correspondence to: Paul B. Carroll, Secretary, International Paper Co., 220 East 42d Street, New York, N.Y. 10017) for constructed Project No. 2609, known as the Palmer Falls Project, located on the Hudson River in the region west of Glen Falls and at the villages of Corinth, Hadley, and Palmer in the towns of Corinth and Hadley in Saratoga County, and the village of Lake Luzerne in the town of Luzerne, in Warren County—all in the State of New York.

The existing Palmer Falls Project consists of two developments known as the Curtis development and Palmer Falls development. The Curtis development consists of: (1) A concrete dam about 25 feet high and 736 feet long in two sections: (a) An overflow spillway about 663 feet long with 46-inch flashboards; and (b) a gated section about 73 feet long; (2) a reservoir about 5.8 miles long with a surface area of about 390 acres and a maximum drawdown of 3 feet; (3) an integral-intake powerhouse containing five generating units, one each rated at 1,250, 950, 900 kw and two each rated at 800 kw, totaling 4,700 kw; and (4) appurtenant facilities. The Palmer Falls development consists of: (1) A concrete hollow-arch dam about 37 feet high and 369 feet long with: (a) A spillway 334 feet long with 45-inch flashboards; and (b) a central log sluice and sluice gates in the remaining 35 feet; (2) a reservoir about 2,700 feet long and with a surface area of about 27 acres; (3) an upper forebay at reservoir level controlled by an intake with eight slide gates and a 92-foot spillway with flashboards from which water may be released to: (a) The lower forebay through two waste gates; and (b) the penstocks by eight gates; (4) a lower forebay which is controlled by: (a) A 168-foot spillway, with flashboards, and (b) a gate structure; (5) four hydroelectric units with turbines totaling 5,600 hp and generators totaling 3,200 kw served by three steel penstocks, (a) 10 to 8.5 feet in diameter and 205 feet long, (b) 10 feet in diameter and 47 feet long and (c) 9.5 feet in diameter and 24 feet long; (6) 12 hydromechanical units totaling 18,600 hp served by 12 steel penstocks varying in diameter from 9 to 13.5 feet and in length from 24 feet to 141 feet (all turbines and generators being housed in the paper mill buildings); and (7) appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is December 8, 1966. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66–11326; Filed, Oct. 18, 1966; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BRAZIL TRUST CO.

Order Approving Merger of Banks

In the matter of the application of The Brazil Trust Co. for approval of merger with Farmers & Merchants Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act, as amended (12 U.S.C. 1828(c), Public Law 89–356), an application by The Brazil Trust Co., Brazil, Ind., a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and Farmers & Merchants Bank, Clay City, Ind., under the charter of the former and title of First Bank and Trust Company of Clay County, Ind. As an incident to the merger, the sole office of Farmers & Merchants Bank would become a branch of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed merger.

It is hereby ordered, For the reasons set forth in the Board's Statement [1] of this date, that said application be and

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

hereby is approved, provided that said merger shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after said date.

Dated at Washington, D.C., this 10th day of October 1966.

By order of the Board of Governors.[2]

[SEAL] KENNETH A. KENYON, *Assistant Secretary.*

[F.R. Doc. 66-11327; Filed, Oct. 18, 1966; 8:45 a.m.]

UPPER MAIN LINE BANK

Order Approving Merger of Banks

In the matter of the application of Upper Main Line Bank for approval of merger with Farmers Bank of Parkesburg.

There has come before the Board of Governors, pursuant to the Bank Merger Act, as amended (12 U.S.C. 1828(c), Public Law 89-356), an application by Upper Main Line Bank, Paoli, Pa., a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and Farmers Bank of Parkesburg, Parkesburg, Pa., under the charter of the former and title of Community Bank & Trust Co. As an incident to the merger, the sole office of Farmers Bank of Parkesburg would become a branch of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed merger,

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved, provided that said merger shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after said date.

Dated at Washington, D.C., this 10th day of October 1966.

By order of the Board of Governors.[2]

[SEAL] KENNETH A. KENYON, *Assistant Secretary.*

[F.R. Doc. 66-11328; Filed, Oct. 18, 1966; 8:45 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Philadelphia.

[2] Voting for this action: Chairman Martin, and Governors Robertson, Shepardson, Mitchell, Maisel, and Brimmer. Absent and not voting: Governor Daane.

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-4318]

AMERICAN GAS CO. AND AMERICAN GAS COMPANY OF WISCONSIN, INC.

Notice of Filing of Third Posteffective Amendment Regarding Issue and Sale of Notes to Banks

OCTOBER 13, 1966.

Notice is hereby given that American Gas Co. ("American"), a public-utility company and a registered holding company, and its public-utility subsidiary company, American Gas Company of Wisconsin, Inc. ("Wisconsin"), 546 South 24th Avenue, Omaha, Nebr. 68105, have filed with this Commission, pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act"), a third posteffective amendment to the joint application-declaration in this matter. All interested persons are referred to said posteffective amendment, which is summarized below, for a complete statement of the proposed transactions.

Wisconsin has outstanding 6½ percent promissory notes in the amount of $360,000, maturing on September 30, 1966, all of which are held by Harris Trust & Savings Bank, Chicago, Ill. Such notes were issued, renewed, or extended pursuant to orders of the Commission in this proceeding dated October 26, 1965, February 10, 1966, and May 2, 1966 (Holding Company Act Release Nos. 15335, 15398, and 15459). The company now proposes to renew or extend said notes for an additional period or periods of not to exceed in the aggregate 270 days from September 30, 1966. The notes will bear interest at a rate of not in excess of 1 percent over the prime rate in effect at the time of renewal or extension.

Wisconsin also proposes to issue and sell, from time to time, to a bank or banks additional notes in an aggregate amount not exceeding $175,000 to be outstanding at any one time. These notes, as issued or as renewed or extended will mature no later than June 30, 1967, and will bear interest at a rate of not in excess of 1 percent over the prime rate in effect at the time of issuance, renewal, or extension. The additional notes are to provide funds required for property additions, operating expenses, and the payment of interest on outstanding debt.

The filing states that no separable fees and expenses are to be incurred in connection with the proposed transactions. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 31, 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 third posteffective amendment to the 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 heretofore and presently amended or as it may be further 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. 66-11368; Filed, Oct. 18, 1966; 8:49 a.m.]

[811-548]

QUINBY & CO., INC.

Notice of Filing of Application for Exemption

OCTOBER 13, 1966.

Notice is hereby given that Quinby & Co., Inc. ("Applicant"), Lincoln Rochester Building, Rochester, N.Y. 14604, the principal underwriter for, and sponsor of, The Quinby Plan for Accumulation of Common Stock of Xerox Corp., which is a unit investment trust registered as such under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting such plan from the provisions of section 22(d) of the Act and Rule 22d-1 adopted thereunder, to the extent necessary to permit Applicant to offer such plan at reduced public offering prices on group accounts. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

The aforementioned plan is organized under an agreement between Applicant and a custodian, the Lincoln Rochester Trust Co. ("Custodian") of Rochester, N.Y., and is designed to provide for investment and dividend reinvestment over a period of years in the common stock of the Xerox Corp.

The public offering price on the plan includes a sales load, expressed as a percentage of the amount of the planned investment, of 5.9 percent for total planned investments aggregating $12,000, 50 percent of which is deducted from the first 12 payments with the balance de-

ducted in equal amounts from the subsequent payments. Applicant purposes to charge a reduced sales load of 5 percent on: (1) Additional accounts opened by the same subscriber after he has completed the first 12 specified payments on an account or a series of accounts with combined planned investments of at least $12,000; (2) single and multiple accounts opened by individuals at one time with a planned investment of $24,000 or more; (3) multiple accounts opened at one time by an individual, his spouse and their children with an aggregate planned investment of $24,000 or more; (4) multiple accounts with an aggregate planned investment of $24,000 or more opened at one time by two or more individuals who have a common employer or who are members of a recognized partnership, but not including groupings by members of professional associations, social or fraternal organizations or investment clubs; and (5) special payroll accounts involving an original minimum of 50 or more employees of a common employer. In the case of all accounts on which a 5 percent sales load is applicable, except the special payroll accounts, Applicant proposes to deduct the entire sales load from the first 12 payments at the rate of 50 percent of each payment. On the special payroll accounts, Applicant proposes to deduct 32 percent of each of the first 12 payments as sales load.

Section 22(d) of the Act, with certain exceptions not pertinent here, prohibits a registered investment company and its principal underwriter from selling redeemable securities of such company except at a current public offering price described in the prospectus. Rule 22d-1, relating to permissible variations in sales loads of redeemable securities, specifies, among other things, that investment companies and their underwriters may not treat as one person "a group of individuals whose funds are combined, directly or indirectly, for the purchase of redeemable securities of a registered investment company jointly or through a trustee, agent, custodian, or other representative * * * of such a group of individuals." Unless exempted, therefore, Applicant will be unable to effect the sale of plans upon the basis of reduced public offering prices on group accounts.

In support of the application, Applicant states that the Quinby Plan is not the usual type of investment company since it is a plan for the purchase of a specific stock listed on the New York Stock Exchange, rather than a company with a diversified portfolio or a plan for the purchase of redeemable shares of such a company. Because of the special nature of the Quinby Plan, Applicant states that the requested exemption will have no bearing upon the orderly distribution of redeemable shares of registered investment companies, which section 22(d) of the Act is designed to protect. Except for the method of payments of charges and the contractual obligations flowing therefrom, the Quinby Plan is similar to other types of plans which involve the purchase of a specific listed stock through simple brokerage arrangements and which do not prohibit grouping of purchases to determine the applicable charges. Applicant further states that the substance of its application is substantially similar to the order granted in 1959 to the Quinby Plans for the Accumulation of the Common Stock of American Telephone & Telegraph Co., Eastman Kodak Co., E. I. DuPont de Nemours & Co., General Electric Co., General Motors Corp., and Standard Oil Corp. (New Jersey) (Investment Company Act Release No. 2887).

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 21, 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant 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 said application, unless an order for hearing upon this matter shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66-11369; Filed, Oct. 18, 1966; 8:49 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS IN RETAIL OR SERVICE ESTABLISHMENTS AT SPECIAL MINIMUM WAGES

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.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 579 (28 F.R. 11524), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates are as indicated below. Pursuant to § 519.6(b) of the regulation, the minimum certificate rates are not less than 85 percent of the statutory minimum of $1.25 an hour.

The following certificates were issued pursuant to paragraphs (c) and (g) of § 519.6 of 29 CFR Part 519, providing for an allowance not to exceed the proportion of the total number of hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period, or 10 percent, whichever is less, in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base period.

Barr Co., variety store; 116 South Main Street, Celina, Ohio; 9-26-66 to 9-25-67.

Byck Brothers & Co., apparel store; 532 South Fourth Street, Louisville, Ky.; 9-15-66 to 8-31-67.

Eagle Store Co., Inc., variety store; No. 51, Charleston Heights, S.C.; 9-23-66 to 9-22-67.

Glosser Brothers, Inc., department store; Franklin and Locust Street, Johnstown, Pa.; 9-14-66 to 9-13-67.

Goldblatt Brothers, Inc., department store; 1505 West King, Decatur, Ill.; 9-27-66 to 9-26-67.

W. T. Grant Co., variety stores: No. 202, Hackensack, N.J. (10-7-66 to 10-6-67); No. 677, Middletown, Ohio (9-15-66 to 9-14-67).

Grebe's Bakeries, Inc., bakery store; 5132 West Lincoln Avenue, West Allis, Wis.; 9-3-66 to 9-2-67.

Hested Brentwood Corp., variety store; No. 775, Denver, Colo.; 11-24-66 to 11-23-67.

K. C. Super Market, food store; Eighth Street and Ohio Avenue, Etowah, Tenn.; 9-20-66 to 8-31-67.

S. S. Kresge Co., variety stores: No. 69, Washington, D.C. (10-11-66 to 10-10-67); No. 50, Deerfield, Ill. (9-3-66 to 9-2-67); No. 272, Flint, Mich. (9-15-66 to 9-14-67); No. 240, Cleveland, Ohio (9-19-66 to 9-18-67); No. 362, Marion, Ohio (9-19-66 to 9-18-67); No. 4579, Kenosha, Wis. (9-27-66 to 9-26-67).

S. H. Kress & Co., variety store; 100 East Seventh Street, Okmulgee, Okla.; 12-1-66 to 11-30-67.

McCrory-McLellan-Green Stores, variety stores: No. 310, St. Petersburg, Fla. (9-21-66 to 9-20-67); No. 432, Athens, Ga. (9-21-66 to 9-20-67); No. 161, Chester, S.C. (9-18-66 to 9-17-67).

Neisner Brothers, Inc., variety store; No. 42, Detroit, Mich.; 9-27-66 to 9-26-67.

Raylass Department Store, department stores: Corner Main and Davis Streets, Burlington, N.C. (9-21-66 to 9-20-67); 335 Main Street, Danville, Va. (9-17-66 to 9-2-67); 307 Main Street, South Boston, Va. (9-16-66 to 9-2-67).

S. H. Heironimus Co., Inc., department store; 405 South Jefferson Street, Roanoke, Va.; 11-1-66 to 12-31-66.

A. B. Wyckoff, Inc., department store; 564 Main Street, Stroudsburg, Pa.; 9-20-66 to 9-19-67.

Wytheville Crest 5-10-25¢ Store, variety store; Wytheville, Va.; 9-12-66 to 8-31-67.

The following certificates were issued to establishments coming into existence after May 1, 1960, under paragraphs (c), (d), (g), and (h) of § 519.6 of 29 CFR Part 519. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum of $1.25 an hour in the classes of occupations listed, and provide for limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees. The percentage limitations vary from month to month between the minimum and maximum figures indicated.

Blue Hills Super Market, food store; 2309 Tuttle Boulevard, Manhattan, Kans.; carry-out boy, checker, stocker, bottle boy; between 9.0 percent and 10 percent; 9–19–66 to 9–18–67.

W. T. Grant Co., variety stores: No. 993, Reisterstown, Md. (sales clerk, between 7.5 percent and 10 percent, 9–22–66 to 9–21–67); No. 1108, Richmond, Va. (sales clerk, stock clerk, office clerk, cashier; between 1.7 percent and 8.2 percent; 10–1–66 to 9–30–67).

S. S. Kresge Co., variety stores for the occupation of sales clerk except as otherwise indicated, from 10–1–66 to 9–30–67 except as otherwise indicated: No. 765, Birmingham, Ala. (between 3.0 percent and 10 percent, 10–4–66 to 10–3–67); 130 New Circle Road, Lexington, Ky. (between 6.1 percent and 10 percent, 11–19–66 to 11–18–67); No. 4091, Bay City, Mich. (10 percent for each month); 216 South Washington Avenue, Lansing, Mich. (10 percent for each month, 9–22–66 to 9–21–67); No. 4032, Greensburg, Pa. (between 4.0 percent and 10 percent); No. 422, New Castle, Pa. (between 4.3 percent and 10 percent); No. 4054, New Kensington, Pa. (between 6.5 percent and 10 percent); No. 4010, Pittsburgh, Pa. (between 6.5 percent and 10 percent, 10–6–66 to 10–5–67); No. 4009, Washington, Pa. (between 6.5 percent and 10 percent); No. 4043, Columbia, S.C. (marker, sales clerk, stock clerk, 10 percent for each month, 9–24–66 to 9–23–67); No. 4033, Knoxville, Tenn. (between 2.1 percent and 10 percent, 12–22–66 to 12–21–67); No. 741, Lubbock, Tex. (between 0.8 percent and 9.8 percent, 9–22–66 to 9–2–67); No. 4029, San Angelo, Tex. (between 7.2 percent and 10 percent); No. 716, San Antonio, Tex. (cashier, sales clerk, between 0.0 percent and 10 percent, 10–13–66 to 10–12–67); No. 4025, Tyler, Tex. (between 7.2 percent and 10 percent, 10–21–66 to 10–20–67); No. 4042, Fredericksburg, Va. (10 percent for each month); No. 4104, Roanoke, Va. (10 percent for each month, 11–1–66 to 10–31–67); No. 547, Springfield, Va. (10 percent for each month).

McCrory-McLellan-Green Stores, variety stores for the occupations of sales clerk, stock clerk, office clerk except as otherwise indicated, from 9–23–66 to 9–22–67: No. 340, Tarpon Springs, Fla. (between 6.2 percent and 10 percent); No. 391, Matteson, Ill. (between 7.4 percent and 10 percent); No. 390, Morton Grove, Ill. (between 7.4 percent and 10 percent); No. 364, Scranton, Pa. (sales clerk, stock clerk, between 6.0 percent and 10 percent); No. 333, Wyoming, Pa. (between 0.0 percent and 10 percent).

Minimax Super Market, food store; 1201 Strawberry Road, Pasadena, Tex.; bag boy, carry-out boy, stock boy, janitor; between 8.3 percent and 10 percent; 10–19–66 to 10–18–67.

Sunshine Department Store, department stores for the occupation of sales clerk, between 7.7 percent and 10 percent: 1241 Moreland Avenue SE., Atlanta, Ga. (10–7–66 to 10–6–67); 2824 Jonesboro Road, Forest Park, Ga. (10–1–66 to 9–30–67).

T. G. & Y. Stores Co., variety store; No. 248, Pine Bluff, Ark.; sales clerk, stock clerk; 10 percent for each month; 10–2–66 to 10–1–67.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not tend to displace full-time employees. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Pursuant to the provisions of 29 CFR 519.9, any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., this 7th day of October 1966.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 66–11331; Filed, Oct. 18, 1966; 8:45 a.m.]

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 No. 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. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as indicated.

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 normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Aalf's Manufacturing Co., 1009 Second Avenue, Sheldon, Iowa; 10–1–66 to 9–30–67; 10 learners (ladies' jeans).

H. Alter & Co., 311 Market Street, Kingston, Pa.; 9–22–66 to 9–21–67 (men's outerwear jackets).

The Arrow Co., Division of Cluett, Peabody & Co., Inc., 105 Mill Street, Corinth, N.Y.; 10–1–66 to 9–30–67 (men's dress shirts).

Branchville Shirt Co., Inc., 108 Carroll Street, Branchville, S.C.; 9–30–66 to 9–29–67 (men's work shirts and boys' sport shirts).

Bruce Co., Inc., 120 East 15th Street, Ottawa, Kans.; 9–28–66 to 9–27–67 (men's work clothing).

Carolina Lingerie Co., Inc., Yadkinville Highway, Mocksville, N.C.; 9–30–66 to 9–29–67 (men's pajamas and ladies' dresses).

Dunbrooke Shirt Co., El Dorado Springs, Mo.; 10–1–66 to 9–30–67 (men's sport shirts).

The Enro Shirt Co., Inc., 1008 West Sample Street, South Bend, Ind.; 9–23–66 to 9–22–67 (men's pajamas and shorts).

Form-O-Uth Brassiere Co., Inc., doing business as Marie Foundations, Box P, McLean, Tex.; 9–30–66 to 9–29–67 (brassieres and girdles).

Hopkinsville Clothing Manufacturing Co., Inc., Skyline Drive, Hopkinsville, Ky.; 10–1–66 to 9–30–67 (men's and boys' pants).

Jeansco, Inc., Canal and High Streets, Petersburg, Va.; 9–24–66 to 9–23–67 (boys' jeans).

Oshkosh B'Gosh, Inc., Columbia Division, Post Office Box 408, Columbia, Ky.; 9–24–66 to 9–23–67 (men's and boys' dungarees).

Oshkosh B'Gosh, Inc., Celina Division, Celina, Tenn.; 10–8–66 to 10–7–67 (men's pants, shirts, and work clothing).

Phillips-Van Heusen Corp., Fort Payne, Ala.; 9–21–66 to 9–20–67 (men's dress and sport shirts).

The Shirtmaster Co., Inc., 206 Barnette Street, Abbeville, S.C.; 10–3–66 to 10–2–67 (men's sport shirts).

Henry I. Siegel Co., Inc., Verona, Miss.; 9–24–66 to 9–23–67 (men's and boys' sport shirts).

Troytown Shirt Corp., Harmony Hill No. 3, North Mohawk Street, Cohoes, N.Y.; 10–1–66 to 9–30–67 (men's sport shirts).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Dee-Mure Brassiere Co., Inc., Hamlin, W. Va.; 9–21–66 to 3–20–67; 20 learners (brassieres).

Edison Textiles, Inc., Edison, Ga.; 9–19–66 to 3–18–67; 20 learners (infants' and girls' panties, shorts, and slacks).

Hopkinsville Clothing Manufacturing Co., Inc., Skyline Drive, Hopkinsville, Ky.; 9–23–66 to 3–22–67; 70 learners (men's and boys' work pants).

Levi Strauss & Co., 802½ West Erwin Street, Tyler, Tex.; 9–22–66 to 3–21–67; 70 learners (men's and boys' jeans).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.60 to 522.65, as amended).

Boss Manufacturing Co., Greenville, Ala.; 9–27–66 to 9–26–67; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Monte Glove Co., Inc., Monte Lane, Maben, Miss., Pheba, Miss.; 10–7–66 to 10–6–67; 10 learners for normal labor turnover purposes (work gloves).

Monte Glove Co., Inc., Monte Lane, Maben, Miss., Pheba, Miss.; 9–24–66 to 3–23–67; 15 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).

Broadway Hoisery Mills, Inc., 53 Burton Street, Asheville, N.C.; 9–22–66 to 9–21–67; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Claussner Hoisery Co., Division of Joseph Bancroft & Sons Co., 28th and Adams Streets, Paducah, Ky.; 10–1–66 to 9–30–67; 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).

Dothan Manufacturing Co., Dothan, Ala.; 9-30-66 to 9-29-67; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's pajamas and shorts).

Norwich Mills, Inc., Clayton, N.C.; 10-1-66 to 9-30-67; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' tee shirts and briefs).

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 company 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.; 9-6-66 to 1-31-67; 50 learners for plant expansion purposes in the occupation of handstitching 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).

Consolidated Cigar Corp. of Cayey, Planta No. 21, Bo. Montallano—Apartado 937, Cayey, P.R.; 9-7-66 to 9-6-67; 114 learners for normal labor turnover purposes in the occupation of cigar making, packing, each for a learning period of 320 hours at the rates of 94 cents an hour for the first 160 hours and $1.04 an hour for the remaining 160 hours (cigars).

Exotica Foundations, Inc., Road No. 3, Km. 58.6, Post Office Box 672, Ceiba, P.R.; 9-1-66 to 2-28-67; 30 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).

Rico Glove, a division of Fownes Bros. & Co., Lincoln and Washington Streets, Post Office Box 1087, Cayey, P.R.; 9-15-66 to 9-14-67; 12 learners for normal labor turnover purposes in the occupation of machine stitching, for a learning period of 480 hours at the rates of 80 cents an hour for the first 240 hours and 92 cents an hour for the remaining 240 hours (gloves).

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 7th day of October 1966.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 66-11332; Filed, Oct. 18, 1966; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 417]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 14, 1966.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 334) (Cancels Deviation No. 193), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed October 5, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, over a deviation route as follows: From Cleveland, Ohio, over Interstate Highway 71 to Cincinnati, Ohio, with the following access routes between points on present service routes (1) from Cleveland, Ohio, over Ohio Highway 3 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction Interstate Highway 71, (2) from Cleveland, Ohio, over Ohio Highway 94 to junction Ohio Highway 82, thence over Ohio Highway 82 to junction Interstate Highway 71, (3) from Medina, Ohio, over Ohio Highway 3 to junction Interstate Highway 71, (4) from Medina, Ohio, over Ohio Highway 18 to junction Interstate Highway 71, (5) from Akron, Ohio, over Ohio Highway 18 to junction Interstate Highway 71, (6) from Akron, Ohio, over Ohio Highway 261 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Interstate Highway 71, (7) from Medina, Ohio, over Ohio Highway 3 to junction U.S. Highway 224, thence over U.S. Highway 224 to junction Interstate Highway 71, (8) from Lodi, Ohio, over Ohio Highway 76 to junction Interstate Highway 71, (9) from Ashland, Ohio, over U.S. Highway 250 to junction Interstate Highway 71, (10) from Mansfield, Ohio, over U.S. Highway 30 to junction Interstate Highway 71, (11) from Mansfield, Ohio, over Ohio Highway 13 to junction Interstate Highway 71.

(12) From Mount Gilead, Ohio, over Ohio Highway 95 to junction Interstate Highway 71, (13) from Mount Gilead, Ohio, over Ohio Highway 61 to junction Interstate Highway 71, (14) from Delaware, Ohio, over U.S. Highway 36 to junction Interstate Highway 71, (15) from Columbus, Ohio, over city streets to junction Interstate Highway 71, (16) from Mount Sterling, Ohio, over U.S. Highway 62 and Ohio Highway 3 to junction Interstate Highway 71 (approximately 2 miles north of Harrisburg, Ohio), (17) from Washington Court House, Ohio, over U.S. Highway 35 to junction Interstate Highway 71, (18) from Wilmington, Ohio, over U.S. Highway 68 to junction Interstate Highway 71, (19) from Wilmington, Ohio, over Ohio Highway 73 to junction Interstate Highway 71, (20) from Lebanon, Ohio, over Ohio Highway 123 to junction Interstate Highway 71, (21) from Lebanon, Ohio, over Ohio Highway 48 to junction Interstate Highway 71, (22) from Cincinnati, Ohio, over Interstate Highway 75 to junction Interstate Highway 275, thence over Interstate Highway 275 to junction Interstate Highway 71, and (23) from Cincinnati, Ohio, over U.S. Highway 22 and Ohio Highway 3 to junction Interstate Highway 275, thence over Interstate Highway 275 to junction Interstate Highway 71, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Cincinnati, Ohio, over U.S. Highway 42 via Lebanon, Xenia, and London, Ohio, to Delaware, Ohio, (2) from Columbus, Ohio, over U.S. Highway 62 to Washington Court House, Ohio, thence over U.S. Highway 22 to Cincinnati, Ohio, (23) from Akron, Ohio, over Ohio Highway 5 to Wooster, Ohio, thence over Ohio Highway 3 to Columbus, Ohio, (4) from Cleveland, Ohio, over Ohio Highway 3 to Wooster, Ohio, (5) from Cleveland, Ohio, over U.S. Highway 42 to Delaware, Ohio, thence over U.S. Highway 23 to Columbus, Ohio, (6) from Cleveland, Ohio, over Ohio Highway 3 to junction Ohio Highway 94, thence over Ohio Highway 94 to junction Ohio Highway 5, and (17) from Sunbury, Ohio, over Ohio Highway 61 to Mount Gilead, Ohio, and return over the same routes.

No. MC 74761 (Deviation No. 3), TAMIAMI TRAIL TOURS, INC., 4305 21st Avenue, Tampa, Fla., filed October 5, 1966. Carrier's representative: James E. Wharton, Suite 506, First National Bank Building, Orlando, Fla. 32802. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, over deviation routes as follows: (1) From Gainesville, Fla., over Florida Highway 24 to junction Interstate Highway 75, thence over Interstate Highway 75 to Tampa, Fla., and (2) from Orlando, Fla., over Interstate Highway 4 to junction Interstate Highway 95, approximately 6 miles west of Daytona Beach, Fla., thence over Interstate Highway 95

to Jacksonville, Fla., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Tampa, Fla., over U.S. Highway 41 to Archer, Fla., thence over Florida Highway 24 to Gainesville, Fla., and (2) from Orlando, Fla., over U.S. Highway 17 via Sanford, Fla., to De Land, Fla., thence over Florida Highway 11 to Bunnell, Fla., thence over U.S. Highway 1 via St. Augustine, Fla., to Jacksonville, Fla., and return over the same routes.

By the Commission.

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

[F.R. Doc. 66-11342; Filed, Oct. 18, 1966; 8:46 a.m.]

[Notice 978]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 14, 1966.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 61403 (Sub-No. 125) (republication), filed April 8, 1965, published FEDERAL REGISTER issue of April 28, 1965, and republished, this issue. Applicant: THE MASON AND DIXON TANK LINES, INC., Post Office Box 47, Eastman Road, Kingsport, Tenn. Applicant's representative: W. C. Mitchell, 140 Cedar Street, New York, N.Y. In the above-specified proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of inedible vegetable oils in bulk, in tank vehicles, from the plant, warehouse and storage facilities of Cargill, Inc., within the city limits of Chicago, Ill., to points in Alabama, Georgia, North Carolina, and South Carolina, limited to shipments of inedible vegetable oils which are moved in mixed loads with liquid chemicals in bulk, in tank vehicles, from Carpentersville, Ill. A decision and order of the Commission, Operating Rights Review Board No. 2, dated September 30, 1966, and served October 11, 1966, as amended, finds operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *inedible vegetable oils*, in bulk, in tank vehicles, when moving in mixed loads with liquid chemicals (presently authorized) from the plantsite and storage facilities of Cargill, Inc., at Chicago, Ill., to points in Alabama, Georgia, North Carolina, and South Carolina. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority as redescribed in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate containing such authority in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 118527 (Sub-No. 3) (Republication) filed March 1, 1965, published FEDERAL REGISTER issue of May 19, 1965, and republished, this issue. Applicant: SOURDOUGH EXPRESS, INC., 508 12th Avenue, Post Office Box 288, Fairbanks, Alaska. By application filed March 1, 1965, and amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of general commodities (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in that part of Alaska bounded by a line beginning at the junction of the United States-Canada boundary line and Alaska Highway 2, at or near Boundary, Alaska, and extending north along the United States-Canada boundary line to its junction with the Yukon River, near Eagle, Alaska, thence north and west along the Yukon River to the confluence of the Yukon and Tanana Rivers at or near Tanana, Alaska, thence east along the Tanana River to the confluence of the Tanana and the Kantishna Rivers, thence south along the Kantishna River to Kantishna, Alaska, thence east along an unnumbered highway between Kantishna, Alaska, and Alaska Highway 3 to junction Alaska Highway 3, thence along Alaska Highway 3 to junction Alaska Highway 8, thence east along Alaska Highway 8 to Paxson, Alaska, thence along an imaginary line drawn in an easterly direction from Paxson to Slana, Alaska, located on Alaska Highway 1, thence easterly along an imaginery line to the point of beginning (presently authorized territory), on the one hand, and, on the other, Haines, Alaska, restricted to through traffic interlined at Haines, Alaska, with no local service on shipments originating at or destined to Haines, Alaska.

That through inadvertence the application was published in the FEDERAL REGISTER as one seeking to serve only a part of the territory actually sought and that by order of the Commission, Operating Rights Board No. 1, entered May 25, 1966, in the above-titled application, applicant was granted operating authority to provide the proposed service solely within the limited territory as noticed in the FEDERAL REGISTER publication. A supplemental order of the Commission, Operating Rights Board No. 1, dated August 31, 1966, and served October 7, 1966, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *household goods* as defined by the Commission, between points in Alaska except those east and south of an imaginary line constituting a southward extension of the international boundary line between the United States (Alaska) and Canada (Yukon Territory), on the one hand, and, on the other, Haines, Alaska, restricted against the transportation of shipments originating at or destined to Haines, Alaska; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 128210 (republication), filed May 12, 1966, published FEDERAL REGISTER issue of June 3, 1966, and republished, this issue. Applicant: MARLAND L. CHICK, Oak Street, Alfred, Maine. By application filed May 12, 1966, applicant seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of sugar and exempt commodities in the same vehicle at the same time, from Boston, Mass., to Sanford and Springvale, Maine, service to be under a continuing bilateral contract and restricted to one shipper, Kostis Fruit Co., Inc., Sanford, Maine, and further restricted to not exceed 3 tons of sugar per trip. An order of the Commission, Operating Rights Board No. 1, dated August 31, 1966, and served October 7, 1966, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) *sugar*, and (2) *commodities* the transportation of which would otherwise be exempt from economic regulation pursuant to section 203(b)(6) of the act, in mixed loads with sugar, from Boston, Mass., to Sanford and Springvale, Maine, under a continuing contract with Kostis Fruit Co., Inc., of Sanford, Maine, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the In-

terstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

NOTICE OF FILING OF PETITION

No. MC 107906 (Sub-No. 18) (Notice of Filing of Petition for Modification of Certificate) filed September 13, 1966. Petitioner: TRANSPORT MOTOR EXPRESS, INC., Meyer Road, Post Office Box 958, Fort Wayne, Ind. 46801. Petitioner's representative: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Petitioner states that it holds authority in MC 107906 (Sub-No. 18) to transport, among other things, *Classes A, B, and C explosives*, serving the site of the terminal of Roy Cartage Co., located on Caton Road approximately one-half mile west of Alternate U.S. Highway 66, North of the city limits of Joliet, Ill., as an off-route point in connection with carrier's regular-route operations between Chicago, Ill., and Terre Haute, Ind., authorized in said certificate, and restricted to the transportation of traffic received from or delivered to connecting common motor carriers. By the instant petition, petitioner seeks to modify the above portion of its certificate MC 107906 (Sub-No. 18), by allowing it to serve the site of Roy Cartage Co. at its new site for the interchange of explosives traffic, located at 2150 Moen Avenue, Rockdale, Ill., a suburb located adjacent to the city limits of the city of Joliet, Ill., and a point in the Joliet, Ill., commercial zone, in lieu of the site of its former terminal which has been closed as the result of an ordinance enacted by the city of Joliet. Any person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 33278 (Sub-No. 18), filed July 20, 1966. Applicant: LEE AMERICAN FREIGHT SYSTEM, INC., 418 Olive Street, St. Louis, Mo. 63102. Applicant's representative: G. M. Rebman, 314 North Broadway, St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except household goods as defined by the Commission, commodities in bulk, and those of unusual value), over regular routes: (1) Between Farmington and St. Louis, Mo., over U.S. Highway 67, serving the intermediate points of Flat River, Bonne Terre, and Festus, Mo., (2) between Farmington and Ste. Genevieve, Mo., over Missouri Highway 32, serving all intermediate points, including the Alien Enemy Internment Camp at or near Weingarten, Mo., and points within 5 miles of said route as off-route points, except no service is authorized between Ste. Genevieve, Mo. and any point not located on or along the regular route between Farmington and Ste. Genevieve, Mo., (3) between St. Louis, Mo. and the Missouri-Arkansas State line; from St. Louis over U.S. Highway 61–67 to Festus, Mo., and thence over U.S. Highway 67 to the Missouri-Arkansas State line, and return over the same routes, serving the intermediate points of Arnold, Barnhart, Beck, Cantwell, Crystal City, Esther, Farmington, Festus, Halifax, Herculaneum, Imperial, Kimmswick, Luxemburg, Mattese, Mehlville, Pevely, St. Francois, Sulphur Springs, Valles Mines, Fredericktown, Mill Creek, Neelyville, Poplar Bluff, and Zion, Mo. and the off-route points of Bonne Terre, Desloge, Flat River, Libertyville, Mine La Motte, and Elvins, Mo., (4) between St. Louis, Mo. and the Missouri-Arkansas State line, over U.S. Highway 67.

(5) Between Doniphan, Mo., and junction U.S. Highways 160 and 167, over U.S. Highway 160, (6) between Doniphan, Mo., and Oxly, Mo., over Missouri Highway 142, (7) between Neelyville and Naylor, Mo., over Missouri Highway 142, (8) between Chaonia, Mo., and junction U.S. Highway 67 and unnumbered county highway, over unnumbered county highway, (9) between Williamsville, Mo., and junction U.S. Highway 67, over unnumbered county Supplementary Route "A", and return over the same routes in (4) through (9) above, serving all intermediate points between (1) Fairdealing, Poynor (off-route point), Oxly, Doniphan, St. Louis, and Poplar Bluff, Mo., (2) between St. Louis, Zion, Coldwater, Silva, Greenville, Taskee, Poplar Bluff, Harviell, Neelyville, Naylor, Williamsville, and Chaonia, Mo., and (3) between Zion, Coldwater, Silva, Greenville, Taskee, Poplar Bluff, Harviell, Neelyville, Naylor, Williamsville, and Chaonia, Mo., on the one hand, and, on the other, Fredericktown, Mine La Motte, Farmington, Elvins, Esther, Flat River, St. Francois, Desloge, Bonne Terre, Crystal City, and Festus, Mo., and (2) over irregular routes: (1) Between Neelyville and Poplar Bluff, Mo., on the one hand, and, on the other, Elvins, Fredericktown, Mill Creek, and Zion, Mo., (2) between Fredericktown and Zion, Mo., and (3) between St. Louis, Mo., on the one hand, and, on the other, Arnold, Barnhart, Beck, Bonne Terre, Cantwell, Crystal City, Desloge, Esther, Farmington, Festus, Flat River, Halifax, Herculaneum, Imperial, Kimmswick, Libertyville, Luxemburg, Mattese, Mehlville, Mine La Motte, Pevely, St. Francois, Sulphur Springs, and Valles Mines, Mo. NOTE: This application is a matter directly related to MC–F–9468, published FEDERAL REGISTER issue of July 20, 1966.

APPLICATIONS UNDER SECTIONS 5 AND 210(a)(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC–F–8440 (Refrigerated Transport Co., Inc., of Florida—Purchase—Warren P. Kurtz), published in the May 29, 1963, issue of the FEDERAL REGISTER on page 5339, and substitution of REFRIGERATED TRANSPORT CO., INC. (ATLANTA, GA.), in lieu of REFRIGERATED TRANSPORT CO., INC., OF FLORIDA, as vendee, published in the November 23, 1963, issue of the FEDERAL REGISTER on page 12695. By amendment filed October 12, 1966, applicants, who after the hearing, changed ownership and LAMAR BEAUCHAMP, Post Office Box 1453, Winter Haven, Fla., joins in the application as the controlling stockholder of REFRIGERATED TRANSPORT CO., INC. (ATLANTA, GA.).

No. MC–F–9553. Authority sought for control by TRIMAC TRANSPORTATION LIMITED, 640 12th Avenue, S.W., Calgary, Alberta, Canada, of (1) H. M. TRIMBLE & SONS, LTD., 1510 40th Avenue, S.E., Calgary, Alberta, Canada; and (2) OIL AND INDUSTRY SUPPLIERS LTD., 400 Archibald Street, St. Boniface, Manitoba, Canada, and for acquisition by J. R. McCAIG, 2320 Sunset Avenue, Calgary, Alberta, Canada, R. W. McCAIG, 16 Turnbull Place, Regina, Saskatchewan, Canada, and M. W. McCAIG, 335 River Park, Moose Jaw, Saskatchewan, Canada, of control of H. M. TRIMBLE & SONS, LTD., and OIL AND INDUSTRY SUPPLIERS LTD., through the acquisition by TRIMAC TRANSPORTATION LIMITED. Applicants' representative: Randall Swanberg, 314 Montana Building, Post Office Box 2567, Great Falls, Mont. 59401. Operating rights sought to be controlled: (1) *Petroleum* and *petroleum products* (except liquefied petroleum gases), as defined in appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, as a *common carrier*, over irregular routes, from port of entry on the United States-Canada boundary line at or near Portal and Noonan, N. Dak., to points in North Dakota on and west of North Dakota Highway 3; *liquefied petroleum gases*, in bulk, in tank vehicles, from junction Alaska Highway 7 and the United States-Canada boundary line near Porcupine, Alaska, to Haines, Alaska, from junction Alaska Highway 2 and the United States-Canada boundary line, near Tok Junction, Alaska, to Fairbanks, Alaska; from the ports of entry on the United States-Canada boundary line located at or near Eastport, Idaho, and Metaline Falls, Wash., to Spokane, Wash., and Bonners Ferry, Coeur d' Alene, Sandpoint, and Wallace, Idaho,

with restriction; from junction Alaska Highway 2 and the United States-Canada boundary line, near Tok Junction, Alaska, to Anchorage, Alaska; and *vermiculite ore*, in bulk, in tank vehicles, from points in Montana within 5 miles of Libby, Mont., to ports of entry on the United States-Canada boundary line at or near Roosville, Mont., and Eastport and Porthill, Idaho, with restriction; and

(2) *Soybean oil, edible animal fats, edible animal and vegetable oils, and blends thereof*, in bulk, in tank vehicles, as a *common carrier*, over irregular routes, from Belmond and Sioux City, Iowa, and South St. Paul, Minn., to the United States-Canada boundary line at the port of entry at or near Noyes, Minn.; *animal fats, oils, lards, tallows*, or *greases*, or *blends or combinations thereof*, in bulk, in tank vehicles, from Chicago (except that part of its commercial zone, as defined by the Commission, lying within Indiana), and Rochelle, Ill., Austin, Duluth, Minneapolis, and Worthington, Minn., Huron, Mitchell, and Sioux Falls, S. Dak., Cedar Rapids, Davenport (except that part of its commercial zone, as defined by the Commission, lying within Illinois), and Sioux City (except that part of its commercial zone, as defined by the Commission, lying within Nebraska), Iowa, and Madison, Wis., to the ports of entry on the United States-Canada boundary line located in Minnesota and North Dakota; and *molasses*, in bulk, in tank vehicles, from points in Dakota, Scott, Washington, Hennepin, and Ramsey Counties, Minn., and Pierce and St. Croix Counties, Wis., to the port of entry on the United States-Canada boundary line at or near Noyes, Minn., with restriction. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9554. Authority sought for merger into YELLOW TRANSIT FREIGHT LINES, INC., 92d Street at State Line Road, Kansas City, Mo. 64114, of the operating rights and property of WATSON-WILSON TRANSPORTATION SYSTEM, INC., 92d Street at State Line Road, Kansas City, Mo. 64114, and for acquisition by GEORGE E. POWELL, 801 West 64th Terrace, Kansas City, Mo., GEORGE E. POWELL, JR., 1040 West 57th Street, Kansas City, Mo., and LESTER H. BRICKMAN, 6419 Belinder, Swanee Mission, Kans., of control of such rights and property through the transaction. Applicants' attorneys: Kenneth E. Midgley, 1500 Commerce Building, Kansas City, Mo. 64106, Homer S. Carpenter, 1111 E Street NW., Washington, D.C. 20004, and David Axelrod, 39 South La Salle, Chicago, Ill. 60603. Operating rights sought to be merged: General commodities, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Minnesota, Iowa, Missouri, Nebraska, Kansas, Illinois, Colorado, Indiana, Arizona, California, New Mexico, Wyoming, Oklahoma, Utah, Idaho, Montana, Oregon, Washington, Texas, Wisconsin, Tennessee, Georgia, South Carolina, and Kentucky, with certain restrictions, serving various intermediate and off-route points, numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-70451 and Subs. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety thereof. YELLOW TRANSIT FREIGHT LINES, INC., is authorized to operate as a *common carrier* in Illinois, Kansas, Oklahoma, Missouri, Texas, Indiana, Kentucky, Michigan, and Ohio. Application has not been filed for temporary authority under section 210a(b). NOTE: YELLOW TRANSIT FREIGHT LINES, INC., controls WATSON-WILSON TRANSPORTATION SYSTEM, INC., pursuant to authority granted May 5, 1966, in Docket No. MC-F-9030, by the Commission, Finance Board No. 1.

No. MC-F-9555. Authority sought for purchase by THE DAVIDSON TRANSFER & STORAGE CO., 6201 Pulaski Highway, Baltimore, Md. 21203, of a portion of the operating rights of KEYSTONE EXPRESS AND STORAGE COMPANY, INC., 1451 Manheim Pike, Lancaster, Pa., and for acquisition by JOSEPH DAVIDSON, B. D. DAVIDSON, J. I. DAVIDSON, and DAVID DAVIDSON, all also of Baltimore, Md., of control of such rights through the purchase. Applicants' attorneys: Homer S. Carpenter and John S. Fessenden, both of 618 Perpetual Building, Washington, D.C. 20004. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Lancaster, Pa., and Downingtown, Pa., serving all intermediate points and the off-route point of Churchtown. Vendee is authorized to operate as a *common carrier* in Maryland, New York, Delaware, New Jersey, Pennsylvania, Virginia, Massachusetts, Rhode Island, Maine, Connecticut, New Hampshire, Vermont, Ohio, Illinois, Indiana, Michigan, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Kentucky, Tennessee, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 66-11343; Filed, Oct. 18, 1966; 8:46 a.m.]

[Notice 980]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 14, 1966.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the special rules of procedure for hearing outlined below:

Special rules of procedure for hearing. (1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 25869 (Sub-No. 72), filed October 10, 1966. Applicant: NOLTE BROS. TRUCK LINE, INC., 2509 O Street, Omaha, Nebr. 68107. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (other than oilfield, and pipeline commodities as defined by the Commission), from Pueblo, Colo., to points in Illinois, Iowa, and Nebraska, restricted to traffic originating at the plant, mill, yards, and storage facilities of C.F. & I. Steel Corp. NOTE: Common control may be involved.

HEARING: October 24, 1966, at the New Courthouse and Federal Building, 1961 Stout Street, Denver, Colo., before Examiner Jerome K. Soffer.

By the Commission.

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

[F.R. Doc. 66-11344; Filed, Oct. 18, 1966; 8:46 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

OCTOBER 14, 1966.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. L-13587, filed June 21, 1966. Applicant: ANDREW J. GYULVESZI, doing business as LAKE CITY CARTAGE COMPANY, 20743 Van Born Road, Taylor, Mich. Applicant's representative: Robert K. Anderson, 22500 Orchard Lake Road, Farmington, Mich. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *Diesel engines and diesel parts* for Circle Forwarders in Detroit to Perkins Diesel in Novi, Mich., and restricted to pickup and delivery on the same day from 4461 West Jefferson, Detroit, to 27575 Wixom Road, Wixom, Mich., as follows: Leaving the pier of Circle Forwarders at 4461 West Jefferson and proceeding down Jefferson Avenue to Livernois and north on Livernois to the I-96 Lansing Expressway and thence out the Expressway to the Wixom Road Ramp, thence south to the Perkins Plant. Both intrastate and interstate authority is sought.

HEARING: Tuesday, November 8, 1966, at the Michigan Public Service Commission, Lewis Cass Building, Lansing, Mich., at 9:30 a.m. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Michigan Public Service Commission, Lewis Cass Building, Lansing, Mich., and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-11345; Filed, Oct. 18, 1966; 8:46 a.m.]

[S.O. 981; Pfahler's Car Dist. Dir. 16, Amdt. 2]

ERIE-LACKAWANNA RAILROAD CO. AND CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Boxcar Distribution; Expiration Date

Upon further consideration of Pfahler's Car Distribution Direction No. 16 (Erie-Lackawanna Railroad Co.—Chicago, Burlington & Quincy Railroad Co.) and good cause appearing therefor:

It is ordered, That:

Pfahler's Car Distribution Direction No. 16 be, and is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., November 13, 1966, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That this direction shall become effective at 11:59 p.m., October 16, 1966, and that this order 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 by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 13, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-11346; Filed, Oct. 18, 1966; 8:46 a.m.]

[S.O. 981; Pfahler's Car Dist. Dir. 15, Amdt. 2]

PENNSYLVANIA RAILROAD CO. AND CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Boxcar Distribution; Expiration Date

Upon further consideration of Pfahler's Car Distribution Direction No. 15 (The Pennsylvania Railroad Co.—Chicago, Burlington & Quincy Railroad Co.) and good cause appearing therefor:

It is ordered, That:

Pfahler's Car Distribution Direction No. 15 be, and is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., November 13, 1966, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That this direction shall become effective at 11:59 p.m., October 16, 1966, and that this order 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 by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 13, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-11347; Filed, Oct. 18, 1966; 8:46 a.m.]

[S.O. 981; Pfahler's Car Dist. Dir. 13, Amdt. 2]

LOUISVILLE AND NASHVILLE RAILROAD CO. AND CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Boxcar Distribution; Expiration Date

Upon further consideration of Pfahler's Car Distribution Direction No. 13 (Louisville and Nashville Railroad Co.—Chicago, Burlington & Quincy Railroad Co.) and good cause appearing therefor:

It is ordered, That:

Pfahler's Car Distribution Direction No. 13 be, and is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., November 13, 1966, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That this direction shall become effective at 11:59 p.m., October 16, 1966, and that this order 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 by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 13, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-11348; Filed, Oct 18, 1966; 8:46 a.m.]

[S.O. 981; Pfahler's Car Dist. Dir. 14, Amdt. 2]

KANSAS CITY SOUTHERN RAILWAY CO. AND CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Boxcar Distribution; Expiration Date

Upon further consideration of Pfahler's Car Distribution Direction No. 14 (Kansas City Southern Railway Co.—Chicago, Burlington & Quincy Railroad Co.) and good cause appearing therefor:

It is ordered, That:

Pfahler's Car Distribution Direction No. 14 be, and is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This direction shall expire at 11:59 p.m., November 13, 1966, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That this direction shall become effective at 11:59 p.m., October 16, 1966, and that this order 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 by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 13, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 66-11349; Filed, Oct. 18, 1966; 8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 14, 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. 40744—*Joint motor-rail rates—southwestern territory.* Filed by J. D. Hughett, agent (No. 86), for interested carriers. Rates on property moving on class and commodity rates, loaded in highway trailers and moving over joint routes of applicant rail and motor carriers, between points in Arkansas, Colorado, Oklahoma, Louisiana, Missouri, New Mexico, Texas, and Wyoming, also Memphis, Tenn., Natchez and Vicksburg, Miss.

Grounds for relief—Motortruck competition.

Tariff—Supplement 29 to J.D. Hughett, agent, tariff MF-ICC 404.

FSA No. 40745—*Frozen meats to North Atlantic Ports.* Filed by Traffic Executive Association—Eastern Railroads, agent (E.R. No. 2865), for interested rail carriers. Rates on frozen fresh meats, frozen salted meats or frozen packinghouse products also frozen foodstuffs, in carloads, minima 60,000 and 90,000 pounds, from points in official (including Illinois) territory, excluding points in northern Illinois and southern Wisconsin, to Boston, Mass., Baltimore, Md., Albany and New York, N.Y., Philadelphia, Pa., Norfolk and Richmond, Va., and ports grouped therewith.

Grounds for relief—Rate relationship with domestic rates.

Tariff—Traffic Executive Association—Eastern Railroads, agent, tariff ICC C-613.

FSA No. 40746—*Asphalt to Greenville, Miss.* Filed by O. W. South, Jr., agent (No. A4951), for interested rail carriers. Rates on asphalt (asphaltum), natural byproduct or petroleum (other than paint, stain, or varnish), in tank carloads, from Blakely, Ala., to Greenville, Miss.

Grounds for relief—Barge competition.

Tariff—Supplement 29 to Southern Freight Association, agent, tariff ICC S-479.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-11350; Filed, Oct. 18, 1966; 8:47 a.m.]

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PART II

Department of Agriculture

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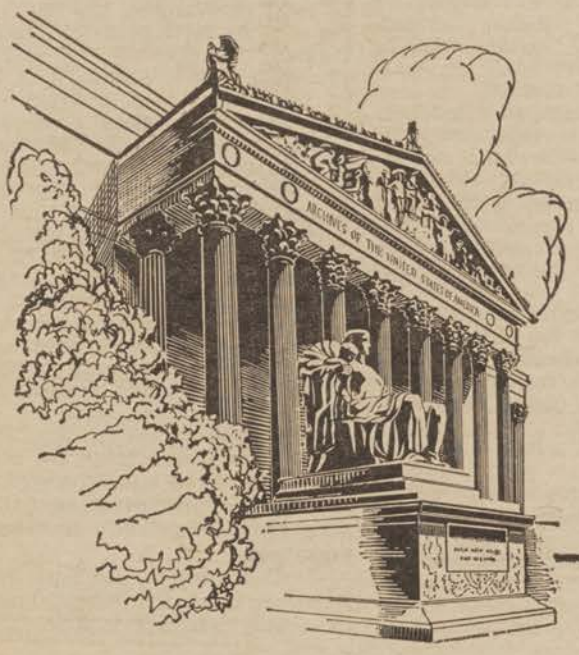
Agricultural Stabilization
and
Conservation Service



Processor Wheat Marketing
Certificate Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER C—SPECIAL PROGRAMS

PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Republication of Regulations

The following republication of Part 777 of Title 7 of the Code of Federal Regulations is issued to include all amendments to date (29 F.R. 6271, 7983, 11642, 13471, 17086; 30 F.R. 5358, 8385, 9299; 31 F.R. 194, 4271, and 9111). This republication of Part 777 contains minor editorial corrections but does not include any substantive changes. The "Basis and Purpose" provisions which relate to the original issuance and various amendments to Part 777 can be found in the FEDERAL REGISTERS cited above.

Sec.

AUTHORITY: The provisions of this Part 777 issued under secs. 379a to 379j, 52 Stat. 31, as amended by 76 Stat. 626, 78 Stat. 178, and 79 Stat. 1202; 7 U.S.C. 1379 a–j.

§ 777.1 General.

The Agricultural Adjustment Act of 1938, as amended, provides that during any marketing year for which a marketing allocation program is in effect, all persons engaged in the processing of wheat into food products shall, with certain exceptions, prior to marketing any such food products or removing such food products for sale or consumption, acquire domestic wheat marketing certificates equivalent to the number of bushels of wheat contained in such products. The act also provides that upon the giving of a bond or other undertaking satisfactory to the Secretary of Agriculture to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulation as he may prescribe, any person required to have marketing certificates in order to market the food product may be permitted to market any such product without having acquired marketing certificates in advance. The regulations in this part contain the terms and conditions for implementing these and related requirements of law.

§ 777.2 Administration.

The regulations in this part will be administered by the Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS") under the general supervision of the Administrator, ASCS. The Commodity Credit Corporation (hereinafter referred to as "CCC") will assist in carrying out the regulations through the sale and purchase of domestic certificates. Information pertaining to the regulations in this part may be obtained from the Director, Procurement and Sales Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 777.3 Definitions.

As used in the regulations in this part and in all instructions, forms, and documents pertaining hereto, the words and phrases defined in this section shall have the meaning assigned to them as follows, unless the context or subject matter otherwise requires:

(a) "Wheat" means wheat (regardless of whether produced in the United States), as defined in the Official Grain Standards of the United States or any wheat contained in any mixed grain or in any other mixture, which if not contained in such mixture would qualify as wheat under such standards.

(b) "Food product" means:

(1) Any product processed in whole or in part from wheat, irrespective of whether such product is actually used for human consumption, except such products as are defined herein as non-food products. Such food products shall, except as provided in paragraph (c)(3) of this section, include but not be limited to the following:

(i) Flour, as defined herein. (See §§ 777.18 and 777.19 for special provisions on flour second clears which are not used for human consumption.)

(ii) Wheat which is boiled, steeped, or commercially sprouted.

(iii) Any breakfast cereal.

(iv) Any beverage.

(v) Cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or such other similarly processed wheat as may be designated by the Administrator, except to the extent that the total product of the wheat processed is used in or marketed as animal feed or other nonfood product. To qualify as ground wheat not more than 70 percent of such total product shall pass through a No. 8 sieve, and not more than 30 percent of such total product shall pass through a No. 20 sieve.

(c) "Non-food product" means:

(1) Any of the following products when produced in a single plant from wheat, provided (i) none of the products obtained from the wheat used in the processing of such product is marketed, or removed from the plant for sale or consumption, as a food product, (ii) the product is not manufactured from only a part of the total flour streams obtained in the processing of patent flours, and (iii) the product is labeled or otherwise identified as a non-food product.

(*a*) Animal feed;

(*b*) Pet food and poultry feed;

(*c*) Adhesives and other industrial products unsuitable for human consumption;

(*d*) Any product marketed or removed from the plant for use as a component of the products listed in subdivisions (*a*), (*b*), or (*c*) of this subparagraph if such product is unsuitable for marketing as a food product because of ingredients added or other action taken during the total course of processing.

(2) Cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat designated by the Administrator to the extent that the total product of the wheat processed is used in or marketed as animal feed or other non-food product specified in this paragraph.

(3) Any product which prior to marketing or removal for sale or consumption (whichever occurs first) is determined to be unfit for human consumption by the Food and Drug Administration or any agency of a State or local government, has not been rendered unfit for human consumption by deliberate action on the part of the processor and is destroyed or disposed of for animal feed or other non-food use; or any product processed from wheat determined to be unfit for human consumption by any such agency, if the product is destroyed or disposed of for animal feed or other non-food use.

(4) Any product, being manufactured as a food product which in the course of processing inadvertently, and not by design or deliberate action on the part of the processor, becomes unsuitable for marketing as the food product originally intended to be produced, provided such product and all other products obtained from the wheat are destroyed, or prior to marketing or removal from the plant (whichever occurs first) are unsuitable for marketing as a food product and are used in or marketed as animal feed or other non-food products specified in this paragraph.

(5) Such other products processed from wheat as the Administrator may determine to be non-food products.

(d) "Flour" means all flour (including flour clears) processed in whole or in part from wheat and shall include whole wheat or graham flour, Durum flour, malted wheat flour, stone ground flour, self-rising flour, semolina, farina and bulgur.

(e) "Person" means an individual, corporation, partnership, association, State, State agency, municipality or any other legal entity.

(f) "Food processor" means any person who processes wheat into a food product, irrespective of whether or not his principal business activity is that of a food processor. An individual who processes wheat in his own home for family use in his home is not a food processor.

(g) A "plant" or "processing plant" means collectively all processing units under one roof or located adjacent to each other except that (1) any such unit or units producing animal feed or other nonfood product exclusively shall be considered a separate plant, (2) any such unit or units processing durum wheat exclusively may be considered a separate plant, (3) any such unit in which beverage distilled spirits are placed in barrels for aging shall be considered a separate plant, (4) any such unit in which flour second clears are used in the manufacture of products which are not used for human consumption shall be considered a separate plant, and (5) any such unit in which cereal products are produced may be considered a separate plant.

(h) "United States" means all the States in the United States, the District of Columbia and Puerto Rico, including any Free Trade zones located therein.

(i) "Bushel" means 60 pounds of wheat, exclusive of dockage as defined in the Official Grain Standards of the United States or 60 pounds of wheat which is contained in mixed grain or in any mixture.

(j) "Domestic certificate" or "certificate" means a Form CCC–145, Wheat Marketing Certificate (domestic) issued by CCC, or a certificate credit established by CCC in its accounts in favor of a food processor for certificates purchased pursuant to these regulations.

(k) "Marketing year" means the twelve months beginning July 1, and ending June 30.

(l) "Director" means the Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, or his designee.

(m) "Commodity office" means the Kansas City ASCS Commodity Office, 8930 Ward Parkway, P.O. Box 205, Kansas City, Missouri 64141.

(n) "ASCS offices" means:

Evanston ASCS Commodity Office, ASCS–USDA, 2201 Howard Street, Evanston, Ill. 60202.

Kansas City ASCS Commodity Office, ASCS–USDA, 8930 Ward Parkway, Kansas City, Mo., Mailing Address: P.O. Box 205, Kansas City, Mo. 64141.

Portland Branch Office, 1218 Southwest Washington Street, Portland 5, Oreg.

Minneapolis Branch Office, Room 310, Grain Exchange Building, Minneapolis, Minn. 55415.

(o) "Administrator" means the Administrator, ASCS, or his designee.

(p) "GR–262" means "Announcement GR–262, Terms and Conditions of Contracts for the Acquisition of CCC wheat for Export as Wheat Flour", under which wheat is acquired from CCC for exportation in the form of flour pursuant to a barter transaction, or Export Credit Announcement GSM–1, or any other program under which CCC offers wheat at competitive world prices for export in the form of flour.

(q) "GR–346" means the regulations with respect to the "CCC Flour Export Program—Cash Payment, GR–346" (25 F.R. 5816, as amended, 25 F.R. 9939, 25 F.R. 10758, 27 F.R. 1753, 27 F.R. 4863, 27 F.R. 10351, 29 F.R. 4667 and any further amendments thereto) under which export payments may be made on flour exports at announced payment rates.

(r) "State or State Agency" means any of the fifty states in the United States, the District of Columbia and Puerto Rico, and any agency thereof.

(s) "Institution" means an organization operating primarily as a charitable or religious institution which provides assistance on a charitable or welfare basis to needy persons and which, for the purpose of these regulations, has been approved in writing by the Administrator as an institution to which the food processor may deliver food products for distribution by donation to needy persons without acquiring certificates, or if the institution is a food processor, which may remove food products from the plant for donation to needy persons without acquiring certificates. Any institution which wishes to apply for such approval shall submit a request in writing to the Administrator specifying its name and address, and describing its activities, including the purpose for which the food products will be used. Such institution must be recognized by the Internal Revenue Service as an institution to which contributions are deductible as charitable contributions for Federal income tax purposes under section 170 of the Internal Revenue Code (26 U.S.C. 170) as evidenced by the listing of such organization in the U.S. Treasury Department's Internal Revenue Service Publication No. 78, "Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1954," as revised and supplemented.

(t) [Reserved]

(u) "Flour second clears," means a coproduct of patent flours (including Durum patent flour) which is produced in a 72 percent extraction rate type of milling operation in the United States from wheat produced in the United States and which meets the requirements of this paragraph. Flour second clears produced from Soft Red Winter wheat or White wheat (except the subclass Hard White wheat) or from a mixture which includes at least 80 percent Soft Red Winter or White wheat (except Hard White wheat) shall have an ash content of 0.75 percent or more. Flour second clears produced from Durum wheat, or from a mixture which includes more than 20 percent Durum wheat, shall have an ash content of 1.25 percent or more. Flour second clears produced from any other class or other mixtures shall have an ash content of 1.0 percent or more. The ash content shall be calculated to 14 percent moisture basis. Flour second clears shall be a product of the initial milling process and shall not be a product reconstituted by the mixing or blending of the normal by-products of 72 percent extraction type flour milling operation such as mill run, bran, shorts, middlings or red dog.

(v) "Industrial user" means any person who uses flour second clears in the United States in the production of any products not used for human consumption.

(w) "Nonqualifying clears" means clears which do not comply with the requirements of paragraph (u) of this section.

(x) "Shrinkage" as used herein, means that loss in weight resulting from normal handling of wheat, including the loss in moisture content, which occurs after the wheat is weighed and unloaded into the plant (including the servicing elevator(s)) and until it is removed for milling (i.e. prior to cleaning and tempering) or other disposition. Shrinkage shall not include the loss of weight resulting from artificial drying, screening, or cleaning, nor shall it include any loss of weight to the extent it is offset by any residue which is recovered in the form of sweepings, bin cleanout, or in similar operations.

§ 777.4 Applicability of certificate requirements.

(a) *General.* Any food processor processing wheat into food products, as defined herein, in the United States on or after 12:01 a.m. local time, July 1, 1964, regardless of whether he has legal title to the wheat or the food products processed therefrom, shall for the wheat so processed acquire and surrender certificates to CCC at the time and in the manner hereinafter specified in these regulations. The cost of domestic certificates for the marketing year beginning July 1, 1964, shall be 70 cents per bushel except to the extent that the processor qualifies for transition certificates under § 777.6. The cost of domestic certificates for the marketing years beginning July 1, 1965, and July 1, 1966, shall be 75 cents per bushel.

(b) *Exemptions.* Notwithstanding the foregoing, certificates shall not be required in the circumstances specified in the following subparagraphs:

(1) *Farm-use exemption.* Certificates shall not be required for wheat which is processed into a food product for use on the farm where grown and not for sale or other disposition. To support such exemption, the processor shall, at the time of delivery of the food product, obtain a certificate from the producer, or his authorized agent, on Form CCC–148, Food Product Farm Use Certificate, to cover the quantity of food product delivered. The food processor shall exercise care to ascertain that the exemption is not claimed for a quantity of food products in excess of that actually required for use on the farm where produced. The food processor may without

acquiring certificates, deliver to the person from whom he obtained the certification on Form CCC–148, a quantity of the food product not in excess of the quantity of the product processed from a quantity of wheat equivalent to the wheat received by the processor from such person less any such wheat which is received by the processor in payment of processing charges. It is not necessary that the food product be processed from the identical wheat received.

(2) *Wheat processed in bond.* Certificates shall not be required for wheat produced outside the United States which moves into the United States under customs bond, which is processed into food products in a bonded manufacturing warehouse, and which is exported without having been withdrawn from bond for consumption in the United States. To obtain such exemption, the food processor shall obtain authenticated copies of customs Form 7521—a copy evidencing the entry of wheat into a bonded manufacturing warehouse and a copy evidencing the withdrawal from customs bond for export of the food product processed therefrom.

(3) [Reserved]

(4) *Processing by educational institutions or other persons for purposes of student training, experimentation, research, analysis or testing.* An educational institution or other person engaged in the processing of wheat at any installation primarily for the purpose of student training, experimentation, research, analysis or testing shall not be required to acquire and surrender certificates on any wheat processed at the installation into a food product for any such purpose if the food product is not marketed or removed for sale or consumption. Food processing reports need not be submitted nor records maintained with respect to wheat exempt under this subparagraph or food products processed therefrom.

(5) *Wheat produced by and processed for use by a State or State agency.* Certificates shall not be required for wheat produced by a State or agency thereof and processed beginning July 1, 1964, for use by the State or any agency thereof. To support such exemption, the processor shall at the time of delivery of the food product or at such other time as may be approved in writing by the Director, obtain a certification from an authorized official of the State or State agency on Form CCC–148–1, to cover the quantity of food product delivered. The food processor may, without acquiring certificates, deliver to the State or agency thereof from which he obtained the certification on Form CCC–148–1 a quantity of the food product processed from a quantity of wheat equivalent to the wheat received by the processor from the State or agency thereof less any such wheat which is received by the processor in payment of processing charges. It is not necessary that the food product be processed from the identical wheat received. Any State or State agency which processes exclusively wheat produced by such State or State agency solely for its own use is not required to submit food processing reports under § 777.12.

(6) *Wheat processed for donation.* Certificates shall not be required for wheat processed beginning July 1, 1964, into a food product for donation to needy persons under a welfare or charitable program operated by an approved institution (see § 777.3(s)). If the institution is not the food processor, to support such exemption, the food processor shall, at the time of delivery of the food product, or such other time as may be approved in writing by the Director, obtain from the institution a certification on Form CCC–148–2 to cover the quantity of food product delivered for donation. The food product upon which the claim for exemption is based shall not be disposed of by the institution other than for donation to needy persons. The provisions of this subparagraph do not apply to purchases by CCC for donation.

(7) *Wheat processed for noncommercial uses.* Certificates shall not be required for wheat processed for noncommercial uses as determined by the Administrator and specified in this paragraph. Any food processor who wishes to petition the Administrator to establish in the regulations an exemption for any such use shall submit to the Administrator the name and detailed description of the food product, the use which is to be made of the food product, the name and address of the person who will make such use, and any other information deemed relevant by the food processor and as may be required by the Administrator. The exemption shall apply to wheat used in the manufacture of food products for the following use: Wheat processed beginning July 1, 1964, into a food product for use by either the producer or a person to whom he has donated the food product outside the farm where the wheat was grown. To support the exemption provided for in this subparagraph (7), the processor shall at the time of delivery of the food product or at such other time as may be approved in writing by the Director, obtain a certificate from the user in such form as is approved by the Administrator covering the quantity of food product delivered and describing the use to be made of the food product.

§ 777.5 Registration of processors.

(a) *Time of registration.* Any person who processes wheat, either into a food product or nonfood product (except a person who processes wheat in his home solely for family use in his home and a person who processes wheat on a farm solely for use on such farm), shall register with the Director by making the report required by paragraph (b) of this section by May 30, 1964, or such later date as may be approved by the Director in writing. Any such person who begins such processing operations subsequent to May 30, 1964, and who is not registered, shall register not later than the date he commences operations or such later date as may be approved in writing by the Director for good cause shown. Any person who has registered with the Director and who modifies his operations, such as by opening or closing plants, or beginning to process food products, subsequent to the date of his registration, shall give notice of such change to the Director not later than the date he modifies his operations.

(b) *Method of registration.* A person who is required to register (hereinafter called "registrant") shall submit to the Director a report on Form CCC–146, Wheat Processor Registration and Report Form. Any person failing to submit such report is subject to criminal penalties. Blank forms may be obtained from the Director or from any ASCS office listed in paragraph (n) of § 777.3. A separate form in an original and three copies shall be prepared for each processing plant. The original and two copies, shall be submitted to the Director and one copy shall be retained by the registrant. The form shall include the following information: (1) Name of the registrant, (2) Central Office address, (3) plant address, (4) list of food products and non-food products processed at each plant, (5) request for any non-food product designation which the registrant may wish to make, (6) intention to participate or not to participate in transition procedure (see § 777.6), (7) such other information on the form as may be required by the Director.

(c) *Notification of registration by Director.* The Director will assign a primary registration number to the person and return one copy of the Form CCC–146 to him. If he operates more than one plant, he will be assigned a sub-number for each plant, such as Nos. 295–1, 295–2, 295–3, etc.

§ 777.6 Transition.

(a) *General.* It has been determined necessary to facilitate the transition from the 1963 program to the 1964 marketing allocation program by reducing the cost of domestic certificates from 70 cents per bushel to 18 cents per bushel on certain wheat produced and stored in the United States and processed into food products on and after July 1, 1964. Such reduced cost certificates shall hereinafter be referred to as "transition certificates".

(b) *Eligible persons.* Food processors who elect to apply for transition certificates and who comply with the requirements of this section shall be eligible to acquire transition certificates from CCC.

(c) *Quantity eligible for transition certificates.* (1) The quantity of wheat for which transition certificates may be acquired by a processor shall be computed separately for each processing plant for which the processor elects to qualify for transition certificates and separately for each class of wheat for which he elects to qualify for such certificates. Such quantity shall be:

(i) The quantity of old crop wheat (i.e., wheat of 1963 and prior crops) produced and stored in the United States to which the processor holds legal title as of midnight, May 23, 1964, and which has been assigned by the processor for use in the processing plant for which the computation is being made; plus

(ii) The quantity of wheat which the processor purchases from CCC for unrestricted use, which is not designated by CCC as non-storable, which is assigned by the processor for use in the

processing plant, and to which legal title is acquired by the processor during the period commencing at 12:01 a.m. on May 24, 1964, and ending at midnight on June 30, 1964; minus

(iii) The quantity of wheat owned by the processor and processed by the processing plant during the period commencing at 12:01 a.m. on May 24, 1964, and ending at midnight on June 30, 1964, irrespective of when the wheat was acquired or whether the wheat processed is old or 1964 crop wheat; and minus

(iv) The quantity of all wheat assigned or intended for use in the processing plant (irrespective of when the wheat was acquired or whether the wheat was old or 1964 crop wheat) as to which there is a transfer of legal title to a buyer, or an intra-company transfer from the plant or reassignment for use other than in the processing plant or a delivery to a carrier for shipment from the United States during the period commencing at 12:01 a.m. on May 24, 1964, and ending at midnight on June 30, 1964.

(2) The processor shall not on or after July 1, 1964, use any wheat which was used as a basis for acquiring transition certificates to replace wheat exported between May 24, 1964 and July 1, 1964, so as to have used such wheat both for the purpose of establishing eligibility for transition certificates and for the purpose of facilitating certificate free exports prior to July 1, 1964. Any processor who violates the foregoing provision shall be considered not to have acted in good faith and shall be subject to the provisions of paragraph (h) of this section.

(3) For the purposes of this section, mixed wheat shall be deemed to consist of the classes of wheat which comprise the mixture. Cleaned wheat, irrespective of degree of cleaning or sizing, and any wheat in process with the berry remaining unbroken by processing (excluding boiled, pearled, steeped or commercially sprouted wheat) shall be eligible on the same basis as any other wheat for transition certificate purposes. For purposes of this section all time shall be local time.

(d) *Transition certificates.* Transition certificates shall be valid only to cover wheat processed into food products during the period July 1, 1964, through August 31, 1964, in the processing plant for which the certificates were issued, except that the Administrator may extend such period to the extent that it is established to his satisfaction that additional time is needed to use such transition certificates. Transition certificates may be used to cover wheat other than the class for which the processor qualified. The cost of such certificates shall be 18 cents per bushel. Transition certificates shall be issued by establishing certificate credits in favor of the processor in the accounts of CCC upon receipt by CCC of payment therefor.

(e) *Submission of reports.* (1) Any food processor who wishes to qualify for transition certificates must submit for each processing plant and for each class of wheat for which he wishes to qualify the following reports:

(i) Beginning Inventory Transition Report, Form CCC–152, together with supporting schedules, to be postmarked not later than June 26, 1964, or such later date as may be approved in writing by the Director for good cause shown.

(ii) Transition Operations Report, Form CCC–153, together with supporting schedules, to be postmarked not later than July 24, 1964, or such later date as may for good cause shown, be approved by the Director in writing. Forms and form preparation instructions may be obtained from the ASCS offices named in § 777.3(n). Completed forms shall be submitted to the Kansas City Commodity Office. Quantities shall be reported in bushels, excluding dockage. Completed forms shall contain all the information required on the forms and shall be prepared in accordance with instructions relating thereto.

(f) *Transition Records to be retained by food processor.* (1) Food processors shall establish and retain accurate records and documents to support the quantities of each class of wheat reported under this section. Separate records shall be established and documents retained for each processing plant. Documents to be retained shall include:

(i) Purchase and sale contracts, purchase and sale invoices, delivery documents, and any other documents necessary to establish legal title to the wheat and the date such title was acquired.

(ii) Bills of lading and related weight and inspection certificates for wheat in transit.

(iii) Records showing the determination of inventory of wheat in the elevator at the processing plant location servicing the processing plant and in the processing plant as of May 23, 1964, and June 30, 1964, including weight tickets representing a weigh-up of the wheat, or accurate measurements made of the wheat.

(iv) Documents evidencing the weight of wheat received in and withdrawn from the processing plant and the elevator at the processing plant location servicing the processing plant during the period from May 23, 1964, through June 30, 1964.

(v) Any other documents relating to the quantities of wheat reported.

(2) Representatives of the U.S. Department of Agriculture may examine such records and documents or the stocks of wheat in storage or in the processing plant at any time during normal business or working hours. Transition inventory records shall be retained until July 1, 1966.

(g) *Wheat stored in public warehouses and elevators.* If any wheat included in the Beginning Inventory Transition Report is stored in a public warehouse or elevator and such warehouse or elevator does not have either a Uniform Grain Storage Agreement with CCC, or is not licensed under the U.S. Warehouse Act, the processor must obtain a certification by the warehouseman that the warehouse receipts representing such wheat are outstanding, that he had on May 23, 1964, sufficient stocks of wheat of the particular class to cover his entire storage liability of such wheat, that he will maintain adequate stocks of the particular class of wheat to cover his storage liability so long as such warehouse receipts are outstanding, and that he will maintain accurate records of all wheat of the particular class received and withdrawn from storage during the period such warehouse receipts are outstanding. Such records shall be retained until July 1, 1966. Warehousemen shall furnish such certification upon request of food processors who establish ownership of outstanding warehouse receipts. Representatives of the U.S. Department of Agriculture may examine such warehouse records and the stocks of wheat in storage at any time during normal business hours of the warehousemen. Warehousemen who have a Uniform Grain Storage Agreement with CCC or are licensed under the U.S. Warehouse Act are obligated under such agreement or license to maintain adequate stocks of wheat to cover their storage liability and to maintain accurate records of wheat in storage.

(h) *Failure to act in good faith.* Any processor who is determined by the Administrator not to have acted in good faith in any report made under this section or in any transaction which serves as a basis for establishing the amount of wheat on which he is entitled to purchase transition certificates under this section, in addition to any other liability, may be denied, to the extent determined by the Administrator, the right to acquire, use, or retain the benefits of any transition certificates to which he might otherwise be entitled.

(i) *Hardship cases.* If, as a result of causes arising after May 23, 1964, beyond the control of a food processor and without his fault or negligence, including but not limited to acts of God, acts of the government, fire, flood, explosion, quarantine, and strikes, a food processor is unable to effectuate the transition in the manner contemplated by these regulations and thereby suffers an undue hardship, he may apply to the Administrator for relief from the requirements of any provision in this Part. Such application shall be in writing and supported by documentary evidence necessary to substantiate the basis on which the application is made. If, in the judgment of the Administrator, relief from the requirements of such provision is justified under all the circumstances of the case, he may issue transition certificates in such amount, valid to cover wheat processed during such period, or take such other action to facilitate the transition as may be authorized by section 379g of the Act, as he determines appropriate to provide relief from the hardship. This authority may not be redelegated.

§ 777.7 Refunds or credits for flour exports.

(a) *General.* In order to expand international trade in wheat and wheat flour and promote equitable and stable prices therefor, the Commodity Credit Cor-

poration shall upon the exportation from the United States of any wheat or wheat flour, make a refund to the exporter or allow him a credit against the amount payable by him for marketing certificates, in such amount as is determined will make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. Refunds shall be made through export payments under GR–346. If the amount of the export payment under GR–346 exceeds the cost of the certificates for the flour, a part of the export payment equal to the cost of such certificates shall constitute the refund. If the amount of the export payment does not exceed the cost of the certificates, the entire amount of the payment shall constitute the refund.

(b) *Exports under GR–262.* In the case of wheat acquired from CCC under GR–262 at competitive world prices for export in the form of flour, the exporter will be allowed a credit in the amount of the full cost of certificates required to be acquired and surrendered to CCC for the flour exported in fulfillment of the exporter's obligations under GR—262, or certificates for such amount will be issued to the exporter. When wheat is acquired from CCC under GR–262, CCC will establish a credit or issue certificates in such amount in the exporter's favor which may be transferred to the processor from whom the flour to be exported is acquired. If the exporter does not make exportation as required under GR–262, he shall pay to CCC promptly on demand the amount of the credit or the face value of the certificates applicable to the flour not so exported, together with interest at the rate of 6 percent per annum from the date such credit was established or certificates issued.

(c) *Exports of food products other than flour.* No refunds shall be made or credits allowed against the amount payable for certificates on the wheat used in processing any food products, other than flour as defined in § 777.3(d), which are exported.

§ 777.8 Penalties.

(a) *Violation of marketing restrictions—forfeitures.* Any person who beginning July 1, 1964, knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of these regulations with regard to the acquisition of certificates prior to marketing any such food product or removing such food product for sale or consumption shall be subject to section 379i(a) of the Agricultural Adjustment Act of 1938 which provides for the forfeiture to the United States by such person of a sum equal to two times the face value of the certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

(b) *Violation of marketing restrictions; failure to make reports or maintain records—criminal penalties.* Any person, except a producer in his capacity as a producer, who beginning July 1, 1964, knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of these regulations governing the acquisition, disposition, or handling of certificates or who knowingly fails to make any report or keep any record as required by these regulations shall be subject to the provisions of section 379i (b) of the Agricultural Adjustment Act of 1938 which state that such person shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

(c) *Fraudulent use of marketing certificates.* Any person who falsely makes, issues, alters, forges or counterfeits any certificate, or with fraudulent intent possesses, transfers, or uses such falsely made, issued, altered, forged or counterfeited certificate, shall be subject to the provisions of section 379i(c) of the Agricultural Adjustment Act of 1938 which state that such person shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than ten thousands dollars or imprisonment of not more than ten years, or both.

§ 777.9 Semi-processed wheat.

Any food processor who processes wheat into cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat as may be designated in § 777.3 (b)(1)(v) shall not market or remove such processed wheat for sale or consumption without acquiring certificates and surrendering certificates to CCC as provided in these regulations, unless the total product of the wheat processed is used in or marketed as a non-food product. Any person who acquires and further processes cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or similarly processed wheat into a food product (including by mixing with a food product or packaging for marketing as a food product) shall be considered a food processor except as otherwise provided in § 777.3(f). Such person shall acquire and surrender certificates and make reports as required by the regulations of this part on the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat used in the processing of the food product, unless prior to marketing the food product, or removing it for sale or consumption, he has obtained a certification from the person who produced the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or similarly processed wheat that he has or will acquire and surrender certificates as required by these regulations. The person processing the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat into a food product shall maintain records of the quantities thereof processed into food products as required by § 777.15 and shall retain any certification obtained by him under the foregoing provisions of this section for a period of three years.

§ 777.10 Wheat Marketing Certificate (Domestic).

(a) *Description.* Wheat Marketing Certificates (Domestic), herein called "domestic certificates" or "certificates", shall be represented by Form CCC–145, Wheat Marketing Certificate (Domestic) issued by CCC, or a certificate credit established by CCC in favor of a food processor for certificates purchased from CCC pursuant to these regulations. Form CCC–145 is a serially numbered form entitled "Wheat Marketing Certificate." A Form CCC–145 domestic certificate will be identified as "domestic", will show date of issuance, bushel quantity, face value, name and address of person to whom issued, and the marketing year to which it applies, and will bear the signature of a representative of CCC authorized to sign certificates.

(b) *Sale by CCC.* CCC will sell certificates to food processors and others who offer to purchase certificates from CCC and who pay to CCC the face value of the certificates plus such interest as may be required by the regulations of this part. Offers to purchase certificates and payment therefor may be made at the Kansas City Commodity Office or may be made by deposit of funds to the credit of CCC at the Kansas City Federal Reserve Bank. If certificates are being purchased for wheat processed in a specific processing report period as provided in § 777.12, the food processor shall identify in his offer the processing report period to which the certificates are to be applied by indicating the beginning and ending report period dates and the processor number. Payment for certificates shall be deemed to have been made when payment is received at the Kansas City Commodity Office or the Kansas City Federal Reserve Bank, except that if payment is by mail and a date appears on the postmark, payment shall be deemed to have been made on the date which appears on the postmark. Form CCC–145 will be issued for certificates sold by CCC, except that in any case where certificates are purchased for wheat processed in a specific processing report period, CCC will establish a credit in favor of the food processor for the amount of the certificates purchased in lieu of issuing Form CCC–145.

(c) *Negotiability.* Form CCC–145 certificates may be transferred to any person by endorsement and delivery. A person acquiring certificates by transfer may surrender them to CCC to cover wheat processed into food products or may sell them to CCC.

(d) *Surrender of certificates to CCC.* Food processors shall discharge their obligation to surrender certificates to CCC by endorsing Form CCC—145 certif-

icates and delivering them to CCC at the Kansas City Commodity Office or by making payment to CCC for certificates required for wheat processed into food products in a specific processing report period. Surrender of certificates to CCC shall be deemed to have been made at the time when payment is made for certificates purchased or at the time delivery of Form CCC–145 certificates is made at the Kansas City Commodity Office. If Form CCC–145 certificates are received in the Kansas City Commodity Office by mail and a date appears on the postmark, delivery shall be deemed to have been made on the date which appears on the postmark. Certificates will be deemed to be cancelled by CCC upon their surrender to CCC.

(e) *Balance certificates.* If Form CCC–145 certificates delivered to the Kansas City Commodity Office have a face value in excess of the value of certificates required to be surrendered, CCC will issue Form CCC–145 certificates to the food processor for the unused balance.

(f) *Purchase by CCC.* Any valid Form CCC–145 certificates legally held by any person will be purchased by CCC at face value if presented for purchase to the Kansas City Commodity Office.

§ 777.11 Time and manner of acquiring and surrendering certificates.

(a) *General.* Food processors shall acquire certificates and surrender certificates to CCC as provided in paragraphs (b) and (c) of this section and in the manner specified in § 777.10. The number of certificates acquired by the food processor and surrendered to CCC shall be equivalent to the number of bushels of wheat used in processing the food products for which certificates must be acquired and surrendered. Such quantity of wheat shall be determined and reported to CCC as provided in §§ 777.12 to 777.14 on the basis of the weight of wheat used in processing the food products or by application of conversion factors to the weight of food products obtained in the processing operation.

(b) *Undertaking to secure purchase and payment.* Any food processor may market a food product or remove a food product for sale or consumption without first having acquired and surrendered certificates if he enters into the undertaking with CCC provided in this paragraph and complies with such undertaking. The undertaking shall be entered into by filing with the Kansas City ASCS Commodity Office a properly executed "Food Processor Certificate Undertaking," Form CCC–147. The undertaking shall apply to wheat processed into food products in each plant specified in Form CCC–147 beginning with the first day of the processing report period as determined under § 777.12 in which the undertaking was received by the Commodity Office, except that the undertaking shall apply to wheat processed beginning July 1, 1964, if the undertaking is received in the Commodity Office on or before August 25, 1964. If an undertaking has been filed, it shall remain in effect unless the food processor breaches the undertaking in which event it shall terminate at such time as provided in subparagraph (4) of this paragraph, or unless the food processor notifies CCC that he wishes to withdraw the undertaking in which event it shall expire at such time as may be determined by CCC. By filing Form CCC–147 with the Commodity Office, the food processor agrees, in consideration of the right to market food products and to remove food products for sale or consumption without having first acquired and surrendered certificates as follows:

(1) He will acquire certificates from CCC and surrender the certificates for the wheat processed into food products, as required under the regulations of this part on or before the 45th calendar day after the close of the processing report period during which the wheat was processed or such later date as may be approved by the Administrator for good cause shown by the food processor.

(2) If certificates are acquired and surrendered to CCC later than the 15th calendar day after the close of the processing report period during which the wheat was processed, the cost of the certificates acquired from CCC shall be the face value of the certificates plus interest at the rate of six percent per annum starting on the 16th calendar day after the close of the processing report period until the date of surrender of the certificates.

(3) If requested by the Administrator, the food processor will furnish a bond or letter of credit in such form and amount and within such period as may be specified by the Administrator to secure the food processor's obligations hereunder.

(4) The food processor's right to market food products and to remove food products for sale or consumption without first having acquired and surrendered certificates is conditioned on his complying with his obligations under the foregoing provisions of this undertaking. If the food processor breaches his undertaking, his right to market food products and to remove food products for sale or consumption without first acquiring and surrendering certificates shall be deemed terminated as of the first day of the reporting period with respect to which the breach occurred.

(c) *Purchase of certificates in absence of undertaking.* (1) Except as provided in paragraph (b) of this section, the food processor must acquire certificates and surrender such certificates to CCC on or before the 15th calendar day after the end of the processing report period, or such later date as may be approved in writing by the Administrator for good cause shown, for all food products sold and removed for sale or consumption from the processing plant, covered by the processing report, during the processing report period. The cost of certificates acquired from CCC shall be as provided in subparagraphs (2), (3), and (4) of this paragraph.

(2) The food processor may acquire certificates from CCC at face value to the extent that he acquires and surrenders certificates not later than the first day of each processing report period (as determined under § 777.12) to cover the estimated quantity of wheat to be used in the processing of food products during the first half of the report period. In addition, the food processor may acquire certificates from CCC at face value to the extent he acquires and surrenders certificates not later than the first day of the second half of each processing report period to cover the estimated quantity of wheat to be used in the processing of food products during the second half of the report period. If the quantity of wheat estimated to be used in the processing of food products during the processing report period was underestimated, additional certificates may be acquired from CCC at face value if acquired and surrendered to CCC on or before the last day of the report period.

(3) If the certificates acquired and surrendered as provided in subparagraph (2) of this paragraph are equal to 90 percent or more of the certificates required to cover the wheat used in processing food products during the report period, any additional certificates may be acquired from CCC at face value if acquired and surrendered to CCC not later than the 15th calendar day after the end of the processing report period, or such later date as may be approved in writing by the Administrator for good cause shown. The cost of any certificates purchased from CCC after such date to cover wheat used in processing the food products during the report period shall be the face value thereof plus interest at six percent per annum starting on the 16th calendar day after the close of the processing report period until the date of surrender of the certificates.

(4) If the certificates acquired and surrendered to CCC by the food processor as provided in subparagraph (2) of this paragraph are less than 90 percent of the certificates required to cover the wheat used in processing food products during the processing report period or if the food processor does not acquire and surrender certificates as provided in subparagraph (2) of this paragraph, the cost of any certificates purchased from CCC subsequent to the last day of the processing report period to cover the wheat used in processing food products during the processing report period will be the face value of the certificates plus interest at six percent per annum from the first day of the report period until the date of surrender of the certificates.

(d) *Wheat acquired from CCC for export as flour under GR–262.* The processor of any food products exported in fulfillment of an exporter's obligation to export under GR–262, shall surrender certificates to CCC on such food products as provided in the foregoing paragraphs of this section. A credit will be allowed or certificates issued to the exporter in the manner provided in § 777.7 for the full cost of certificates required to be acquired and surrendered to CCC on such flour.

(e) *Beverage distilled spirits.* In the case of a food processor who ages beverage distilled spirits which he has manufactured from wheat, the beverage distilled spirits are deemed to be re-

moved from the processing plant for consumption for the purpose of these regulations when the spirits are placed in barrels for aging. Certificates shall be acquired and surrendered as provided in paragraph (c) of this section in an amount equivalent to the number of bushels of wheat used on and after July 1, 1964, in processing the beverage distilled spirits, except that a food processor may age beverage distilled spirits manufactured by him from wheat without first having acquired and surrendered certificates if he enters into the undertaking with Commodity Credit Corporation provided in this paragraph and complies with such undertaking. The undertaking shall be entered into by filing with the Kansas City Commodity Office a properly executed "Food Processor Certificate Undertaking" Form CCC–147. The undertaking shall apply to wheat processed into beverage distilled spirits in each plant specified in such form beginning with the first day of the processing report period specified in the undertaking. By filing Form CCC–147 with the commodity office, the food processor agrees in consideration of the right to age beverage distilled spirits manufactured by him from wheat without having first acquired and surrendered certificates as follows:

(1) He will acquire certificates from Commodity Credit Corporation and surrender the certificates for the wheat processed into beverage distilled spirits and placed in a barrel for aging as required under this part, on or before the 45th calendar day after the end of the month in which such barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first, or such later date as may be approved by the Administrator for good cause shown by the food processor. The number of certificates for the wheat used in manufacturing the beverage distilled spirits aged in each barrel shall be determined by dividing (i) the total quantity of wheat used by the processor in manufacturing all the beverage distilled spirits which are produced and placed in barrels for aging in the same marketing year as the particular barrel for which certificates are acquired, by (ii) the total number of barrels of beverage distilled spirits produced and placed in barrels for aging in such marketing year.

(2) If certificates are acquired and surrendered to Commodity Credit Corporation later than the 15th calendar day after the end of the month in which the barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first, the cost of certificates acquired from Commodity Credit Corporation will be the face value of the certificates plus interest at the rate of 6 percent per annum starting on the day after such 15th calendar day until the date of surrender of the certificates.

(3) The food processor shall furnish a bond or letter of credit in such form and amount and within such period as may be specified by the Administrator to secure the food processor's obligations hereunder.

(4) The food processor's right to age beverage distilled spirits without first having acquired and surrendered certificates is conditioned on his complying with his obligations under the foregoing provisions of this undertaking. If the food processor breaches his undertaking, his right to age the spirits without first acquiring and surrendering certificates shall be deemed terminated as of the first day of the report period with respect to which the breach occurred.

(f) *Inapplicability of interest.* Interest charges under this section will not apply to the extent it is established to the satisfaction of the Administrator, ASCS, that a delay in the acquisition and surrender of certificates resulted from reliance in good faith upon action or advice of an authorized official of the Department. Any processor who wishes to apply for relief under this section shall submit a request in writing supported by documentary evidence necessary to substantiate the basis on which the application is made.

§ 777.12 Food processing reports.

(a) *General.* Processing reports shall be submitted to the Kansas City Commodity Office by each food processor as defined in § 777.3(f). Descriptions of the processing reports are set forth in §§ 777.13 and 777.14 and detailed instructions are provided in Appendices II and III.

(b) *Processing report period.* (1) The period of processing operations which a processing report shall cover shall be one of the following:

(i) Each calendar month.

(ii) 4 or 5 week periods in combination.

(iii) Each 4 weeks.

(iv) Effective commencing with the marketing year beginning July 1, 1965, each 6-month period in the case of a food processor whose certificate liability during the previous marketing year totalled 300 bushels of wheat or less. The first 6-month report shall cover the 6-month period beginning on 12:01 a.m., July 1, and ending at midnight December 31, and succeeding reports shall cover each 6-month period thereafter. CCC reserves the right to require any processor to report in the period prescribed in (i), (ii), or (iii) above.

(2) The food processor shall report to the Kansas City Commodity Office the processing report periods which he proposes using, by listing specific report periods ending dates for the entire marketing year. The list shall be submitted with Form CCC–147, "Food Processor Certificate Undertaking," if such an undertaking is made, otherwise, with the first processing report. If such list is not submitted, the food processor shall report on a calendar month basis.

(3) Once a processing report period has been established, it shall not be changed for any marketing year except with the approval of the Administrator in writing for good cause shown.

(4) The first report period for any marketing year shall begin on July 1 at 12:01 a.m. If a food processor elects to use a processing report period as provided in paragraph (b)(1) (ii) or (iii) the first report period shall end at such time short of 5 weeks as will make the second report coincide with the plant's established 4- or 5-week reporting period. The last report period for any marketing year shall end with the close of business on June 30. If the first period is less than 7 days, such period need not be reported separately, but may be included in the report for the first full 4- or 5-week period as applicable; similarly, if the last report period is less than 7 days it may be included in the last full 4- or 5-week period as applicable.

(5) If August 31, 1964 is not designated as a processing report period ending date and the processor is still eligible to acquire additional transition certificates which he wishes to acquire for use during the report period in which August 31, 1964 falls, he must submit an additional processing report as of August 31, 1964, or as of a date prior to August 31, 1964, at the election of the processor for the portion of the period in which he wishes to use the transition certificates.

(c) *Date of submittal.* The processing report shall be submitted not later than 15 days after the close of the processing report period (or such later date as may be approved by the Administrator for good cause shown by the food processor). If the report is mailed and a date appears on the postmark, the report shall be deemed to have been submitted on the date shown on the postmark.

(d) *Basis of reporting.* The weight of wheat basis of reporting prescribed in § 777.13 shall be used except that if conversion factors are provided in § 777.14 for all the food products processed in the plant (or approved combination of plants as provided in paragraph (e) of this section) covered by the report, the food processor may elect to use the food product conversion factor basis prescribed in § 777.14. The basis of reporting used in a food processor's first report in a marketing year, i.e., weight of wheat or conversion factor basis, shall be deemed to constitute his election to use such basis for the entire marketing year, and all subsequent reports for any marketing year shall be on such basis, unless the Administrator for good cause shown approves in writing a change of the basis of reporting.

(e) *Plant or plants.* Separate processing reports shall be submitted for each plant in which any wheat is processed into a food product, for each processing report period, with the exception that a food processor may apply to the Director in advance for approval of a combination of two or more plants or a division of the plant. Such approval will be given if such change better suits the inventory, operating or records systems applicable to such plants and if the change does not impair verification of

quantities processed. If such approval is given, the combination of plants will be assigned a new subnumber in the Director's notification of approval.

(f) *Number of report periods for which submitted.* A processing report shall be submitted for each report period beginning July 1, 1964, regardless of whether there was any wheat processed in the processing plant during the period.

(g) *Corrected processing reports.* If it is found that an incorrect processing report has been submitted to the commodity office, the food processor shall promptly prepare and submit a corrected processing report with the applicable beginning and ending dates for the period involved indicated thereon. A consolidated corrected report may, with the approval of the Director, be submitted to cover more than one processing report period. Such report shall be identified as a "Corrected Report" and transmitted with a letter of explanation. If the processor is entitled to a certificate refund, he shall indicate whether the amount of the refund should be paid to him or held for application to a subsequent report. If additional certificates are required, and such certificates are surrendered to CCC later than the 15th calendar day after the close of the processing report period in which the wheat was processed into the food products, the cost of any certificates acquired from CCC shall be the face value thereof plus interest at the rate of six percent per annum starting on the 16th calendar day after the close of the processing report period until the date of surrender of the certificates. Any food processor, who has made an incorrect processing report, corrected such report as provided in this section, and surrendered any additional certificates due with the corrected report, will not be subject to the forfeitures referred to in § 777.8 to the extent that the Administrator determines that the error in the report was due to an honest mistake and was not intentional or the result of gross negligence.

(h) *Reports from persons engaged in the processing of wheat primarily for student training, experimentation, research analysis or testing.* Notwithstanding the foregoing provision of this section, food processing reports are not required to be submitted with respect to any wheat processed at an installation by an educational institution or other person which processes wheat at the installation primarily for the purpose of student training, experimentation, research, analysis or testing during a processing report period if all the wheat processed during the period is exempt for the requirement for the acquisition of certificates under § 777.4(b)(4). If any wheat processed into food products during the report period is not so exempt, the food processor shall report on Form CCC–159 on a calendar month basis, the quantity of wheat processed into such food products. The name of such food products shall be entered on the form if not preprinted. If conversion factors are specified in § 777.14 for the food products not so exempt, the quantity of food products produced shall be entered in Item 7(a) the applicable conversion factor in Item 7(b), and the wheat equivalent in Item 7(c). If conversion factors are not so specified, the actual number of bushels used in the processing of the food products shall be entered in Item 7(c). Such person shall state in Item 8 "Wheat not exempt under § 777.4(b)(4) processed at an installation by a person engaged in the processing of wheat at such installation primarily for the purpose of student training, experimentation, research, analysis or testing." The remaining items of the report shall be completed in accordance with Appendix III.

(i) *Beverage distilled spirits.* In the case of a food processor who ages beverage distilled spirits manufactured by him from wheat, the first period of processing operations which a processing report shall cover shall be the period beginning July 1, 1964, and ending June 30, 1965. Thereafter, processing reports shall cover periods as provided in paragraph (b) of this section. In addition, a food processor who has submitted the undertaking provided in § 777.11(e) shall submit not later than the 15th calendar day after the end of the month in which each barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first (or such later date as may be approved by the Administrator for good cause shown by the food processor), a report identifying the month in which this occurred, the serial number of the barrel in which such beverage distilled spirits were aged and the processing report period in which the beverage distilled spirits were produced from wheat.

§ 777.13 Weight of wheat basis of reporting.

(a) *General.* Food processors reporting the quantity of wheat processed into food products on the basis of the weight of wheat processed, shall complete Form CCC 160, Processing Report-Weight of Wheat Basis, for each reporting period in accordance with detailed instructions set forth in Appendix II of this part. Determinations of the weight of wheat processed into food products shall be made in the manner prescribed in Appendix II. No deductions may be made for any by-products of a food product obtained in the processing of the wheat.

(b) *Additional reports in absence of an undertaking.* Food processors purchasing certificates in accordance with § 777.11(c) shall supplement each Form CCC–160 with a statement showing: (1) The quantity (in cwt.) and name of food products processed in the reporting period covered by the form, (2) the quantity (in cwt.) and name of food products sold and removed for sale or consumption during such period, (3) the reporting period in which the food product(s) specified in Item (2) were processed, and (4) the wheat equivalent in bushels of such food product(s) calculated by using the actual conversion factor experienced in the reporting period in which processed (bushels of wheat processed into food products divided by cwt. of food products produced). The processor's Form CCC–160 for the first period not covered by an undertaking shall also include a statement showing the quantity of food products remaining in inventory from the previous reporting period(s) and the wheat equivalent of such product(s). For the purpose of determining the report period in which a food product was processed, sales and removals shall be applied to quantities processed on a first produced, first sold and removed basis. The face value of the certificates and the interest charges shall be shown separately on the report.

§ 777.14 Conversion factor basis of reporting.

(a) *Report form.* Food processors reporting the quantity of wheat processed into food products on the basis of the application of conversion factors to the weight of food products obtained in the processing operation (herein called "food product conversion factor basis") shall complete Form CCC–159, Processing Report-Conversion Factor Basis, for each reporting period.

(b) *Additional ingredients.* If the food product conversion factor basis of reporting is used to determine the quantity of the wheat processed, such quantity may be reduced by the weight of any additional ingredient included in the weight of the food products which was introduced during the course of processing. "Additional ingredient" for purposes of this paragraph means:

(1) Any flour and other food products including clears and malted wheat flour, which were produced prior to July 1, 1964, or for which certificates have previously been acquired and surrendered to CCC by the processor or for which certificates are required to be acquired and surrendered to CCC by another food processor from which the food product was purchased.

(2) Any nonwheat ingredient including, but not limited to malted barley flour, creta preparata, and self-rising components, but not including moisture used in the tempering of wheat or otherwise introduced in the production of the product.

(c) *Conversion factors.* For purposes of this section, the wheat equivalent of each food product named in column A shall be the number of bushels prescribed as the conversion factor for such product in column B.

A *Food product*	B *Bushels of wheat-equivalent per 100 pounds of product (conversion factor)*
Whole wheat flour or graham flour	1.700
Flour (including clears) derived from conventional milling practices which are generally accepted in the milling industry in the United States as representing a 72 percent extraction operation	2.300
Malted wheat flour	2.075
Semolina	2.283
Farina	2.283
Bulgur	1.916
Rolled wheat	1.800
Cracked wheat (wheat grits), ground wheat, or crushed wheat	1.700

A *Food product*	B *Bushels of wheat-equivalent per 100 pounds of product (conversion factor)*
Heavy bran, type A (extraction approximately 40 percent heavy bran and 50 percent flour)[1]	1.310
Heavy bran, type B (extraction approximately 57 percent heavy bran and 32 percent flour)[1]	1.640
Whole wheat cereal, including fines (extraction approximately 80 percent cereal and 13 percent fines)[2]	2.09
Wheat bits cereal, including fines (extraction approximately 68 percent cereal and 27 percent fines)[2]	2.44
Cracked wheat for cereal, including fines (extraction approximately 59 percent cracked wheat and 27 percent fines)[2]	2.80
Granular cereal (extraction approximately 22 percent Granular cereal and 53 percent flour)[1]	2.12
Popped wheat (manufactured from wheat that is soaked and then immersed in boiling oil)[3]	1.813

(d) *Other conversion factors.* (1) There shall be no conversion factors other than those prescribed in paragraph (c) of this section, except that any food processor may petition the Administrator to establish in the regulations a conversion factor for any additional food product or flour of other rates of extraction.

(2) Any person who wishes to petition for the establishment of a conversion factor for food products other than flour shall submit to the Administrator:

(i) The name and a detailed description of the food product, and

(ii) The conversion factor which is considered to be applicable. (Such factor is to be based upon the quantity of wheat, prior to cleaning, that is required to produce 100 pounds of the particular food product), and

(iii) Evidence to substantiate the recommended conversion factor.

(3) Any person who wishes to petition for the establishment of a conversion factor for flour of other rates of extraction shall submit to the Administrator the rate of extraction for which he desires the establishment of a conversion factor, and a statement to the effect that he mills flour of such rate of extraction.

(e) *Preparation of the report.* Instructions for the preparation of Forms CCC–159 are contained in Appendix III of this part.

(f) *Additional reports in absence of an undertaking.* Food processors who purchase certificates in accordance with section 777.11(c) shall supplement each Form CCC–159 with a statement showing (1) the quantity (in cwt.) and name of food products sold and removed for sale or consumption during the period covered by the form, (2) the quantity of wheat used in the production of such food products, (3) the conversion factor(s) used in making such determination, and (4) the reporting period in which the food products were processed. The processor's Form CCC–159 for the first period not covered by an undertaking shall include a statement, showing the product, and the wheat equivalent in bushels of the products in inventory at the beginning of the period. For the purpose of determining the report period in which a product was processed, sales and removals shall be applied to quantities processed on a first produced, first sold and removed basis. The face value of the certificates and the interest charges shall be shown separately on the report.

[1] The flour produced is subject to the regular conversion factor applicable to a 72 percent extraction operation.

[2] When certificates are acquired for these products based on the conversion factors specified, certificates will be deemed to have been acquired for the fines derived in connection therewith.

[3] Wheat equivalent of product is predicated on combined nonwheat ingredients equalling approximately 25.4 percent.

§ 777.15 Records.

Food processors shall establish and maintain for each processing plant or approved combination of plants accurate records and documents which are necessary (a) to determine the total quantity of wheat processed into food products based upon the weight of wheat used in processing food products as provided in § 777.13 and Appendix II or based upon the application of conversion factors to the weight of food products obtained in the processing operation as provided in § 777.14 and Appendix III, whichever is applicable and (b) to support all reports thereof made to the Kansas City Commodity Office. A food processor shall establish and maintain accurate records of all sales of food products and removals of food products for sale and consumption from the processing plant unless he elects to have all wheat processed during each reporting period considered as having been sold or removed for sale or consumption during such reporting period. The food processor's failure to maintain such records shall constitute his election to have wheat processed during each reporting period considered as having been sold or removed for sale or consumption during such reporting period. Representatives of the U.S. Department of Agriculture may examine the foregoing records and documents and the stocks of wheat and food products in storage or in the processing plant at any time during normal business or working hours. All such records shall be retained for a period of three years.

§ 777.16 Casualty losses.

CCC shall make a refund to the food processor or allow him a credit against the amount payable for certificates to the extent of the value of certificates acquired and surrendered to CCC on any food products which the food processor establishes to the satisfaction of the Administrator was destroyed or rendered unmarketable for use as a food product as a result of a fire, casualty, or act of God prior to sale or removal for sale or consumption (whichever occurs first).

CCC shall make refund to an industrial user to the extent of the value of certificates acquired and surrendered on wheat used in producing flour second clears when it is established to the satisfaction of the Administrator that flour second clears acquired by the industrial user were destroyed or rendered unfit for human consumption as a result of a fire, casualty, or act of God.

§ 777.17 Payments in dispute.

The making of a payment to CCC for certificates, or the surrender of certificates to CCC by a food processor, or the making of an undertaking by the processor pursuant to § 777.11, shall not deprive the food processor of any right which he might otherwise have to assert a claim in the event of a dispute as to the number of certificates, if any, required to be acquired and surrendered by him to CCC or as to the refunds or credits against the cost of certificates to which he or the exporter of flour is entitled on flour exported.

§ 777.18 Food processors manufacturing flour second clears.

(a) *General.* The food processor is required to purchase and surrender certificates for the wheat used in processing flour second clears in accordance with the other provisions of these regulations. Refunds of the cost of such certificates shall be made only to industrial users of flour second clears as provided in § 777.19. The processor shall upon request from the buyer, distributor, or other transferee of flour second clears execute and furnish a Form CCC–165, Processor Certification, Flour Second Clears, to establish that the flour second clears produced by him and sold to the buyer meet the definition of flour second clears. A separate invoice and a separate Form CCC–165 is required for each separate railroad car, truckload, or other applicable shipment unit of flour second clears. The processor shall issue only one original Form CCC–165 for each such unit.

(b) *Blending by the processor.* A processor may blend together quantities of flour second clears produced by him (including quantities of flour second clears produced from different classes of wheat and quantities of flour second clears produced in two or more plants) without the blended lot thereby becoming ineligible for refund. If the processor blends flour second clears with either nonqualifying clears, other types of flour or any other ingredient, or if the processor blends flour second clears produced by him with flour second clears produced by a different processor, the entire blended quantity shall be ineligible for refund unless the blending is accomplished in a plant in which the processor, acting as an industrial user, uses the blended lot in the production of a product not used for human consumption. The processor shall issue only one original Form CCC–165 for each shipment unit of blended flour second clears. If the blend is constituted in whole or in part of flour second clears produced by the processor in a different plant than the plant in which the blending is accomplished, a separate Form CCC–165 must be issued by each plant from which the flour second clears were transferred and such Form must be retained in the records of the plant in which the blend-

ing is accomplished to identify the use of such flour second clears in the blend.

(c) *Records.* The processor shall retain a copy of all Forms CCC–165, laboratory reports, and mill records which identify production runs in which the flour second clears were processed (including, among other things, date of processing, lot number, and type of wheat processed) and blended (if applicable) and which can be identified to the flour second clears covered by a specific certification. In the case of blended flour second clears, it is necessary that (1) all the flour second clears used in the blend be sampled and analyzed at the processor's plant where the flour second clears were produced prior to the blending and issuance of the Forms CCC–165 and (2) the records reflect the quantity of each type of flour second clears used in the blend. The forms and records required of processors of flour second clears shall be retained and be subject to examination as provided in § 777.15.

§ 777.19 Industrial users of flour second clears.

(a) *General.* Refunds of the certificate cost for wheat used in processing flour second clears shall be made to industrial users who use the flour second clears in producing products not used for human consumption as provided in this section. The refund shall be based on the hundredweight of flour second clears used to produce a product not for human consumption, determined as provided in paragraph (h) of this section, multiplied by the refund rate determined as provided in paragraph (e) of this section.

(b) *Registration of industrial users of flour second clears.*—(1) *Requirement.* Refunds will be paid only to industrial users registered with the Director.

(2) *Method of registration.* Industrial users who wish to register shall submit to the Director, Form CCC–149, Industrial User Registration Form, in an original and two copies. Each plant must be registered separately. Forms may be obtained from either the Director or the Kansas City Commodity Office.

(3) *Notification of registration by the Director.* The Director will assign an industrial user number and return one copy of the Form CCC–149 to notify the industrial user that he is registered and of the number assigned to his plant.

(c) *Reports and claims for refund.* The industrial user shall submit claims for refund to the Commodity Office on Form CCC–161, Industrial Users Production Report and Claim for Refund, except that industrial users producing nonfood products only from flour second clears and nonqualifying clears may submit claims for any reporting period described in paragraph (d) of this section in which such production occurred on Form CCC–161–1, Industrial Users Production Report and Claim for Refund (for users who produce nonfood products only). These forms shall be used by the industrial user to report all products manufactured from flour second clears and nonqualifying clears in a plant during a reporting period. Production reports on Form CCC–161 or Form CCC–161–1 must be submitted for each reporting period after the period covered by the first claim for refund even though the period may not involve a claim for refund. Payment will not be made of any claim until the Commodity Office has received from the industrial user Forms CCC–161 or Forms CCC–161–1 covering all prior reporting periods for which the user must file a report. Where reference is made to Form CCC–161 in this section (except in paragraph (h)(3)), it shall also be deemed to refer to Form CCC–161–1.

(d) *Reporting periods.* (1) The period of processing operations which Form(s) CCC–161 must cover shall be one of the following:

(i) Each calendar or fiscal month,

(ii) Each 4- or 5-week period in combination, or

(iii) Each 4 weeks.

(2) The first report shall cover the first processing report period beginning on or after 12:01 a.m., January 1, 1966, for which the industrial user wishes to file a claim for refund. If an industrial user elects to use a reporting period other than the calendar month, the first reporting period shall end at such time short of 5 weeks as will make the second report coincide with the established fiscal month or 4- or 5-week reporting period.

(3) The industrial user of flour second clears shall report to the Commodity Office the reporting periods which he proposes using, by listing specific reporting period ending dates for the entire marketing year. If such list is not submitted, the industrial user shall report on a calendar month basis.

(4) Once a reporting period has been established, it shall not be changed except with the approval of the Administrator in writing for good cause shown.

(e) *Refund rate.* The refund rate shall be determined on the basis of the conversion factor 2.283 multiplied by the applicable certificate cost rounded to the nearest cent; i.e., $1.71 per cwt. for the marketing years beginning July 1, 1965, and July 1, 1966.

(f)(1) *Basis for claiming refund.* Refund of certificate costs may be claimed on flour second clears as provided in this section if the flour second clears were received into the industrial user's plant on and after January 1, 1966, and were either sold by the processor (i.e. title was transferred) or shipped from the processor's plant on or after November 3, 1965. The industrial user may claim the refund only after the flour second clears are used in or manufactured into products which can only be used for other than human consumption or at such time as the nonfood use of the products manufactured has been established by labeling, by identification on the invoice of a product sold or removed from the plant in bulk, or by use.

(2) If a product produced from flour second clears for which an industrial user has received a refund is diverted to food use, the industrial user shall file a corrected Form CCC–161 and reimburse CCC in the amount of the overpayment of refund plus interest at 6 percent per annum starting on the date of the CCC sight draft by which refund was made to the date of payment to CCC.

(g) *Invoicing requirement.* Industrial user's invoices covering a product(s) produced from flour second clears on which a refund is requested and which can be utilized as either food or nonfood must include the statement: "This product is not for human consumption."

(h) *Determination of quantity of flour second clears not used for human consumption.* The quantity of flour second clears eligible for a refund shall be determined as provided in this paragraph, unless otherwise specified in these regulations.

(1) If during a reporting period an industrial user produces only products not used for human consumption and uses flour second clears either alone or in combination with nonqualifying clears or other ingredients in such production, the quantity of flour second clears eligible for a refund shall be the total number of hundredweight of flour second clears so used.

(2) If, during a reporting period, an industrial user produces both products not used for human consumption and products used for human consumption and uses flour second clears either alone or in combination with nonqualifying clears or other ingredients in such production, the quantity of flour second clears eligible for a refund shall be determined by prorating the flour second clears used between the products produced for human consumption and the products produced for other than human consumption.

(3) If any processing involving flour second clears, nonqualifying clears or other ingredients, either alone or in combination with one another is accomplished separately from any other processing, and such separate processing is supported (in a manner satisfactory to the Administrator) by production records which identify the products to the materials used in such separate processing operation, the industrial user may report the production from such processing operation separately on Form CCC–161. (If the processing involves only other ingredients and no flour second clears or nonqualifying clears are used, such processing need not be reported.) Any period in which such separate processing operation is accomplished is referred to as a "production period" on Form CCC–161. If separate processing is claimed for any period when in fact there was not a physical separation in the production line, from the preceding and succeeding periods, of materials used and products produced, the entire claim is invalid and the industrial user submitting such claim may be subject to penalties under Federal civil and criminal statutes.

(i) *Records.* In submitting Form CCC–161 for a refund, the industrial user agrees:

(1) That he shall maintain accurate records and documents which support the information shown on Form CCC–

161 and establish that he is eligible for a refund as claimed. Documents necessary shall include, among other things, Forms CCC–165 received from the processor who produced the flour second clears or Forms CCC–165–1 received from the distributor of the flour second clears which establish that the flour second clears on which a refund is requested meet the requirements of the definition as provided in § 777.3(u), production records which show the quantity of clears utilized and products produced therefrom, and records which establish that the products obtained from the flour second clears for which a refund is claimed were not used for human consumption or were disposed of other than for human consumption.

(2) That representatives of the USDA may examine such records and documents at any time during normal business or working hours.

(3) That all refunds by CCC are subject to verification that the flour second clears for which such refunds are made were produced into products not used for human consumption.

(4) That all such records and documents shall be retained for a period of 3 years.

(j) *Corrected claims for refund.* If an incorrect Form CCC–161 has been submitted to the Commodity Office, the industrial user shall promptly prepare and submit a corrected Form CCC–161. Such report shall be identified by the original report number and transmitted with a letter of explanation. If the industrial user is entitled to additional refund, payment will be made by the Commodity Office. If an amount is due CCC, the industrial user shall include with the corrected report payment of the amount due CCC, plus interest at 6 percent per annum starting on the date of the CCC sight draft by which the excess refund was made to the date of payment to CCC.

(k) *Performance security.* If requested by the Administrator, the industrial user shall furnish a bond or letter of credit in such form and amount as may be specified by the Administrator to protect the Department from any damages resulting from action by the industrial user.

(l) *Blended flour second clears.* A blended quantity of flour second clears acquired by the industrial user shall be ineligible for refund if:

(1) The quantity had been blended by the processor from flour second clears and nonqualifying clears or any other ingredient;

(2) The quantity had been blended by the processor from flour second clears produced by him and flour second clears produced by another processor; or

(3) The quantity had been blended by a distributor or any person other than the processor of the flour second clears. A blended quantity of flour second clears acquired by the industrial user may qualify for a refund if the quantity had been blended by the processor only from flour second clears produced by him (including flour second clears produced from different classes of wheat or in two or more plants) and if there otherwise has been compliance with the requirements of these regulations. The industrial user may also blend flour second clears in a plant in which the clears are used in the production of a product not for human consumption. An industrial user who acquires blended flour second clears should exercise care that the blend acquired by him is in compliance with the provisions of this paragraph.

§ 777.20 Sales of flour second clears by distributors.

(a) *General.* If flour second clears are sold to an industrial user by a distributor, broker, or agent (herein referred to as a distributor) and the distributor elects not to furnish the industrial user with the Form CCC–165 issued by the processor, the industrial user may qualify for a refund on such clears only if the industrial user has obtained in lieu thereof a Form CCC–165–1 properly executed by a distributor who is registered with the Director.

(b) *Time of registration.* A distributor must be registered prior to issuing to an industrial user any Form CCC–165–1 which is used to support a claim for refund.

(c) *Method of registration.* A distributor who wishes to be registered must submit an application to the Director in writing that he wishes approval to issue to buyers of flour second clears properly executed Forms CCC–165–1 which may be used in lieu of Form CCC–165 as a basis for a claim for refund.

(d) *Conditions for registration.* The distributor shall agree in his application for registration:

(1) That he will properly execute Forms CCC–165–1 and shall maintain accurate records and documents (including Forms CCC–165 and a copy of each related Form(s) CCC–165–1) which verify that the flour second clears shipped to an industrial user for which a Form CCC–165–1 was issued are the flour second clears which he had received supported by a Form CCC–165.

(2) That any pertinent records and documents will be retained for a period of 3 years and that representatives of USDA may examine them at any time during normal business or working hours.

(3) That he will, if requested by the Administrator, furnish a bond or letter of credit in such form and amount as may be specified by the Administrator to protect the Department from any damages that may result from action by the distributor.

(e) *Notification of registration by the Director.* The Director will assign a distributor registration number and notify the distributor in writing that he is registered and give the number assigned to him unless it is determined that to permit such distributor to be registered is not in the best interest of the United States.

(f) *Blending.* If flour second clears supported by more than one Form CCC–165 are blended together or if flour second clears are blended with nonqualifying clears or any other ingredient by the distributor, the entire blended lot shall be ineligible for refund.

Appendix I—Instructions to Processors for Preparation of Wheat Transition Report Forms

1. Food Processors who wish to qualify for transition certificates with respect to wheat must submit a Beginning Inventory Transition Report as of May 23, 1964, Form CCC–152 together with supporting schedules (Forms CCC–152–1, 2 and 3) to the Kansas City Commodity Office postmarked not later than May 30, 1964, or such later date as may be approved in writing by the Director for good cause. Blank forms may be obtained from any ASCS office indicated in Section 777.3(n) of the regulations and may be reproduced by the processor, if necessary. Prepare separate reports and schedules for each processing plant and for each class of wheat. Mixed wheat shall be deemed to be comprised of the classes included in the mixture. Show classes and percentages in the mixture and report quantity under applicable class. Report quantities assigned to each processing plant in net bushels. Dockage based on official inspection certificates must be deducted. 1964 crop wheat in the food processor's owned inventory on May 23, 1964, is not eligible for transition certificates and must not be included in the report. Complete the forms as follows:

A. List on Form CCC–152–1 stocks of wheat owned by the processor and stored in public elevators on midnight May 23, 1964. Prepare a separate form for each elevator. (Do not include stocks of wheat stored in a public elevator at the processing plant location servicing the processing plant.) Include only stocks of wheat received in the elevator on or before May 23, 1964, and assigned for use in the processing plant. Do not include wheat removed from elevators on or before May 23, 1964. Enter name and address of elevator and UGSA code or U.S. Warehouse Act License Number, warehouse receipt number, name of person to whom issued, and net bushels. If the wheat is stored in an elevator owned by the processor and a warehouse receipt has not been issued, enter "unreceipted" in the space provided for warehouse receipt number. If any wheat is stored in a public elevator which does not have a Uniform Grain Storage Agreement or is not licensed under the U.S. Warehouse Act, obtain the following warehouseman's certification on each such form:

"I hereby certify that: (1) the above listed warehouse receipts included in the food processor's transition inventory as of May 23, 1964, are outstanding, (2) I had on that date sufficient stocks of wheat of the particular class to cover my entire storage liability for such wheat, (3) I will maintain adequate stocks of the particular class of wheat to cover my entire storage liability so long as such warehouse receipts are outstanding, (4) I will maintain accurate records of all wheat of the particular class received and withdrawn from storage during the period such warehouse receipts are outstanding, and (5) I will retain such records until July 1, 1966."

B. List on Form CCC–152–2 stocks of owned wheat in transit on May 23, 1964, and assigned for use in the processing plant. Include stocks of wheat placed in transit on or before May 23, 1964, which are unloaded after May 23, 1964. Enter car number or other carrier identification, delivering carrier, unload location and net bushels. If official weights are not available, enter estimated weights and submit a corrected report when official unload weights or settlement weights are available.

C. List on Form CCC–152–3, stocks of owned wheat stored in the elevator (whether

public or private) at the processing plant location which services the processing plant and stocks in the processing plant. Include only stocks of wheat received in the elevators on or before May 23, 1964. Do not include wheat removed or transferred from the elevators on or before May 23, 1964. Also list on Form 152–3 the stocks of wheat stored in the processing plant or in process on May 23, 1964, which remains in its whole form and has not been pearled, boiled, steeped or commercially sprouted. The quantity of such wheat shall be determined by weigh-up or by accurate measurement of the wheat stored in bins or tanks less the storage liability for any wheat stored for others and less any 1964 crop wheat owned by the processor and stored at the processing plant location. Enter in the space provided on the form the identification (name, number or location) of the elevator, warehouse, building, processing plant, etc. where the stocks are stored and the net bushels. If dockage was not officially determined, enter gross bushels. Enter the total quantity in storage and deduct the storage liability to others, if any.

D. Enter the total quantities shown on Forms CCC–152–1, 2 and 3 in the related spaces on Form CCC–152. If any wheat owned by the processor and assigned for use in the processing plant is stored at other locations, enter the total net bushels in Item 4. Attach a statement in duplicate showing from whom the wheat was purchased, date title was acquired, complete description as to where the wheat is stored, in whose custody the wheat is stored and any other pertinent information. Enter the grand total in Item 5. The certificate shall be executed and dated by an authorized official of the food processor. Enter your processing plant code in the space provided, if such code is available. Submit the original and one copy of Forms CCC–152, 152–1, 2 and 3. Retain a copy in your files.

2. Food Processors who wish to qualify for transition certificates must also submit to the Kansas City Commodity Office, postmarked not later than July 15, 1964, or such later date as may be approved in writing by the Director for good cause shown, Transition Operations Report as of June 30, 1964, Form CCC–153, together with supporting schedule (Form CCC–152–3) and schedule of any purchases from CCC assigned for use in the processing plant. Prepare separate reports and schedules for each processing plant and for each class of wheat. Report quantities assigned to each processing plant in net bushels. Dockage based on official inspection certificates must be deducted. Complete Form CCC–153 as follows:

A. Enter in Item A1 the total bushels shown in Item 5 of Form CCC–152 prepared as of May 23, 1964, or corrected Form CCC–152, as applicable.

B. Enter the total net bushels in Item A2 of any wheat not designated as non-storable purchased by the processor from CCC for unrestricted use and assigned for use in the processing plant, and on which title was acquired during the period from May 23, 1964, through June 30, 1964. Prepare and attach a schedule in duplicate showing the CCC sales contract number, the name of the ASCS selling office and the net bushels acquired. Enter total of Items A1 and A2 in Item A3.

C. Enter in Item A4 the total net bushels of wheat which were assigned or intended for use in the processing plant as to which there was a transfer of legal title to a buyer, or an intra-company transfer from the plant or reassignment for use other than in the processing plant or a delivery to a carrier for shipment from the United States during the period from May 23, 1964, to June 30, 1964.

D. Enter in Item B 1 the total bushels shown in Item 3 of Form CCC–152, prepared as of May 23, 1964, plus the quantity of any 1964 crop wheat which was owned by the processor and was stored as of May 23, 1964, in the elevator which services the processing plant and in the processing plant. Show in a footnote to the report the quantity of 1964 crop wheat included in Item B1.

E. Enter in Item B2 the total net bushels of wheat received or acquired instore at the processing location during the period from May 23, 1964, through June 30. Such quantity shall be based upon the weights of the wheat received into the elevator at the processing plant location which services the processing plant.

F. Enter in Item D3 the total net bushels of wheat at the processing plant location assigned or intended for use in the processing plant as to which there was a transfer of legal title to a buyer, or an intra-company transfer from the plant, or reassignment for use other than in the processing plant, or a delivery to a carrier for shipment from the United States during the period from May 23, 1964, through June 30, 1964.

G. List on Form CCC–152–3 stocks of owned wheat stored in the elevator at the processing plant location which services the processing plant, and in the processing plant as of June 30, 1964. Determine the quantities of wheat as of June 30, 1964, in the same manner as provided in subparagraph 1 C of this instruction for the report as of May 23, 1964, except that there shall be included any 1964 crop wheat owned by the processor as of June 30, 1964, and stored in such elevator and processing plant. Enter in Item B 4 of Form CCC–153, the total net bushels so obtained and shown on Form CCC–152–3. Subtract the sum of the net bushels shown in Items B 3 and B 4 from the sum of the net bushels shown in Items B 1 and B 2 and enter the result in Items B 5 and A 5.

H. Subtract the sum of the net bushels shown in A4 and A5 from the net bushels shown in Item A3 and enter the result in Item A6. The result represents the maximum quantity for which the food processor may acquire transition certificates for use at the particular processing plant. The certificate shall be executed and dated by an authorized official of the food processor. Enter your processing plant code in the space provided. Submit the original and one copy of Forms CCC–153 and CCC–152–3 and the schedule of any wheat purchased from CCC. Retain a copy in your files.

Appendix II—Instructions for Preparation of Processing Report—Weight of Wheat Basis

Food processors reporting on the weight of the wheat basis shall submit an original and one copy of Processing Report—Weight of Wheat Basis, Form CCC–160, to the Kansas City Commodity Office at the time set forth in § 777.12. Retain a copy of the processing report and all copies of any supporting certifications and documents in your files. Prepare the report as follows:

(1) Enter in Item 1 the processor's name and address.

(2) Enter in Item 2 the processor number.

(3) Enter in Item 3 the processing report period beginning and ending dates.

(4) Enter in Item 4A the inventory of wheat at the processing plant location as of the beginning of the reporting period. Specify the total of all stocks of wheat (including stocks stored for others) in the processing plant and in any elevator operated by the processor at the processing plant location servicing the processing plant which remains in its whole form and has not been pearled, boiled, steeped, or commercially sprouted. Except as of July 1, 1964, use the ending inventory from the previous report. As of July 1, 1964, the quantity of such wheat shall be determined by weighup or by accurate measurement of the wheat stored. Deduct from the uncleaned quantity included in the beginning inventory, any officially determined dockage contained in the equivalent quantity of the last received wheat. If the last received equivalent quantity includes any wheat received on a gross weight basis on which no official dockage determination was made, but the dockage content was unofficially determined in accordance with usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) may be deducted from the quantity so received.

(5) Enter in Item 4B the weight of all wheat received in the processing plant and in any elevator operated by the processor at the processing plant location servicing the processing plant (including stocks owned by others) during the reporting period. Such quantity shall be the gross weight received less any officially determined dockage. If any wheat is received on a gross weight basis and no official dockage determination was made, but the dockage content is unofficially determined in accordance with usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) may be deducted from such quantity.

(6) Enter in Item 4C the total of Items 4A and 4B.

(7) Enter in Item 5A the quantity of wheat processed into food products on which the farm use exemption set forth in § 777.4(b)(1) applies. Enter the actual quantity processed into the food product delivered, or the quantity of wheat obtained by applying the conversion factor provided in § 777.14 to the quantity of food product delivered. Such quantity must be supported by Forms CCC–148 executed by the persons to whom the food product was delivered.

(8) Enter in Item 5B the quantity of wheat processed in bond during the period for which an exemption is claimed under § 777.4(b)(2). Such quantity must be supported by authenticated copies of Customs Form 7521; (i) a copy evidencing the entry of the wheat into a bonded manufacturing warehouse and (ii) a copy evidencing the withdrawal from customs bond for export of the food product manufactured from such wheat.

(9) Enter in Item 5C the quantity of wheat which was produced by and processed for use by a State or State agency during the period for which an exemption is claimed under § 777.4(b)(5). Such quantity(s) must be supported by Forms CCC–148–1 executed by an authorized official or employee of the State or State agency.

(10) Enter in Item 5D the quantity of wheat processed into food products for donation for which an exemption is claimed under § 777.4(b)(6). Such quantity(s) must be supported by Forms CCC–148–2 executed by an authorized official or employee of the Institution receiving the food product(s).

(11) Enter in Item 5E the quantity of wheat processed into food products which is for noncommercial uses as stated in § 777.4(b)(7). (Identify use in the remarks section of Form CCC–160.) Such quantity(s) must be supported by a certificate from the user in such form as approved by the Administrator, ASCS, to cover the food product delivered and describing the use to be made of the food product.

(12) Enter in Item 5F the quantity of wheat processed into nonfood products during the period (see § 777.3(c)). Such quantity shall be the gross weight less any officially determined dockage. If any wheat is processed into nonfood products and no official dockage determination was made and if the food processor reduces the quantity of wheat received for unofficially determined dockage, the dockage for which the reduction is made must be determined in accordance with usually accepted testing methods and rounded down to the nearest half percent.

Do not include the weight of any byproduct of food products, or the weight of any screenings or other residue from cleaning the wheat used or to be used by the food processor for processing into food products. Also do not include flour second clears which are not used for human consumption.

(13) Enter in Item 5G the weight of all wheat removed from the processing plant and from any elevator operated by the processor at the processing plant location servicing the processing plant for shipment, sale, delivery to the owner, transfer to other plants or other dispositions as wheat. Such quantity shall be the gross weight of the wheat removed less any officially determined dockage. If any wheat is removed and no official dockage determination made, and if the food processor reduces the quantity of wheat received for unofficially determined dockage, the dockage for which the reduction is made must be determined in accordance with usually accepted testing methods and rounded down to the nearest half percent. Also include in Item 5G the quantity of any wheat destroyed. Do not include the weight of any byproducts of food products or the weight of any screenings or other residue from cleaning wheat used or to be used by the food processor for processing into food products.

(14) Enter in Item 5H the quantity of shrinkage, if any, applicable to the weight of wheat received at the processing plant location during the processing report period (Item 4B). Such shrinkage quantity shall not exceed three-fifths of 1 percent of the quantity entered in Item 4B. Any shrinkage deducted of one-eighth of 1 percent or less must be determined on a reasonable basis which can be supported by the processor. Any shrinkage deducted in excess of one-eighth of 1 percent must be based on the most recent representative experience for which the processor has records reflecting his average shrinkage per bushel of wheat received. Shrinkage resulting from artificial drying, cleaning, or screening of wheat is not eligible for deduction as shrinkage.

If the processor can establish his actual shrinkage for the 1964 marketing year, he may elect to enter in Item 5H of his processing report for the period ending June 30, 1965, the actual shrinkage for the 1964 marketing year (not to exceed three-fifths of 1 percent of the total weight of wheat received at the processing plant during the marketing year as reported in Item 4B) less the total shrinkage previously reported. In such case he shall enter in the remarks section of the processing report "shrinkage adjusted based on actual experience for the current marketing year."

Shrinkage claimed for the 1965 and subsequent marketing years must be adjusted to actual shrinkage for the marketing year (not to exceed three-fifths of 1 percent of the total weight of wheat received during the marketing year as reported in Item 4B) in the same manner as provided on an optional basis for the 1964 marketing year. Such adjustment shall be made in the processing report for the period ending June 30 of the marketing year involved.

If the processor elects to take a closing inventory as prescribed in the following paragraph (Item 15) as of his fiscal closing date in lieu of taking a closing inventory as of June 30 of each marketing year, the foregoing provisions applicable to June 30 reporting shall apply to the report covering the fiscal closing date. If the processor takes a weighup or measurement at the end of each processing period to determine the ending inventory, no adjustment for shrinkage shall be made at the end of either the marketing year or the processor's fiscal year.

(15) Enter in Item 5I the inventory of wheat as of the end of the reporting period, including all stocks of wheat in the processing plant, and in any elevator operated by the processor at the processing plant location servicing the processing plant (including stocks stored for others) which remains in its whole form and has not been pearled, boiled, steeped, or commercially sprouted. Deduct from the unclean quantity included in the ending inventory any officially determined dockage contained in the equivalent quantity of the last received wheat. If the last received equivalent quantity includes any wheat received on a gross weight basis and no official dockage determination was made, but the dockage content was unofficially determined in accordance with the usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) shall be deducted from the quantity so received.

If accurate book inventory records are maintained, such book quantities may be used except as of June 30, or the processor's own fiscal year closing date, whichever, is applicable, for each marketing year. As of June 30, or the processor's own fiscal year closing date, whichever is applicable, the quantities of such wheat shall be determined by weighup or by accurate measurement of the wheat stored. The processor may elect to use a fiscal closing date other than June 30, of each year.

When such an election is taken, the processor must notify the Kansas City Commodity Office in writing of his election and specify the fiscal closing date to be used. Such notice must be made at least 30 days in advance of the actual fiscal closing date. An inventory as prescribed in the preceding paragraph of this item may be required as of June 30 of any marketing year if there is to be a change in the cost of marketing certificates for the succeeding marketing year.

If accurate book inventory records are not maintained, the quantities of wheat for each reporting period shall be determined by weighup or by accurate measurement of the wheat.

(16) Enter in Item 5J the total of Items 5A through 5I.

(17) Enter in Item 6 the result obtained by deducting the quantity shown in Item 5J from the quantity shown in 4C.

(18) Enter in Item 7D the face value of wheat marketing certificates (domestic) required. Obtain the amount by multiplying the quantity shown in Item 6 by the applicable cost of certificates as specified in § 777.4(a).

(19) Enter in Item 7A the amount of certificates enclosed. Also enter the certificate serial numbers.

(20) Enter in Item 7B the amount of remittance enclosed.

(21) Enter in Item 7C the amount of certificates previously surrendered to CCC for the specific processing report period and the date of surrender.

(22) In the case of a food processor who ages beverage distilled spirits manufactured by him from wheat and who has filed the undertaking provided in § 777.11(e), enter in the remarks section the identifying serial numbers of each barrel in which the beverage distilled spirits are placed for aging. The reverse side of the form may be used if necessary.

(23) The certification shall be executed by an authorized official of the food processor. Also enter the title of the official and the date in the spaces provided.

Appendix III—Instructions for Preparation of Processing Report— Conversion Factor Basis

Food processors reporting on a food product conversion factor basis shall submit an original and one copy of the Processing Report—Conversion Factor Basis, Form CCC–159 to the Kansas City Commodity Office at the time set forth in § 777.12. Retain a copy of the report and of supporting certifications and documents in your files. Prepare the report as follows:

(1) Enter in Item 1 the processor's name and address.

(2) Enter in Item 2 the processor number.

(3) Enter in Item 3 the processing report period beginning and ending dates.

(4) Enter in Item 4 the names of the respective food products processed in the plant during the reporting period, if the names of these products are not preprinted on the form.

(5) Enter in Item 5 for each food product processed during the reporting period the total quantity in hundredweights which was processed. (When flour is produced, include the weight of all clears.)

(6) Enter in Item 6A the hundredweight of food product processed on which the farm-use exemption set forth in § 777.4(b)(1) applies. Such weight must be supported by Forms CCC–148 executed by the person to whom the food product was delivered.

(7) Enter in Item 6B the hundredweight of the food product processed in bond during the period for which an exemption is claimed under § 777.4(b)(2). Such quantity must be supported by authenticated copies of Customs Form 7521; (i) a copy evidencing the entry of the wheat into a bonded manufacturing warehouse and (ii) a copy evidencing the withdrawal from customs bond for export of the food product manufactured from such wheat.

(8) Enter in Item 6C the hundredweight of food product processed from wheat which was produced by and processed for use by a State or State agency during the period for which an exemption is claimed under § 777.4(b)(5). Such quantity(s) must be supported by Forms CCC–148–1 executed by an authorized official or employee of the State or State agency.

(9) Enter in Item 6D the hundredweight of food product processed for donation for which an exemption is claimed under § 777.4(b)(6). Such quantity(s) must be supported by Forms CCC–148–2 executed by an authorized official or employee of the institution receiving the food product(s).

(10) Enter in Item 6E the hundredweight of food product processed which is for noncommercial uses as stated in § 777.4(b)(7). (Identify use in the remarks section of Form CCC–159.) Such quantity(s) must be supported by a certificate from the user in such form as approved by the Administrator, ASCS, to cover the food product delivered and describing the use to be made of the food product.

(11) If the weight of any additional ingredient set forth in paragraph (b) of § 777.14 is included in the weights entered in Item 5, enter in Item 6F such total weight minus the total weight of any such ingredients included in the weights entered in A, B, C, D, and E of this Item 6. The food processor must maintain records on an individual additional ingredient basis which substantiates any entry in this Item 6F.

(12) Enter in Item 6G the total of Items 6 A, B, C, D, E, and F.

(13) Enter in Item 7A the difference between Item 5 and 6G.

(14) Enter in Item 7B the applicable conversion factor from section 777.14.

(15) Enter in Item 7C the result of Item 7A times Item 7B.

(16) Enter the total of Item 7 in the space provided.

(17) Enter in Item 8 any applicable remarks.

(18) Enter in Item 9D the face value of wheat marketing certificates (domestic) re-

quired. Obtain the amount by multiplying the quantity shown in Item 7C by the applicable cost of certificates as specified in § 777.4(a).

(19) Enter in Item 9A the amount of certificates enclosed. Also enter the certificate serial numbers.

(20) Enter in Item 9B the amount of remittance enclosed.

(21) Enter in Item 9C the amount of certificates previously surrendered to CCC for the specific processing report period and the date of surrender.

(22) The certification shall be executed by an authorized official of the food processor. Also enter the title of the official and the date in the space provided.

Appendix IV—Instructions to Industrial Users for Preparation of Industrial Users Production Report and Claim for Refund Forms

Industrial Users wishing to claim a refund of the cost of domestic certificates purchased by processors to cover wheat used in processing flour second clears used in a product not for human consumption shall submit such claims on Form CCC–161, Industrial Users Production Report and Claim for Refund, to the Kansas City Commodity Office as provided in § 777.19. A copy of each Form CCC–161 shall be retained by the industrial user. Instructions for the completion of Form CCC–161 are as follows:

(The numbers and letters listed below correspond with the numbers and letters on the form.)

(1) Heading. (A) Enter name and mailing address.

(B) Enter the industrial user number assigned on registration Form CCC–149.

(C) Enter the marketing year. Prepare separate Forms CCC–161 for each marketing year. July 1 begins the marketing year. The marketing year shown on Form CCC–165 and/or CCC–165–1 shall determine the marketing year under which the flour second clears are to be reported.

(D) Enter the reporting period dates. (See § 777.19(d).)

(2) *Inventory of flour second clears.* Enter in hundredweights.

(A) Enter the quantity on hand at the end of the preceding reporting period. Bring forward from Item 2I of the preceding Form CCC–161.

(B) Enter the quantity received at the plant during the reporting period covered by the report. Such quantity must not be in excess of the quantity shown on Forms CCC–165 and/or CCC–165–1. If during one reporting period there are involved flour second clears identifiable to more than one marketing year, separate Forms CCC–161 for each marketing year must be prepared.

(C) Enter the total of Items 2A and 2B.

(D) Enter the quantity of shipments which did not enter production.

(E) Enter the quantity used during no-refund production periods as shown in applicable Items 4F.

(F) Enter the quantity of flour second clears used as an additive to products shown in Item 4A. Flour second clears so used must be entered in this item. (Example, addition of flour second clears to gluten.)

(G) Enter quantity of flour second clears used as an additive to products shown in Item 4C. Flour second clears so used must be entered in this item. (Example, addition of flour second clears to animal feed manufactured from starch.)

(H) Enter the quantity which was a casualty loss and did not enter production. (See § 777.16.)

(I) Enter the quantity on hand at the end of the reporting period.

(J) Enter the total of Items 2D through 2I.

(K) Enter the difference between Items 2C and 2J.

(3) *Kind of clears used.* Enter in hundredweight the kind of clears used during the reporting period. If more than one Form CCC–161 is submitted because of the use (during the same reporting period) of clears identified to more than one marketing year, prorate the quantity of each kind of clears used between the marketing years according to the percentage relationship between the quantities shown in Item 2K of each separate marketing year report. Enter the prorated quantities.

(A) Enter the quantity of flour second clears produced from (1) hard wheat, (2) soft wheat, (3) durum, and (4) the total thereof on the basis of information as to type of wheat shown on the Forms CCC–165 and CCC–165–1. The total must agree with the sum of Items 2E, 2F, 2G, and 2K. If blended flour second clears are shown on the Form(s) CCC–161, indicate the quantity of blended clears used.

(B) Enter the quantity of (1) imported clears and (2) other non-qualifying clears.

(4) *Products manufactured from clears—production periods.* Check appropriate box to indicate whether refund or nonrefund period. See § 777.19(h)(3). If more than one production period is reported, also use reverse side of form and show the beginning and ending dates of each production period. If flour second clears used during the reporting period had been processed from wheat in more than one marketing year, prorate the hundredweight of product produced during the reporting period between the Forms CCC–161 prepared for the different marketing years. Use the same percentage as used to distribute the quantities required to be entered in Item 3 of each Form CCC–161.

(A) List the food products produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the food products produced. Determine such weight by subtracting from the gross weight of each food product produced (i) the weight of all ingredients other than clears added to the product produced from clears such as an additive to gluten, (ii) the weight of flour second clears used as an additive (Item 2F), and (iii) the weight of nonqualifying clears used as an additive determined in the same manner as in Item 2F for flour second clears; and adjusting the remainder to a 12% moisture basis.

(B) Enter the total of the weights entered under Item 4A.

(C) List the products not for human consumption produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the products not for human consumption produced. Determine such weight by subtracting from the gross weight of each product not for human consumption produced (i) the weight of all ingredients other than clears added to the product produced from clears such as an additive to starch, (ii) the weight of flour second clears used as an additive (Item 2G), and (iii) the weight of nonqualifying clears used as an additive determined in the same manner as in Item 2G for flour second clears; and adjusting the remainder to a 12% moisture basis.

(D) Enter the total of the weights entered under Item 4C.

(E) Enter the total of Items 4B and 4D.

(F) Enter quantity of flour second clears used for the production period. Total of items 4F for all refund production periods reported on form must equal the quantity shown in item 2K. Total of items 4F for all no-refund production periods reported on form must equal the quantity shown in item 2E.

(G) Enter the percentage relationship of products not for human consumption to all products produced during the refund period. Item 4D divided by Item 4E.

(H) Enter the quantity of flour second clears for which refund is being applied. Multiply Item 4F by 4G. For refund periods II through V, if applicable, bring the entries forward to applicable period shown under Item 4H of period I on face of form.

(I) Enter quantity shown in Item 2G.

(J) Enter the quantity shown in Item 2H.

(K) Enter total of Items 4H, 4I, and 4J.

(5) *Amount of refund claimed.* Enter amount determined by multiplying Item 4K by the applicable refund rate as specified in § 777.19(e).

(6) *Certification.* The certificate shall be dated and executed by an authorized official of the indsutrial user.

Appendix V—Instructions for Preparation of Industrial Users Production Report and Claim for Refund Forms (for Users Who Produce Nonfood Products Only)

Industrial users manufacturing nonfood products only, who wish to claim a refund of the cost of domestic certificates purchased by processors to cover wheat used in processing flour second clears used in a product not for human consumption may submit such claims on Form CCC–161–1, Industrial Users Production Report and Claim for Refund (for users who produce nonfood products only), to the Kansas City Commodity Office as provided in § 777.19. A copy of each Form CCC–161–1, shall be retained by the industrial user. Instructions for the completion of Form CCC–161–1 are as follows:

(The numbers and letters listed below correspond with the numbers and letters on the form.)

(1) *Heading.*

(A) Enter name and mailing address.

(B) Enter the industrial user number assigned on Registration Form CCC–149.

(C) Enter the marketing year. Prepare separate Forms CCC–161–1 for each marketing year. July 1 begins the marketing year. The marketing year shown on Form CCC–165 and/or CCC–165–1 shall determine the marketing year under which the flour second clears are to be reported.

(D) Enter the reporting period dates. (See 777.19(d).)

(2) *Inventory of flour second clears.* Enter in hundredweights.

(A) Enter the quantity on hand at the end of the preceding reporting period. Bring forward from Item 2F of the preceding Form CCC–161–1.

(B) Enter the quantity received at the plant during the reporting period covered by the report. Such quantity must not be in excess of the quantity shown on Forms CCC–165 or CCC–165–1. If during one reporting period there are received flour second clears identifiable to more than one marketing year, separate Forms CCC–161–1 for each marketing year must be prepared.

(C) Enter the total of Items 2A and 2B.

(D) Enter the quantity of shipments which did not enter production.

(E) Enter the quantity which was a casualty loss and did not enter production. (See § 777.16.)

(F) Enter the quantity on hand at the end of the reporting period.

(G) Enter the total of Items 2D through 2F.

(H) Enter the difference between Items 2C and 2G.

(3) *Kind of clears used.* Enter in hundredweight the kind of clears used during the reporting period. If more than one Form CCC–161–1 is submitted because of the use (during the same reporting period) of clears identified to more than one marketing year, prorate the quantity of each kind of clears used between the marketing years according to the percentage relationship between the quantities shown in Item 2H of the report for each separate marketing year report. Enter the prorated quantities.

(A) Enter the quantity of flour second clears used which were produced from (1) hard wheat, (2) soft wheat, (3) Durum or (4) if blended clears are received and used, enter the quantity used. (5) Enter the total of (1), (2), (3), and (4). The quantities shown in (1), (2), (3), and (4) must be on the basis of information as to type of wheat and/or clears shown on the Forms CCC–165 and CCC–165–1. The total must agree with the quantity shown in Item 2H.

(B) Enter the quantity of (1) imported clears and (2) other nonqualifying clears.

(4) *Products manufactured from clears.*

(A) List the products not for human consumption produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the flour second clears used to produce the products not for human consumption.

(B) Enter the total of the weights shown under Item 4A.

(C) Enter the quantity shown in Item 2H.

(D) Enter the quantity shown in Item 2E.

(E) Enter total of Items 4C and 4D.

(5) *Amount of refund claimed.* Enter amount determined by multiplying Item 4E by the refund rate as specified in § 777.19(e).

(6) *Certification.* The certificate shall be dated and executed by an authorized official of the industrial user.

NOTE: The recordkeeping and reporting requirements of Part 777 have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on October 12, 1966.

ORVILLE L. FREEMAN,
Secretary.

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