FEDERAL REGISTER

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Civil Aeronautics Board
Civil Service Commission
Coast Guard
Commerce Department
Comptroller of the Currency
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Power Commission
Federal Register Administrative Committee
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Health, Education, and Welfare Department
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International Commerce Bureau
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Land Management Bureau
National Bureau of Standards
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Securities and Exchange Commission
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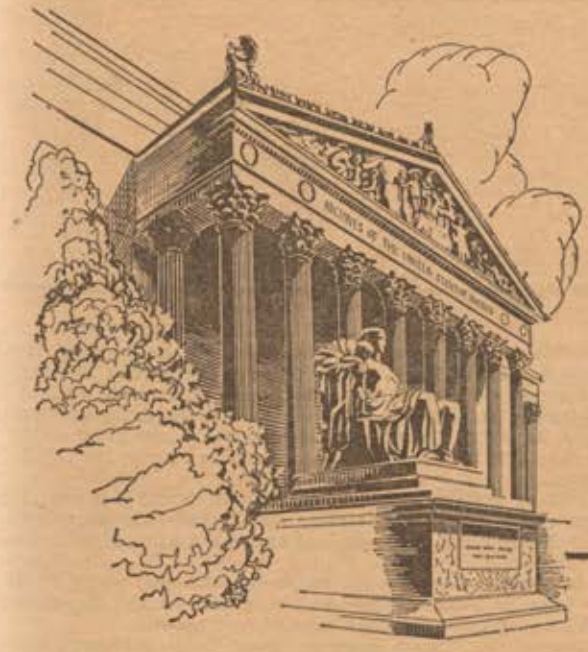

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CFR CHECKLIST

1967 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes and supplements of the Code of Federal Regulations issued to date during 1967. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (as of Jan. 1, 1967):	Price
4 (Rev.)	$0.40
5 (Supp.)	1.00
7 Parts:	
900–944 (Rev.)	1.00
945–980 (Rev.)	.65
981–999 (Rev.)	.65
1000–1029 (Rev.)	1.00
1030–1059 (Rev.)	1.00
1060–1089 (Rev.)	.75
1090–1119 (Rev.)	.70
1120–1199 (Rev.)	1.00
8 (Rev.)	.60
14 Parts:	
60–199 (Rev.)	1.50
200–end (Rev.)	1.75
16 Parts:	
0–149 (Rev.)	1.75
150–end (Rev.)	1.25
21 Parts:	
1–119 (Rev.)	1.00
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147–end (Rev.)	1.00
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1 (§§ 1.401–1.500) (Rev.)	1.00
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70–79 (Rev.)	1.00
80–end (Rev.)	1.50
49 Parts 165–end (Supp.)	.65

*NOTE: No amendments to this volume were promulgated during 1966. The cumulative pocket supplement issued as of Jan. 1, 1966, should be retained.

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

SUBCHAPTER D—REGULATIONS UNDER THE POULTRY PRODUCTS INSPECTION ACT

PART 81—INSPECTION OF POULTRY AND POULTRY PRODUCTS

Poultry Soups; Effective Date of Certain Amendments

On July 7, 1964, after extensive public rule-making procedures, there were published in the FEDERAL REGISTER (29 F.R. 8456) certain amendments of §§ 81.134 and 81.208 of the regulations under the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.) to become effective on January 1, 1965.

In a lawsuit instituted against the Secretary of Agriculture and other officials of the Department of Agriculture in the U.S. District Court for the District of New Jersey challenging the validity of the amendments with respect to soups containing poultry ingredients, on behalf of one processor of dehydrated soups, a preliminary injunction was issued restraining enforcement of such amendments against that processor with respect to dehydrated soup mixes. In order to afford equitable treatment to all poultry soup processors in view of this preliminary injunction, the effective date of the amendments insofar as they relate to all types of soups containing poultry ingredients, was postponed on a month-to-month basis until July 1, 1966 (31 F.R. 7553).

The U.S. District Court on June 10, 1966, issued an opinion upholding the validity of the amendments but no final order was entered at that time. Pending further action by the District Court, it was necessary, in order to avoid disruption of orderly operations in the affected industry, to postpone temporarily the effective date of the amendments with respect to soups containing poultry ingredients beyond July 1, 1966, the date on which the amendments otherwise would have become effective, and such effective date was further postponed until September 1, 1966 (31 F.R. 9043 and 10311). At the time of such postponement, it was announced that the Department contemplated making the amendments effective on January 1, 1967.

On July 13, 1966, a final order was entered by the Court granting the defendants' motion for summary judgment, vacating the preliminary injunction, and dismissing the plaintiff's complaint. Accordingly an order was issued on August 25, 1966 (31 F.R. 11448), providing that the amendments would become effective with respect to soups containing poultry ingredients on January 1, 1967.

Subsequently the plaintiff in the above-mentioned law suit appealed the order of the District Court to the U.S. Court of Appeals for the Third Circuit and filed with the latter Court a motion for stay of such order pending disposition of the appeal. At the hearing on such motion in the Court of Appeals on September 26, 1966, the Court suggested that the effective date of the regulations with respect to such soups be administratively postponed until March 1, 1967. The Government acceded to the Court's suggestion and agreed to such an administrative postponement of the effective date of the regulations to obviate the necessity at that time for the Court to rule on the plaintiff's motion for stay.

Therefore the effective date of the amendments with respect to soups containing poultry ingredients was postponed until March 1, 1967 (31 F.R. 13203).

The Court of Appeals in an opinion of December 29, 1966 upheld the decision of the District Court and the validity of the amendments. Thereafter the plaintiff indicated its intention to file a petition for certiorari in the Supreme Court of the United States, and agreed that if an administrative stay of the effective date of the amendments were granted, as a condition of that stay it would file the petition for certiorari on or before February 20, 1967. The petition was so filed, and the effective date of the amendments was postponed until final disposition of the matter in the Supreme Court. On April 10, 1967, the Supreme Court denied certiorari.

Effective date. Therefore under the authority of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) the amendments of §§ 81.134 and 81.208 of the regulations published on July 7, 1964, in the FEDERAL REGISTER (29 F.R. 8456), shall become effective on September 1, 1967, with respect to all types of soups containing poultry ingredients. This will afford reasonable opportunity to affected persons to adjust their operations so as to bring them into compliance with the requirements of the amended regulations.

(Sec. 14, 71 Stat. 447, 21 U.S.C. 463; 29 F.R. 16210, as amended; 31 F.R. 13249)

In view of the foregoing, under the provisions in 5 U.S.C. 553, it is found for good cause that notice of rule-making and other public procedure with respect to this action are impracticable, unnecessary and contrary to the public interest.

Done at Washington, D.C., this 26th day of April 1967.

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

[F.R. Doc. 67-4845; Filed, May 1, 1967; 8:47 a.m.]

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

[Lemon Reg. 264, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553 (1966)) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (i) of § 910.564 (Lemon Reg. 264, 32 F.R. 6341) are hereby amended to read as follows:

§ 910.564 Lemon Regulation 264.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 2,060 cartons;

* * * * *

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

Dated: April 27, 1967.

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

[F.R. Doc. 67-4846; Filed, May 1, 1967; 8:47 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 550—PAY ADMINISTRATION (GENERAL)

Computation of Severance Pay

Section 550.704 is amended to specify when an employee serving in agency that is scheduled to terminate has an appointment with a definite time limitation so as to deny him entitlement to severance pay. Section 550.704(b) is amended by adding subdivision (iii) to subparagraph (4) as set out below.

§ 550.704 General provisions.

* * * * *

(b) *Computation of severance pay.* * * *

(4) * * *

(iii) An employee is considered to be serving under an appointment with a definite time limitation for purposes of section 9(b)(2) of the act when (*a*) he accepts an appointment without time limitation in a department which is scheduled by law or Executive order to be terminated within 5 years of the date of his appointment, and (*b*) the scheduled date of termination for the department has not been extended beyond 5 years of the date of appointment at the time of the employee's separation.

(Sec. 9, P.L. 89-301; 79 Stat. 1118; E.O. 11257, 30 F.R. 14358, 3 CFR 1965 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 67-4854; Filed, May 1, 1967; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 67-WE-13-AD; Amdt. 39-404]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

Following the review of investigation records and recommendations stemming from the investigation of a recent landing accident involving a Boeing Model 727 airplane, numerous engineering studies were undertaken regarding means to provide improved crashworthiness in the event of an excessively hard landing. One such investigation concentrated on the separation characteristics of the main landing gear side strut—the objective being to lower the probability of the gear damaging the fuselage in the event of an excessively hard landing.

After numerous engineering evaluations, which included testing by the manufacturer, the FAA has concluded that the stated objective will be achieved by incorporation of the modification outlined in Boeing Service Bulletin No. 32-79, Revision 1, in two stages. The first stage of this modification consists of the installation of modified side strut lower segment plugs and side strut universal fittings. The second stage of this modification consists of machining a controlled groove into the lower side strut segment. Accordingly, an Airworthiness Directive is being issued to require the incorporation of the modification outlined in Boeing Service Bulletin No. 32-79, Revision 1, on all Boeing Model 727 Series airplanes.

Although considerable time has been spent in developing a modification which is commensurate with the state of the art, and which also achieves the desired objective, the FAA believes that once established, the modification should be incorporated on all Boeing Model 727 Series airplanes as soon as practicable. Accordingly, a compliance time of 1,000 hours for completing the first stage of the modification and 6,000 hours for completing the second stage of the modification has been established. Furthermore, because of the important safety considerations involved, the FAA finds that notice and public procedures hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

BOEING. Applies to Boeing Model 727 Series Airplanes.

Compliance required as indicated unless already accomplished.

To protect the aircraft structure in the event of an excessively hard landing by providing the desired separation characteristics of the main landing gear side strut, accomplish the following:

1. Within the next 1,000 hours' time in service after the effective date of this AD replace the main landing gear side strut lower segment plugs and side strut universal fittings in accordance with Part II of Boeing Service Bulletin No. 32-79, Revision 1, or later FAA-approved revision, or by an equivalent method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

2. Within the next 6,000 hours' time in service after the effective date of this AD incorporate the controlled groove around the outside upper end of the side strut lower segment in accordance with Part II of Boeing Service Bulletin No. 32-79, Revision 1, or later FAA-approved revision, or by an equivalent method approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective upon publication in the FEDERAL REGISTER.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Los Angeles, California on April 18, 1967.

JOSEPH H. TIPPETS,
Regional Director,
FAA Western Region.

[F.R. Doc. 67-4840; Filed, May 1, 1967; 8:47 a.m.]

[Docket No. 67-CE-AD-5; Amdt. 39-405]

PART 39—AIRWORTHINESS DIRECTIVES

Air and Space Model 18A Gyroplane Rotor Blades

Pursuant to the authority delegated to me by the Administrator, an airworthiness directive was adopted on January 17, 1967, and made effective immediately as to owners of certain rebuilt Air and Space Model 18A Rotor Blades, P/N 4476-1101-01, installed on Air and Space Model 18A Gyroplanes. The metal leading edge abrasion strip of these blades had been replaced by the manufacturer. In order to correct an unairworthy condition which may exist in these rotor blades due to improper bonding and voids in the abrasion strip, the directive requires modification of the rebuilt blades in accordance with Air and Space Manufacturing, Inc., Service Bulletin No. 15, dated December 27, 1966. Upon completion of this modification, the rotor blade set must be rebalanced and tracked before return to service.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impractical and contrary to the public interest and good cause existed for making the AD effective immediately as to the owners of the rebuilt blades by individual telegrams dated January 17, 1967. Subsequent to the issuance of the telegraphic AD, the agency has determined that this condition is likely to exist in other Air and Space Model 18A Rotor Blades. Consequently, an airworthiness directive is being issued prohibiting further flight in Air and Space Model 18A Gyroplanes until the modification covered in Air and Space Manufacturing, Inc., Service Bulletin No. 15 is accomplished. This AD differs from the telegraphic AD in that it will not require rebalancing of the rotor blade set upon completion of the modification.

Since immediate corrective action is required, notice and public procedure hereon is impractical and contrary to the public interest and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD:

AIR AND SPACE ROTOR BLADES. Applies to rotor blades installed on Air and Space Model 18A Gyroplanes.

Before further flight of any Air and Space Model 18A Gyroplane, unless already accomplished, modify the rotor blades in accordance with Air and Space Manufacturing, Inc., Service Bulletin No. 15, dated December 27, 1966, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Central Region. Upon completion of this modification the rotor blade set need not be rebalanced, but must be tracked before return to service.

NOTE: Pursuant to Air and Space Manufacturing, Inc., Maintenance and Rigging Manual, page 30, Section M, no separations are permitted in the leading edge protective strip of the rotor blade. If separation is detected, the blade should be discarded unless a repair is authorized by the Chief, Engineering and Manufacturing Branch, FAA Central Region.

This amendment becomes effective April 29, 1967, and supersedes the telegraphic airworthiness directive of January 17, 1967, on the subject.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Kansas City, Mo., April 21, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-4842; Filed, May 1, 1967; 8:47 a.m.]

[Docket No. 8129; Amdt. 39-409]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707 Airplanes

Pursuant to the authority delegated to me by the Administrator, an airworthiness directive was adopted April 20, 1967, and made effective immediately by telegram to all known operators of Boeing 707-300 Series, -400 Series, -300B Series, and -300C Series airplanes. Because of reports of cracks in the wing upper skin at the rear spar upper chord, the airworthiness directive requires inspections within the next 50 hours' time in service and repair of cracked parts in accordance with a Boeing Service Bulletin. The directive stated that a revision would follow covering repetitive inspections and additional repair instructions. In addition, by telegram dated April 21, 1967, the directive was amended to except from its coverage those airplanes that have had the critical fastener, identified in the pertinent Boeing Service Bulletin, removed and the resulting hole plugged, or that have been repaired in accordance with pertinent Boeing drawings. The amendment also authorized the Chief, Aircraft Engineering Division, Western Region, to grant extensions of the initial and subsequent inspection times specified in the AD, after submission of appropriate supporting data.

Since it was found that corrective action was required within a very short time, notice and public procedure thereon was impractical and contrary to the public interest and good cause existed for making the airworthiness directive, and the amendment thereto, effective immediately as to all known operators of the airplanes. These conditions still exist and the airworthiness directive, as amended, is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In view of the foregoing, § 39.13 is amended by adding the following airworthiness directive:

BOEING 707 AIRPLANES. Applies to 707-300 Series, -400 Series, -400B Series, and -300C Series airplanes, except those airplanes that have had the critical fastener (LH and RH) identified in flag note (1), page 29, Boeing Service Bulletin 2427, Revision 1, dated February 13, 1967, removed and the resulting hole plugged in accordance with that Service Bulletin, or that have been repaired in accordance with Boeing drawings numbered 65-63274, 65-64337, or 65-64843.

(a) For Boeing 707-300C Series airplanes having 10,000 or more hours' time in service, inspect as provided in paragraph (c) within the next 50 hours' time in service, unless already accomplished within the previous 750 hours' time in service.

(b) For Boeing 707-300 Series, -400 Series, and -300B Series airplanes having 17,000 or more hours' time in service, inspect as provided in paragraph (c) within the next 50 hours' time in service, unless already accomplished within the previous 750 hours' time in service.

(c) Inspect the wing upper skin under the Beaver Tail within the first 12 inches forward of the rear spar centerline for cracks by means of the ultrasonic inspection technique outlined in Special Revision 4-6-11 of Boeing Document D6-7170, "Nondestructive Test Inspection Procedure," or by means of X-ray inspection technique outlined in Part 1, Boeing Service Bulletin No. 2427 (Rev. 3).

(d) If cracks are found that fall within the crack length limitations specified in Parts VI or II, Boeing Service Bulletin No. 2427 (Rev. 3), before further flight repair in accordance with the applicable part of that Bulletin, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repair can be accomplished. If cracks are found that exceed the crack length limitations specified in Parts VI or II, Boeing Service Bulletin No. 2427 (Rev. 3), before further flight replace the affected portion of the wing upper skin or repair in accordance with a method approved by the Chief, Aircraft Engineering Division, FAA Western Region, except that, subject to concurrence by the Chief, Aircraft Engineering Division, FAA Western Region, the airplane may be flown in accordance with FAR 21.197 to a base where the replacement or repair can be accomplished.

(e) Report the location and length of each crack to the Chief, Aircraft Engineering Division, FAA Western Region, within 3 days after detection.

(f) A revision of this AD will follow covering repetitive inspection intervals and additional repair instructions.

(g) The Chief, Aircraft Engineering Division, FAA Western Region, may grant extensions of the initial and subsequent inspection times specified in this AD after submission of appropriate supporting data by the operator requesting the extension.

This amendment becomes effective upon publication in the FEDERAL REGISTER for all persons except those to whom it was made effective by telegram dated April 20, 1967, as amended by telegram dated April 21, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on April 24, 1967.

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

[F.R. Doc. 67-4843; Filed, May 1, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SO-24]

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

Designation of Transition Area

On March 14, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 4026) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Gastonia, N.C., transition area.

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

Subsequent to the publication of the Notice, the geographic coordinate of the Gastonia Municipal Airport was verified by Coast and Geodetic Survey as latitude 35°12'00" N., longitude 81°09'-05" W. Since this amendment is editorial in nature and imposes no additional burden on the public, it is incorporated in this rule.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., June 22, 1967, as hereinafter set forth.

In § 71.181 (32 F.R. 2148) the following transition area is added:

GASTONIA, N.C.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Gastonia Municipal Airport (latitude 35°12'00" N., longitude 81°09'05" W.), excluding the portion that coincides with the Charlotte transition area.

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

Issued in East Point, Ga., on April 20, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-4841; Filed, May 1, 1967; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 7938 o]

PART 13—PROHIBITED TRADE PRACTICES

Campbell Taggart Associated Bakeries, Inc.

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18) [Order of divestiture Campbell Taggart Associated Bakeries, Inc., Dallas, Tex., Docket 7938, Apr. 7, 1967]

Consent order requiring the Nation's second largest chain baking company with headquarters in Dallas, Tex., to divest four acquired baking plants and related assets, and also forbids it to acquire any domestic producer or seller of baking goods for the next 10 years without prior approval of the Federal Trade Commission.

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

I. *It is ordered*, That respondent Campbell Taggart Associated Bakeries, Inc., a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors, and assigns within 1 year from service of this order shall divest absolutely and in good faith all assets, properties, rights and privileges, tangible and intangible, including but not limited to, all plants, buildings, machinery, equipment, routes, customers, loading stations, loading depots, trade names, trademarks, and goodwill or other property of whatever description for the production of bakery products situated at, (1) Clovis and Roswell, N. Mex., and acquired as a result of its acquisition of Mead's Fine Bread Co., (2) situated at Bowling Green, Ky., and acquired as a result of its acquisition of Grocers Baking Co. and, (3) situated at Bedford, Ind., and acquired as a result of its acquisition of Grocers Baking Company of Indiana, a subsidiary of Grocers Baking Co.; together with all improvements, additions, and other property of whatever description which have been added to any of the properties of the above-named plants.

II. *It is further ordered*, That respondent or its subsidiaries shall not sell or transfer the aforesaid assets, tangible or intangible, directly or indirectly, to anyone who at the time of divestiture is a stockholder, officer, director, employee, or agent of, or otherwise directly or indirectly connected with or under the control or influence of the respondent, or to any purchaser not approved by the Federal Trade Commission in advance.

III. *It is further ordered*, That, pending divestiture, respondent make no changes in any of the assets to be divested which would impair their capacity for the production and sale of bakery products, or their market value.

IV. *It is further ordered*, That for ten (10) years from the date of service of this order, respondent shall cease and desist from acquiring, directly or indirectly, without the prior approval of the Federal Trade Commission, any part of the share capital or assets of any firm, partnership, or corporation which is then engaged in the production or sale of bakery products (U.S. Bureau of Census SIC Codes 2051 and 2052) in the United States: *Provided, however*, That this provision shall not be construed to prevent the purchase of used machinery or equipment.

V. *It is further ordered*, That, within sixty (60) days after the date of service of this order, and every sixty (60) days thereafter until it has fully complied with the provisions of paragraphs I, II, and III of this order, respondent shall submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it intends to comply, is complying, and/or has complied with this order. All compliance reports shall include, among other things that may be from time to time required, a summary of all contacts and negotiations with potential purchasers of the assets to be divested under this order, the identity of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

VI. *It is further ordered*, That section IV of this order shall terminate if the Federal Trade Commission, through trade regulation rules or other like nonadjudicative industrywide proceedings, issues rules or guide lines covering the subject matter of this order.

VII. *It is further ordered*, That the initial decision of the hearing examiner be, and it hereby is, vacated.

VIII. The Federal Trade Commission may, from time to time, and upon application by respondent, issue such further orders as it may deem appropriate or just.

Issued: April 7, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-4858; Filed, May 1, 1967; 8:48 a.m.]

[Docket No. C-1190]

PART 13—PROHIBITED TRADE PRACTICES

Edward L. Cox

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1390 *Concealed subsidiary, fictitious collection agency, etc.*; § 13.1425 *Government connection.* Subpart—Using Misleading name—Vendor: § 13.2380 *Government connection.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Edward L. Cox, Columbus, Ohio, Docket C-1190, Apr. 3, 1967]

Consent order requiring a Columbus, Ohio, distributor of skip tracer letters to cease using false and deceptive statements in his debt collection forms.

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

It is ordered, That respondent Edward L. Cox, an individual, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the collection of, or the attempt to collect, accounts, or with the solicitation of information concerning debts or debtors, or with the offering for sale, sale or distribution of forms, or other materials, for use in the collection of, or the attempt to collect, accounts, or in the solicitation of information concerning debts or debtors, in commerce, as

"commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "State Bureau of Credit Control," "State Collection Supervisor," "County Collection Supervisor," or abbreviations thereof, or any other words or abbreviations of similar import or meaning which indicate or suggest that respondent is affiliated in any way with any governmental entity, whether State, Federal, or local, to refer to respondent's business or to any person connected therewith;

2. Representing, or placing in the hands of others the means and instrumentalities by and through which they may represent, directly or by implication, that any communication with respect to an allegedly delinquent account is being made by, through, under the aegis of, or in connection with any governmental entity or agency, whether State, Federal or local;

3. Mailing any collection letters, notices of debt due, or any other collection materials to any person indebted to a third party, or otherwise contacting any such person unless respondent has actual authority from the creditor to collect or otherwise compromise the debt; and unless an exact description of the extent and nature of the respondent's authority to act in connection with such debt is conspicuously and prominently stated to the debtor;

4. Offering for sale or selling any form, letter, notice or other document, individually or in package or series form, for debt collection purposes which bears respondent's letterhead or any name other than that of the purchaser or of a person designated by the purchaser which represents in any way directly or by implication that a delinquent account has been referred to respondent or any other third party for collection;

5. Authorizing any creditor to utilize respondent's name or any trade name or style which respondent may adopt or use in connection with any debt collection activity whether directly or through third parties on the part of such creditor;

6. Representing directly or by implication that:

(a) Respondent is engaged in the business of collecting delinquent accounts with authority to effect collection by whatever means necessary;

(b) Any delinquent account has been referred to it for collection;

(c) Any legal or other action will be instituted to effect collection or reflect unfavorably on the credit rating of the debtor;

Provided, however, It shall be a defense hereunder for respondent to establish that it is engaged in the bona fide collection of delinquent accounts, has the authority and good faith intent to take any represented action, and the specific account in question has been referred to it for collection;

7. Engaging in any scheme, practice or business activity by and through which creditors may falsely represent that a delinquent account has been referred to a bona fide, independent collection agency; any third party has the authority to effect collection of a delinquent account; the delinquent account has been referred to an instrumentality of or agency affiliated with any governmental unit.

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

Issued: April 3, 1967.

By the Commission.

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

[F.R. Doc. 67-4859; Filed, May 1, 1967; 8:48 a.m.]

[Docket No. 8693]

PART 13—PROHIBITED TRADE PRACTICES

Sewing Machine Company of America et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–195 Nature; § 13.71 *Financing;* § 13.155 *Prices:* 13.155–10 Bait; 13.155–40 Exaggerated as regular and customary; 13.155–78 Repossession balances. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1417 *Financing activities;* § 13.1490 *Nature;* Misrepresenting oneself and goods—Prices: § 13.1779 *Bait;* § 13.1805 *Exaggerated as regular and customary.* Subpart—Using misleading name—Vendor: § 13.2425 *Nature, in general.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Sewing Machine Co. of America et al., St. Paul, Minn., Docket 8693, Apr. 5, 1967]

In the Matter of Sewing Machine Co. of America, a Corporation, Doing Business as Domestic Credit Co., and Eldon J. Metaxas and Ralph T. Corrigan, Individually and as Officers of Said Corporation

Order requiring a St. Paul, Minn., sewing machine retailer to cease using bait advertising, fictitious pricing and savings claims and other deceptive selling practices as set forth in the order below.

The order to cease and desist is as follows:

It is ordered, That respondents Sewing Machine Co. of America, a corporation, and its officers, and Eldon J. Metaxas and Ralph T. Corrigan, individually and as officers of said corporation, doing business under the name of Domestic Credit Co. or any other name or names, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sewing machines or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "credit" or any word or words of similar import or meaning as a part of their trade or corporate name or representing in any manner that respondents' business is that of lending money or providing credit to purchasers of merchandise, or buying, selling, or otherwise dealing in commercial paper incident to the purchase of merchandise on credit.

2. Misrepresenting in any manner the status or nature of respondents' business.

3. Advertising or offering any product for sale for the purpose of obtaining leads or prospects for the sale of their products unless the product shown or demonstrated to the prospective purchaser does in all respects conform to the representations and description thereof as contained in the advertisement or offer.

4. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made to obtain leads or prospects for the sale of other merchandise.

5. Representing, directly or by implication, that any merchandise is being offered for sale when such offer is not a bona fide offer to sell such merchandise.

6. Representing, directly or by implication, that any price for respondents' products is a special price or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting, in any manner, the prices at which such products have been sold or offered for sale by respondents.

7. Misrepresenting, in any manner, savings available to purchasers of respondents' products.

By "Final Order" further order requiring report of compliance is as follows:

It is further ordered, That Sewing Machine Co. of America, a corporation, and Eldon J. Metaxas and Ralph T. Corrigan, individually and as officers of said corporation, doing business under the name of Domestic Credit Co., shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: April 5, 1967.

By the Commission.

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

[F.R. Doc. 67-4860; Filed, May 1, 1967; 8:48 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER C—ACCOUNTS, FEDERAL POWER ACT

[Docket No. R-305; Order 343]

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSEES

SUBCHAPTER D—APPROVED FORMS, FEDERAL POWER ACT

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Accounting and Reporting by Hydroelectric Licensees for Expenditures Relating to Fish, Recreation, and Wildlife

APRIL 26, 1967.

On July 14, 1966, the Commission gave notice (31 F.R. 9877, July 21, 1966) that it proposed to amend the Uniform System of Accounts for Class A and Class B public utilities and licensees and to add four new schedules for FPC Form No. 1, prescribed for use by these public utilities and licensees by § 141.1 of its regulations. The object of these amendments is to enable the Commission and other interested agencies to evaluate the cost and effectiveness of fish, wildlife, and recreation programs undertaken by the reporting licensees. Expenditures for these purposes are not now accounted for or reported separately.

Twenty-four responses commenting on the proposed amendments were received.[1] Five State agencies and the National Audubon Society supported the proposal, while 17 of the 18 remaining respondents (all licensees) opposed one or another aspect of the amendments. Five of the 17, however, indicated approval of the overall scheme. One licensee is already maintaining its accounts in the form contemplated by the amendments.

The Commission has considered the comments submitted and has adopted modifications responsive to certain of the objections expressed therein. While these modifications will reduce the complexity of the accounting and reporting as proposed, the modified amendments will still provide information adequate for the Commission's purposes.

Objections expressed in the responses centered largely on the accounting separation of expenditures and revenues for fish, wildlife, and recreation activities, and on the proposal that depreciation reserves and accruals be reported in Form No. 1. The respondent licensees maintain that this accounting scheme would create unnecessary burdens and present difficult cost-allocation problems. The proposed reporting of depreciation reserves and accruals, also, was thought to present cost-allocation difficulties and to violate the functional classification of depreciation. While we believe that some breakdown of cost information is necessary if it is to be useful, the combining of fish and wildlife activities for accounting and reporting purposes appears to be feasible. Expenditures for wildlife activities will in most cases be small. This modification should reduce accounting and reporting paperwork by about a third without seriously affecting the utility of the information.

Accounting and reporting for depreciation would not violate the functional classification of depreciation, since the accounting proposed here would be maintained under the hydroelectric function. Nevertheless, the Commission agrees that eliminating the accounting and reporting requirement for depreciation would materially reduce the respondents' workload without impairing the usefulness of their reports. Depreciated cost of the facilities is not needed to evaluate the activities when gross cost figures are available.

Some respondents suggested that revenues from fish, wildlife, and recreation activities are small enough that it would be proper to show them as offsets against expense in the appropriate operating or maintenance account. The Commission believes that the cost of operating these facilities can be accurately shown only if revenues and expenses are separately stated. Since in most cases recreation activities will provide most of the revenues, it would not detract significantly from the usefulness of the information to combine revenues from all three programs into a single subaccount. Accordingly, we have made this change in the amendments proposed.

Another modification suggested is the deletion of Item 12, referring to supplies and expenses for fish, game, and forest conservation, from Account 537, Hydraulic Expenses. This item would be redundant under the new accounts prescribed and is being deleted as suggested.

Some respondents commented that the figures obtained under the accounting and reporting requirements here adopted will not permit the general public to know how effective the fish, wildlife, and recreation programs are, because the costs of development will vary with the natural surroundings of each project. It is not intended, however, that these fiscal data be the only measure of effectiveness; rather they will be used to complement other information already available to the Commission.

Certain other comments and suggestions dealt with matters actually disposed of in the manner suggested either by the amendments here adopted or by existing provisions of the Uniform System of Accounts.

The Commission finds:

(1) The amendments to the Uniform System of Accounts and the Annual Report Form, prescribed herein, will provide the Commission with information important to the execution of its duties under the Federal Power Act with reference to the promotion of recreational use of licensed projects and the preservation of fish and wildlife in project lands and waters and, therefore, are necessary and appropriate for the administration of the Act.

(2) Since the modifications made to the amendments as originally proposed reduce and simplify the reporting obligation laid upon licensees, no further notice prior to adoption is necessary under section 4 of the Administrative Procedure Act.

The Commission, acting pursuant to the Federal Power Act, as amended, and particularly sections 301, 304, and 309 thereof (49 Stat. 854, 855, 858; 16 U.S.C. 825, 825c, 825h) orders:

(A) Effective upon the issuance of this order, the Uniform System of Accounts prescribed for Class A and Class B Public Utilities and Licensees by Part 101, Subchapter C of Chapter I, Title 18 of the Code of Federal Regulations is amended by revising Electric Plant Instruction 8C, adding a new Electric Plant Instruction 15, and revising Accounts Nos. 330, 331, 332, 335, 336, 398, 456, 537, 542, 543, and 545 to read as follows:

Electric Plant Instructions

* * * * *

8. *Structures and improvements.* * * *

C. Minor buildings and structures, such as valve towers, patrolmen's towers, telephone stations, fish and wildlife, and recreation facilities, etc., which are used directly in connection with or form a part of a reservoir, dam, waterway, etc., shall be considered a part of the facility in connection with which constructed or operated and the cost thereof accounted for accordingly.

* * * * *

15. *Hydraulic production plant.*

For the purpose of this system of accounts hydraulic production plant means all land and land rights, structures and improvements used in connection with hydraulic power generation, reservoirs, dams and waterways, water wheels, turbines, generators, accessory electric equipment, miscellaneous powerplant equipment, roads, railroads, and bridges, and structures and improvements used in connection with fish and wildlife, and recreation.

* * * * *

Electric Plant Accounts

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330 Land and land rights.

This account shall include the cost of land and land rights used in connection

[1] Alabama Power Co., Allegheny Power Service Corp., Appalachian Power Co., Carolina Power & Light Co., Cleveland Electric Illuminating Co., Consumers Power Co., Georgia Power Co., Idaho Power Co., Iowa State Conservation Commission, Massachusetts Division of Fisheries and Game, National Audubon Society, Northern States Power Co., Oregon Fish Commission, Pacific Gas & Electric Co., Pacific Power & Light Co., Pennsylvania Fish Commission, Pennsylvania Power & Light Co., Philadelphia Electric Co., Public Service Electric & Gas Co., Southern California Edison Co., Union Electric Co., Virginia Electric & Power Co., Washington State Department of Fisheries, Wisconsin Michigan Power Co.

with hydraulic power generation. (See electric plant instruction 7.) It shall also include the cost of land and land rights used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

331 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with hydraulic power generation. (See electric plant instruction 8.) It shall also include the cost in place of structures and improvements used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

332 Reservoirs, dams, and waterways.

This account shall include the cost in place of facilities used for impounding, collecting, storage, diversion, regulation, and delivery of water used primarily for generating electricity. It shall also include the cost in place of facilities used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above. (See electric plant instruction 8C.)

* * * * *

335 Miscellaneous power plant equipment.

This account shall include the cost installed of miscellaneous equipment in and about the hydroelectric generating plant which is devoted to general station use and is not properly includible in other hydraulic production accounts. It shall also include the cost of equipment used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

336 Roads, railroads, and bridges.

* * * * *

NOTE A: This account shall include the cost of roads, railroads, trails, bridges, and trestles used primarily as production facilities. It includes also those roads, etc., necessary to connect the plant with highway transportation systems, except when such roads are dedicated to public use and maintained by public authorities. Roads intended primarily for connecting employees' houses with the power plant, and roads used primarily in connection with fish and wildlife, and recreation activities, shall not be included herein but in account 331, Structures and Improvements.

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398 Miscellaneous equipment.

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3. Employees' recreation equipment.

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Operating Revenue Accounts

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456 Other electric revenues.

This account shall include revenues derived from electric operations not includible in any of the foregoing accounts. It shall also include in a separate subaccount revenues received from operation of fish and wildlife, and recreation facilities whether operated by the company or by contract concessionaires, such as revenues from leases, or rentals of land for cottage, homes, or campsites.

Operation and Maintenance Expense Accounts

* * * * *

537 Hydraulic expenses.

This account shall include the cost of labor, materials used and expenses incurred in operating hydraulic works including reservoirs, dams, and waterways, and in activities directly relating to the hydroelectric development outside the generating station. It shall also include the cost of labor, materials used and other expenses incurred in connection with the operation of (1) fish and wildlife, and (2) recreation facilities. Separate subaccounts shall be maintained for each of the above.

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12. Transportation expense.

[CODIFICATION NOTE: Item 12 deleted and Item 13 renumbered 12]

* * * * *

542 Maintenance of structures.

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of hydraulic structures, the book cost of which is includible in Account 331, Structures and Improvements. (See operating expense instruction 2). However, the cost of labor, materials used and expenses incurred in the maintenance of fish and wildlife, and recreation facilities, the book cost of which is includible in Account 331, Structures and Improvements, shall be charged to Account 545, Maintenance of Miscellaneous Hydraulic Plant.

543 Maintenance of reservoirs, dams, and waterways.

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant includible in Account 333, Water Wheels, Turbines, and Generators, and Account 334, Accessory Electric Equipment. (See operating expense instruction 2.) However, the cost of labor, materials used and expenses incurred in the maintenance of fish and wildlife, and recreation facilities, the book cost of which is includible in Account 332, Reservoirs, Dams and Waterways, shall be charged to Account 545, Maintenance of Miscellaneous Hydraulic Plant.

* * * * *

545 Maintenance of miscellaneous hydraulic plant.

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant, the book cost of which is includible in Account 335, Miscellaneous Power Plant Equipment, and Account 336, Roads, Railroads and Bridges. (See operating expense instruction 2.) It shall also include the cost of labor, materials used and other expenses incurred in the maintenance of (1) fish and wildlife, and (2) recreation facilities. Separate subaccounts shall be maintained for each of the above.

* * * * *

(B) Effective for the reporting year 1967, Annual Report FPC Form No. 1, prescribed for Class A and Class B electric utilities and licensees by § 141.1, Subchapter D, of the said Chapter I of Title 18 is amended by adding new schedules entitled "Fish and Wildlife and Recreation Plants" (page 403A) and "Operation and Maintenance Expenses of Fish and Wildlife and Recreation Operations" (page 416A), and by revising the schedule entitled "Miscellaneous Service Revenues and Other Electric Revenues" (page 416), all as set out in Attachment A hereto.[2]

(C) Effective upon the issuance of this order, in paragraph (d) of the said § 141.1, the list of schedules is revised by—

1. Inserting, to follow the line "Electric Plant in Service", a new line reading:

Fish and Wildlife and Recreation Plants.

2. Inserting, to follow the line "Miscellaneous Service * * * Revenues", a new line reading:

Operation and Maintenance Expenses of Fish and Wildlife and Recreation Operations.

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

By the Commission.

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

[F.R. Doc. 67-4819; Filed, May 1, 1967; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6918]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Expenses for Education

On October 1, 1966, notice of proposed rule making with respect to the amendment of § 1.162–5 (relating to expenses for education) and § 1.262–1 (relating to personal, living, and family expenses) of the Income Tax Regulations (26 CFR Part 1) was published in the FEDERAL REGISTER (31 F.R. 12843). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, such regulations are amended as follows:

PARAGRAPH 1. Section 1.162–5 is amended to read as follows:

§ 1.162–5 Expenses for education.

(a) *General rule.* Expenditures made by an individual for education (including

[2] Attachment A filed as part of original document.

research undertaken as part of his educational program) which are not expenditures of a type described in paragraph (b) (2) or (3) of this section are deductible as ordinary and necessary business expenses (even though the education may lead to a degree) if the education—

(1) Maintains or improves skills required by the individual in his employment or other trade or business, or

(2) Meets the express requirements of the individual's employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the individual of an established employment relationship, status, or rate of compensation.

(b) *Nondeductible educational expenditures*—(1) *In general.* Educational expenditures described in subparagraphs (2) and (3) of this paragraph are personal expenditures or constitute an inseparable aggregate of personal and capital expenditures and, therefore, are not deductible as ordinary and necessary business expenses even though the education may maintain or improve skills required by the individual in his employment or other trade or business or may meet the express requirements of the individual's employer or of applicable law or regulations.

(2) *Minimum educational requirements.* (i) The first category of nondeductible educational expenses within the scope of subparagraph (1) of this paragraph are expenditures made by an individual for education which is required of him in order to meet the minimum educational requirements for qualification in his employment or other trade or business. The minimum education necessary to qualify for a position or other trade or business must be determined from a consideration of such factors as the requirements of the employer, the applicable law and regulations, and the standards of the profession, trade, or business involved. The fact that an individual is already performing service in an employment status does not establish that he has met the minimum educational requirements for qualification in that employment. Once an individual has met the minimum educational requirements for qualification in his employment or other trade or business (as in effect when he enters the employment or trade or business), he shall be treated as continuing to meet those requirements even though they are changed.

(ii) The minimum educational requirements for qualification of a particular individual in a position in an educational institution is the minimum level of education (in terms of aggregate college hours or degree) which under the applicable laws or regulations, in effect at the time this individual is first employed in such position, is normally required of an individual initially being employed in such a position. If there are no normal requirements as to the minimum level of education required for a position in an educational institution, then an individual in such a position shall be considered to have met the minimum educational requirements for qualification in that position when he becomes a member of the faculty of the educational institution. The determination of whether an individual is a member of the faculty of an educational institution must be made on the basis of the particular practices of the institution. However, an individual will ordinarily be considered to be a member of the faculty of an institution if (*a*) he has tenure or his years of service are being counted toward obtaining tenure; (*b*) the institution is making contributions to a retirement plan (other than Social Security or a similar program) in respect of his employment; or (*c*) he has a vote in faculty affairs.

(iii) The application of this subparagraph may be illustrated by the following examples:

Example (1). General facts: State X requires a bachelor's degree for beginning secondary school teachers which must include 30 credit hours of professional educational courses. In addition, in order to retain his position, a secondary school teacher must complete a fifth year of preparation within 10 years after beginning his employment. If an employing school official certifies to the State Department of Education that applicants having a bachelor's degree and the required courses in professional education cannot be found, he may hire individuals as secondary school teachers if they have completed a minimum of 90 semester hours of college work. However, to be retained in his position, such an individual must obtain his bachelor's degree and complete the required professional educational courses within 3 years after his employment commences. Under these facts, a bachelor's degree, without regard to whether it includes 30 credit hours of professional educational courses, is considered to be the minimum educational requirement for qualification as a secondardy school teacher in State X. This is the case notwithstanding the number of teachers who are actually hired without such a degree. The following are examples of the application of these facts in particular situations:

Situation 1. A, at the time he is employed as a secondary school teacher in State X, has a bachelor's degree including 30 credit hours of professional educational courses. After his employment, A completes a fifth college year of education and, as a result, is issued a standard certificate. The fifth college year of education undertaken by A is not education required to meet the minimum educational requirements for qualification as a secondary school teacher. Accordingly, the expenditures for such education are deductible unless the expenditures are for education which is part of a program of study being pursued by A which will lead to qualifying him in a new trade or business.

Situation 2. Because of a shortage of applicants meeting the stated requirements, B, who has a bachelor's degree, is employed as a secondary school teacher in State X even though he has only 20 credit hours of professional educational courses. After his employment, B takes an additional 10 credit hours of professional educational courses. Since these courses do not constitute education required to meet the minimum educational requirements for qualification as a secondary school teacher which is a bachelor's degree and will not lead to qualifying B in a new trade or business, the expenditures for such courses are deductible.

Situation 3. Because of a shortage of applicants meeting the stated requirements, C is employed as a secondary school teacher in State X although he has only 90 semester hours of college work toward his bachelor's degree. After his employment, C undertakes courses leading to a bachelor's degree. These courses (including any courses in professional education) constitute education required to meet the minimum educational requirements for qualification as a secondary school teacher. Accordingly, the expenditures for such education are not deductible.

Situation 4. Subsequent to the employment of A, B, and C, but before they have completed a fifth college year of education, State X changes its requirements affecting secondary school teachers to provide that beginning teachers must have completed 5 college years of preparation. In the cases of A, B, and C, a fifth college year of education is not considered to be education undertaken to meet the minimum educational requirements for qualification as a secondary school teacher. Accordingly, expenditures for a fifth year of college will be deductible unless the expenditures are for education which is part of a program being pursued by A, B, or C which will lead to qualifying him in a new trade or business.

Example (2). D, who holds a bachelor's degree, obtains temporary employment as an instructor at University Y and undertakes graduate courses as a candidate for a graduate degree. D may become a faculty member only if he obtains a graduate degree and may continue to hold a position as instructor only so long as he shows satisfactory progress towards obtaining this graduate degree. The graduate courses taken by D constitute education required to meet the minimum educational requirements for qualification in D's trade or business and, thus, the expenditures for such courses are not deductible.

Example (3). E, who has completed 2 years of a normal 3-year law school course leading to a bachelor of laws degree (LL.B.), is hired by a law firm to do legal research and perform other functions on a full-time basis. As a condition to continued employment, E is required to obtain an LL.B. and pass the State bar examination. E completes his law school education by attending night law school, and he takes a bar review course in order to prepare for the State bar examination. The law courses and bar review course constitute education required to meet the minimum educational requirements for qualification in E's trade or business and, thus, the expenditures for such courses are not deductible.

(3) *Qualification for new trade or business.* (i) The second category of nondeductible educational expenses within the scope of subparagraph (1) of this paragraph are expenditures made by an individual for education which is part of a program of study being pursued by him which will lead to qualifying him in a new trade or business. In the case of an employee, a change of duties does not constitute a new trade or business if the new duties involve the same general type of work as is involved in the individual's present employment. For this purpose, all teaching and related duties shall be considered to involve the same general type of work. The following are examples of changes in duties which do not constitute new trades or businesses:

(*a*) Elementary to secondary school classroom teacher.

(*b*) Classroom teacher in one subject (such as mathematics) to classroom teacher in another subject (such as science).

(*c*) Classroom teacher to guidance counselor.

(d) Classroom teacher to principal.

(ii) The application of this subparagraph to individuals other than teachers may be illustrated by the following examples:

Example (1). A, a self-employed individual practicing a profession other than law, for example, engineering, accounting, etc., attends law school at night and after completing his law school studies receives a bachelor of laws degree. The expenditures made by A in attending law school are nondeductible because this course of study qualifies him for a new trade or business.

Example (2). Assume the same facts as in example (1) except that A has the status of an employee rather than a self-employed individual, and that his employer requires him to obtain a bachelor of laws degree. A intends to continue practicing his nonlegal profession as an employee of such employer. Nevertheless, the expenditures made by A in attending law school are not deductible since this course of study qualifies him for a new trade or business.

Example (3). B, a general practitioner of medicine, takes a 2-week course reviewing new developments in several specialized fields of medicine. B's expenses for the course are deductible because the course maintains or improves skills required by him in his trade or business and does not qualify him for a new trade or business.

Example (4). C, while engaged in the private practice of psychiatry, undertakes a program of study and training at an accredited psychoanalytic institute which will lead to qualifying him to practice psychoanalysis. C's expenditures for such study and training are deductible because the study and training maintains or improves skills required by him in his trade or business and does not qualify him for a new trade or business.

(c) *Deductible educational expenditures*—(1) *Maintaining or improving skills.* The deduction under the category of expenditures for education which maintains or improves skills required by the individual in his employment or other trade or business includes refresher courses or courses dealing with current developments as well as academic or vocational courses provided the expenditures for the courses are not within either category of nondeductible expenditures described in paragraph (b) (2) or (3) of this section.

(2) *Meeting requirements of employer.* An individual is considered to have undertaken education in order to meet the express requirements of his employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the taxpayer of his established employment relationship, status, or rate of compensation only if such requirements are imposed for a bona fide business purpose of the individual's employer. Only the minimum education necessary to the retention by the individual of his established employment relationship, status, or rate of compensation may be considered as undertaken to meet the express requirements of the taxpayer's employer. However, education in excess of such minimum education may qualify as education undertaken in order to maintain or improve the skills required by the taxpayer in his employment or other trade or business (see subparagraph (1) of this paragraph). In no event, however, is a deduction allowable for expenditures for education which, even though for education required by the employer or applicable law or regulations, are within one of the categories of nondeductible expenditures described in paragraph (b) (2) and (3) of this section.

(d) *Travel as a form of education.* Subject to the provisions of paragraph (b) and (e) of this section, expenditures for travel (including travel while on sabbatical leave) as a form of education are deductible only to the extent such expenditures are attributable to a period of travel that is directly related to the duties of the individual in his employment or other trade or business. For this purpose, a period of travel shall be considered directly related to the duties of an individual in his employment or other trade or business only if the major portion of the activities during such period is of a nature which directly maintains or improves skills required by the individual in such employment or other trade or business. The approval of a travel program by an employer or the fact that travel is accepted by an employer in the fulfillment of its requirements for retention of rate of compensation, status or employment, is not determinative that the required relationship exists between the travel involved and the duties of the individual in his particular position.

(e) *Travel away from home.* (1) If an individual travels away from home primarily to obtain education the expenses of which are deductible under this section, his expenditures for travel, meals, and lodging while away from home are deductible. However, if as an incident of such trip the individual engages in some personal activity such as sightseeing, social visiting, or entertaining, or other recreation, the portion of the expenses attributable to such personal activity constitutes nondeductible personal or living expenses and is not allowable as a deduction. If the individual's travel away from home is primarily personal, the individual's expenditures for travel, meals and lodging (other than meals and lodging during the time spent in participating in deductible education pursuits) are not deductible.

Whether a particular trip is primarily personal or primarily to obtain education the expenses of which are deductible under this section depends upon all the facts and circumstances of each case. An important factor to be taken into consideration in making the determination is the relative amount of time devoted to personal activity as compared with the time devoted to educational pursuits. The rules set forth in this paragraph are subject to the provisions of section 162(a)(2), relating to deductibility of certain traveling expenses, and section 274 (c) and (d), relating to allocation of certain foreign travel expenses and substantiation required, respectively, and the regulations thereunder.

(2) *Examples.* The application of this subsection may be illustrated by the following examples:

Example (1). A, a self-employed tax practitioner, decides to take a 1-week course in new developments in taxation, which is offered in City X, 500 miles away from his home. His primary purpose in going to X is to take the course, but he also takes a side trip to City Y (50 miles from X for 1 day, takes a sightseeing trip while in X, and entertains some personal friends. A's transportation expenses to City X and return to his home are deductible but his transportation expenses to City Y are not deductible. A's expenses for meals and lodging while away from home will be allocated between his educational pursuits and his personal activities. Those expenses which are entirely personal, such as sightseeing and entertaining friends, are not deductible to any extent.

Example (2). The facts are the same as in example (1) except that A's primary purpose in going to City X is to take a vacation. This purpose is indicated by several factors, one of which is the fact that he spends only 1 week attending the tax course and devotes 5 weeks entirely to personal activities. None of A's transportation expenses are deductible and his expenses for meals and lodging while away from home are not deductible to the extent attributable to personal activities. His expenses for meals and lodging allocable to the week attending the tax course are, however, deductible.

Example (3). B, a high school mathematics teacher in New York City, in the summertime travels to a university in California in order to take a mathematics course the expense of which is deductible under this section. B pursues only one-fourth of a full course of study and the remainder of her time is devoted to personal activities the expense of which is not deductible. Absent a showing by B of a substantial nonpersonal reason for taking the course in the university in California, the trip is considered taken primarily for personal reasons and the cost of traveling from New York City to California and return would not be deductible. However, one-fourth of the cost of B's meals and lodging while attending the university in California may be considered properly allocable to deductible educational pursuits and, therefore, is deductible.

PAR. 2. Paragraph (b) of § 1.262–1 is amended by adding a subparagraph (9) at the end thereof which reads as follows:

§ 1.262–1 Personal, living, and family expenses.

* * * * *

(b) *Examples of personal, living, and family expenses.* * * *

(9) Expenditures made by a taxpayer in obtaining an education or in furthering his education are not deductible unless they qualify under section 162 and § 1.162–5 (relating to trade or business expenses).

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

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

Approved: April 26, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-4804; Filed, May 1, 1967; 8:45 a.m.]

[T.D. 6917]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Treatment of Interest or Dividends Paid by Certain Savings Institutions on Certain Deposits or Withdrawable Accounts

On May 26, 1966, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 461 of the Internal Revenue Code of 1954 to conform such regulations to section 3(a) of the Act of October 24, 1962 (Public Law 87-876, 76 Stat. 1199), was published in the FEDERAL REGISTER (31 F.R. 7571). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as so proposed is hereby adopted, with changes, as set forth below:

§ 1.461-1 General rule for taxable year of deduction.

* * * * *

(e) *Dividends or interest paid by certain savings institutions on certain deposits or withdrawable accounts*—(1) *Deduction not allowable*—(i) *In general.* Except as otherwise provided in this paragraph, pursuant to section 461(e) amounts paid to, or credited to the accounts of, depositors or holders of accounts as dividends or interest on their deposits or withdrawable accounts (if such amounts paid or credited are withdrawable on demand subject only to customary notice to withdraw) by a mutual savings bank not having capital stock represented by shares, a domestic building and loan association, or a cooperative bank shall not be allowed as a deduction for the taxable year to the extent such amounts are paid or credited for periods representing more than 12 months. The provisions of section 461(e) are applicable with respect to taxable years ending after December 31, 1962. Whether amounts are paid or credited for periods representing more than 12 months depends upon all the facts and circumstances in each case. For example, payments or credits which under all the facts and circumstances are in the nature of bona fide bonus interest or dividends paid or credited because a shareholder or depositor maintained a certain balance for more than 12 months, will not be considered made for more than 12 months, providing the regular payments or credits represent a period of 12 months or less. The nonallowance of a deduction to the taxpayer under section 461(e) and this subparagraph has no effect either on the proper time for reporting dividends or interest by a depositor or holder of a withdrawable account, or on the obligation of the taxpayer to make a return setting forth, among other things, the aggregate amounts paid to a depositor or shareholder under section 6049 (relating to returns regarding payments of interest) and the regulations thereunder. With respect to a short period (a taxable year consisting of a period of less than 12 months), amounts of dividends or interest paid or credited shall not be allowed as a deduction to the extent that such amounts are paid or credited for a period representing more than the number of months in such short period. In such a case, the rules contained in section 461(e) and this paragraph apply to the short period in a manner consistent with the application of such rules to a 12-month taxable year. Subparagraph (2) of this paragraph provides rules for computing amounts not allowed in the taxable year and subparagraph (3) provides rules for determining when such amounts are allowed. See section 7701(a) (19) and (32) and the regulations thereunder for the definitions of domestic building and loan association and cooperative bank.

(ii) *Exceptions.* The rule of nonallowance set forth in subdivision (i) of this subparagraph is not applicable to a taxpayer in the year in which it liquidates (other than following, or as part of, an acquisition of its assets in which the acquiring corporation, pursuant to section 381(a), takes into account certain items of the taxpayer, which for purposes of this paragraph shall be referred to as an acquisition described in section 381(a)). In addition, such rule of nonallowance is not applicable to a taxpayer which pays or credits grace interest or dividends to terminating depositors or shareholders, provided the total amount of the grace interest or dividends paid or credited during the payment or crediting period (for example, a quarterly or semiannual period) does not exceed 10 percent of the total amount of the interest or dividends paid or credited during such period, computed without regard to the grace interest or dividends. For example, providing the 10 percent limitation is met, the rule of nonallowance does not apply in a case in which a calendar year taxpayer, with regular interest payment dates of January 1, April 1, July 1, and October 1, pays grace interest for the period beginning October 1 to a depositor who terminates his account on December 10.

(2) *Computation of amounts not allowed as a deduction*—(i) *Method of computation.* The amount of the dividends or interest to which subparagraph (1) of this paragraph applies, which is not allowed as a deduction, shall be computed under the rules of this subparagraph. The amount which is not allowed as a deduction is the difference between the total amount of dividends or interest paid or credited to that class of accounts with respect to which a deduction is not allowed under subparagraph (1) of this paragraph during the taxable year (or short period, if applicable) and an amount which bears the same ratio to such total as the number 12 (or number of months in the short period) bears to the number of months with respect to which such amounts of dividends or interest are paid or credited.

(ii) *Examples.* The provisions of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). X Association, a domestic building and loan association filing its return on the basis of a calendar year, regularly credits dividends on its withdrawable accounts quarterly on the first day of the quarter following the quarter with respect to which they are earned. X changes the time of crediting dividends commencing with the credit for the fourth quarter of 1964. Such credit and all subsequent credits are made on the last day of the quarter with respect to which they are earned. As a result of this change X's credits for the year 1964 are as follows:

Period with respect to which earned	Date credited in 1964	Amount
4th quarter, 1963	Jan. 1	$300,000
1st quarter, 1964	Apr. 1	300,000
2d quarter, 1964	July 1	300,000
3d quarter, 1964	Oct. 1	300,000
4th quarter, 1964	Dec. 31	300,000
Total dividends credited		1,500,000

Since the change in the time of crediting dividends results in the crediting in 1964 of amounts of dividends representing periods totaling 15 months (October 1963 through December 1964), amounts shall not be allowed as a deduction in 1964 which are in excess of $1,200,000, which is the amount which bears the same ratio to the amounts of dividends credited during the year ($1,500,000) as the number 12 bears to the number of months (15) with respect to which such dividends are credited. Thus, $300,000 ($1,500,000 minus $1,200,000) is not allowed as a deduction in 1964.

Example (2). Y Association, a domestic building and loan association filing its return on the basis of a calendar year, regularly credits dividends on its withdrawable accounts on the basis of a semiannual period on March 31 and September 30 of each year. Y changes the period with respect to which credits are made from the semiannual period to the quarterly basis, commencing with the last quarter in 1964. The credit for this last quarter and all subsequent credits are made on the last day of the quarter with respect to which they are earned. As a result of this change, Y's credits for the year 1964 are as follows:

Period with respect to which earned	Date credited in 1964	Amount
6-month period ending Mar. 31, 1964	Mar. 31	$300,000
6-month period ending Sept. 30, 1964	Sept. 30	400,000
4th quarter, 1964	Dec. 31	200,000
Total dividends credited		900,000

Since the change in the basis of crediting dividends results in a crediting in 1964 of dividends representing periods totaling 15 months (October 1963 through December 1964), amounts shall not be allowed as a deduction in 1964 which are in excess of $720,000, which is the amount which bears the same ratio to the amounts of dividends credited during the year ($900,000) as the number 12 bears to the number of months (15) with respect to which such dividends are credited. Thus, $180,000 ($900,000 minus $720,000) is not allowed as a deduction in 1964.

Example (3). Z Association, a domestic building and loan association regularly files its return on the basis of a fiscal year ending on the last day of February and regularly credits dividends on its withdrawable accounts quarterly on the last day of the quarter with respect to which they are

earned. Z receives approval from the Commissioner of Internal Revenue to change its accounting period to a calendar year and effects the change by filing a return for a short period ending on December 31, 1964. Dividend credits for the short period beginning on March 1 and ending on December 31, 1964, are as follows:

Period with respect to which earned	Date credited 1964	Amount
January–March 1964	Mar. 31	$250,000
April–June 1964	June 30	300,000
July–September 1964	Sept. 30	300,000
October–December 1964	Dec. 31	350,000
Total dividends credited		1,200,000

Since the change of accounting period results in amounts of dividends credited ($1,200,000) representing periods totaling 12 months (January through December 1964), and such periods represent more than the number of months (10) in the short period, an amount shall not be allowed as a deduction in such short period which is in excess of $1,000,000, which is the amount which bears the same ratio to the amount of dividends credited in the short period ($1,200,000) as the number of months (10) in the short period bears to the number of months (12) with respect to which such dividends are credited. Thus, $200,000 ($1,200,000 minus $1,000,000) is not allowed as a deduction in the short period.

(3) *When amounts allowable.* The amount of dividends or interest not allowed as a deduction under subparagraph (1) of this paragraph shall be allowed as follows (subject to the limitation that the total of the amounts so allowed shall not exceed the amount not allowed under subparagraph (1)):

(i) Such amount shall be allowed as a deduction in a later taxable year or years subject to the limitation that, when taken together with the deductions otherwise allowable in the later taxable year or years, it does not bring the deductions for any later taxable year to a total representing a period of more than 12 months (or number of months in the short period, if applicable). However, in any event, an amount otherwise allowable under subdivision (ii) of this subparagraph shall be allowed notwithstanding the fact that it may bring the deductions allowable to a total representing a period of more than 12 months (or number of months in the short period, if applicable).

(ii) In any case in which it is established to the satisfaction of the Commissioner that the taxpayer does not intend to avoid taxes, one-tenth of such amount shall be allowed as a deduction in each of the 10 succeeding taxable years—

(a) Commencing with the taxable year for which such amount is not allowed as a deduction under subparagraph (1), or

(b) In the case of such amount not allowed for a taxable year ending before July 1, 1964, commencing with either the first or second taxable year after the taxable year for which such amount is not allowed as a deduction under subparagraph (1) if the taxpayer has not taken a deduction on his return, or filed a claim for credit or refund, in respect of such amount under (*a*).

Normally, if the deduction not allowed under subparagraph (1) is a result of a change, not requested by the taxpayer, in the taxpayer's annual accounting period or dividend or interest payment or crediting dates solely as a consequence of a requirement of a Federal or State regulatory authority, or if the deduction is not allowed solely as a result of the taxpayer being a party to an acquisition to which section 381(a) applies, the Commissioner will permit the allowance of the amount not allowed in the manner provided in this subdivision. Nothing set forth in this subdivision shall be construed as permitting the allowance of a credit or refund for any year which is barred by the limitations on credit or refund provided by section 6511.

(iii) If the total of the amounts, if any, allowed under subdivisions (i) and (ii) of this subparagraph before the taxable year in which the taxpayer liquidates or otherwise ceases to engage in trade or business is less than the amount not allowed under subparagraph (1), there shall be allowed a deduction in such taxable year for the difference between the amount not allowed under subparagraph (1) and the amounts allowed, if any, as deductions under subdivisions (i) and (ii) unless the circumstances under which the taxpayer ceased to do business constitute an acquisition described in section 381(a) (relating to carryovers in certain corporate acquisitions). If the circumstances under which the taxpayer ceased to do business constitute an acquisition described in section 381(a), the acquiring corporation shall succeed to and take into account the balance of the amounts not allowed on the same basis as the taxpayer, had it not ceased to engage in business.

(Sec. 705, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

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

Approved: April 25, 1967.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-4728; Filed, May 1, 1967; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 22—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Pursuant to the authority vested in me by 28 U.S.C. 2672, the following new Part 22, to Title 43 of the Code of Federal Regulations is issued to describe procedures for filing claims under the Federal Tort Claims Act.

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

STEWART L. UDALL,
Secretary of the Interior.

APRIL 25, 1967.

Sec.
22.1 Purpose.
22.2 Provisions of law and regulations thereunder.
22.3 Procedure for filing claims.
22.4 Denial of claims.
22.5 Payment of claims.
Appendix A—Procedures for filing claims under Federal Tort Claims Act accruing on and before January 17, 1967.

AUTHORITY: The provisions of this Part 22 issued under 28 U.S.C. 2671–2680 as amended by Public Law 89–506, 80 Stat. 306; 60 Stat. 842.

§ 22.1 Purpose.

(a) The purpose of this part is to establish procedures for the filing and settlement of claims accruing on and after January 18, 1967, under the Federal Tort Claims Act (in part, 28 U.S.C. 2401(b), 2671–2680, as amended by Public Law 89–506, 80 Stat. 306).

(b) Appendix A of this part establishes procedures for the administrative adjudication of claims accruing on and before January 17, 1967, under the Federal Tort Claims Act (in part, 28 U.S.C. 2401(b), 2671–2680).

§ 22.2 Provisions of law and regulations thereunder.

(a) Section 2672 of Title 28, United States Code, as above amended, provides that:

The head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, may consider, ascertain, adjust, determine, compromise, and settle any claim for injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred: *Provided*, That any award, compromise, or settlement in excess of $25,000 shall be effected only with the prior written approval of the Attorney General or his designee.

Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award, compromise, settlement, or determination shall be final and conclusive on all officers of the Government, except when procured by means of fraud.

Any award, compromise, or settlement in an amount of $2,500 or less made pursuant to this section shall be paid by the head of the Federal agency concerned out of appropriations available to that agency. Payment of any award, compromise, or settlement in an amount in excess of $2,500 made pursuant to this section or made by the Attorney General in any amount pursuant to section 2677 of this title shall be paid in a manner similar to judgments and compromises in like causes and appropriations or funds available for the payment of such judgments and compromises are hereby made available for the payment of awards, compromises, or settlements under this chapter.

The acceptance by the claimant of any such award, compromise, or settlement shall

be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States and against the employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

(b) Subsection (a) of section 2675 of said Title 28 provides that:

An action shall not be instituted upon a claim against the United States for money damages for injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of any agency to make final disposition of a claim within 6 months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint, cross-claim, or counterclaim.

(c) Section 2678 of said Title 28, as amended, provides that no attorney shall charge fees in excess of 25 percent of a judgment or settlement after litigation, or in excess of 20 percent of administrative settlements.

(d) Subsection (b) of section 2679 of said Title 28 provides that tort remedies against the United States resulting from the operation of any employee of the Government of any motor vehicle while acting within the scope of his employment shall be exclusive of any other civil action or proceeding against the employee or his estate.

(e) Subsection (b) of section 2401 of said Title 28 provides:

A tort claim against the United States shall be forever barred unless it is presented in writing to the appropriate Federal agency within 2 years after such claim accrues or unless action is begun within 6 months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented.

(f) The Federal Tort Claims Act, as amended, shall apply to claims accruing 6 months or more after date of its enactment (date of enactment, July 18, 1966).

(g) Pursuant to section 2672 of Title 28, United States Code, as amended, the Attorney General has issued regulations (herein referred to as "the Regulations"; 28 CFR Part 14), prescribing standards and procedures for settlement of tort claims (31 F.R. 16616). The officers to whom authority is delegated to settle tort claims shall follow and be guided by such Regulations (28 CFR Part 14).

§ 22.3 Procedure for filing claims.

(a) The procedure for filing and the contents of claims shall be pursuant to §§ 14.2, 14.3, and 14.4 of the Regulations (28 CFR Part 14).

(b) Claims shall be filed directly with the local field office of the Bureau or Office of the Department out of whose activities the accident or incident occurred, if known; or if not known with the Associate Solicitor, Territories, Wildlife and Claims, Department of the Interior, Washington, D.C. 20240.

(c) Upon receipt of a claim, the time and date of receipt shall be recorded. The claim shall be forwarded with the investigative file immediately to the Regional or Field Solicitor or the Associate Solicitor, Territories, Wildlife and Claims, as appropriate, for determination.

§ 22.4 Denial of claims.

Denial of a claim shall be communicated as provided by § 14.9 of the Regulations (28 CFR Part 14).

§ 22.5 Payment of claims.

(a) When an award of $2,500 or less is made, the voucher signed by the claimant shall be transmitted for payment to the appropriate Bureau or Office of the Department. When an award over $2,500 is made, transmittal for payment will be made as prescribed by § 14.10 of the Regulations (28 CFR Part 14).

(b) Prior to payment appropriate releases shall be obtained as provided in said section.

APPENDIX A—PROCEDURES FOR FILING CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT ACCRUING ON AND BEFORE JANUARY 17, 1967.

A. *Purpose.* The purpose of this Appendix A to Part 22 is to establish procedures for the filing of claims under the Federal Tort Claims Act (in part, 28 U.S.C. 2401(b), 2671–2680), accruing on and before January 17, 1967.

B. *Provisions of law.* 1. Section 2672 of Title 28, United States Code, provides:

"(a) The head of each Federal agency, or his designee for the purpose, acting on behalf of the United States, may consider, ascertain, adjust, determine, and settle any claim for money damages of $2,500 or less against the United States accruing on and after January 1, 1945, for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

"(b) Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award or determination shall be final and conclusive on all officers of the Government, except when procured by means of fraud.

"(c) Any award made pursuant to this section, and any award, compromise, or settlement made by the Attorney General pursuant of section 2677 of this title, shall be paid by the head of the Federal agency concerned out of appropriations available to such agency.

"(d) The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant, and shall constituted a complete release of any claim against the United States and against the employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter."

2. Subsection (b) of section 2401 of Title 28, United States Code, provides, in part, that a claim not exceeding $2,500 must be presented in writing within 2 years after such claim accrues.

3. Section 2678 of Title 28, United States Code, provides, in part, as follows:

"* * * the head of the Federal agency or his designee making an award pursuant to section 2672 of this title * * * may, as a part of such judgment, award, or settlement, determine and allow reasonable attorney fees, which, if the recovery is $500 or more, shall not exceed 10 per centum of the amount recovered under section 2672 of this title * * * to be paid out of but not in addition to the amount of judgment, award, or settlement recovered, to the attorneys representing the claimant."

C. *Procedure for filing claims.* (a) Claims shall be filed on Standard Form 95 "Claim for Damage or Injury," or other written statement of claim. The claim form or statement of claim shall include a demand for money damages in a sum certain for injury to or loss of property, personal injury or death alleged to have occurred by reason of the incident.

(b) Claims shall be filed directly with the local field office of the Bureau or Office of the Department out of whose activities the accident or incident occurred, if known; or if not known with the Associate Solicitor, Territories, Wildlife and Claims, Department of the Interior, Washington, D.C. 20240.

(c) A claim may be presented by the individual or firm sustaining the injury or damages.

(d) Upon receipt of a claim, the time and date of receipt shall be recorded. The claim shall be forwarded with the investigative report immediately to the Regional or Field Solicitor or the Associate Solicitor, Territories, Wildlife and Claims, as appropriate, for determination.

D. *Payment of claims.* (a) When an award is made, the voucher signed by claimant shall be transmitted to the appropriate Bureau or Office of the Department out of whose activities the claim arose.

(b) Prior to payment of any claim which is administratively settled, a signed voucher shall be obtained from the claimant or claimants stating that the award is final and conclusive and constitutes a complete release by the claimant or claimants of any claim against the United States and against the employee of the Government whose act or omission gave rise to the claim.

[F.R. Doc. 67-4833; Filed, May 1, 1967; 8:46 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 4—SERVICE OF PROCESS

Actions Under Title II of the Social Security Act

Section 4.1 of Part 4 of Title 45 CFR is hereby amended as follows:

(1) The title "Associate General Counsel" shall read "Deputy General Counsel" and the title "Secretary to the Associate General Counsel" shall read "Secretary to the Deputy General Counsel";

(2) The ZIP Codes, 20201 and 21235, are added after the Washington and Baltimore address, respectively.

Dated: April 26, 1967.

[SEAL] JOHN W. GARDNER, *Secretary.*

[F.R. Doc. 67-4885; Filed, May 1, 1967; 8:50 a.m.]

Chapter VIII—Civil Service Commission

PART 801—VOTING RIGHTS PROGRAM

Appendix A

MISSISSIPPI

Appendix A to Part 801 is amended as set out below to show, under the heading "Dates, Times, and Places for Filing," one additional place for filing in Mississippi:

MISSISSIPPI

County; place for filing; beginning date. Sunflower; Indianola—Post Office Building; May 2, 1967.

(Secs. 7 and 9 of the Voting Rights Act of 1965; P.L. 89–110)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director, Bureau of Management Services.

[F.R. Doc. 67–4954; Filed, May 1, 1967; 11:02 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Squaw Creek National Wildlife Refuge, Mo.

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

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

MISSOURI

SQUAW CREEK NATIONAL WILDLIFE REFUGE

Sport fishing on the Squaw Creek National Wildlife Refuge, Mo., is permitted only on the area designated by signs as open to fishing. These open area, comprising 1,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Open season: May 1, 1967, through September 15, 1967, daylight hours only.

(2) The use of boats, without motors, is permitted only in the main pool.

The provisions of this special regulation supplement the regulations which govern fishing on Wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through September 15, 1967.

HAROLD H. BURGESS,
Refuge Manager, Squaw Creek National Wildlife Refuge, Mound City, Mo.

APRIL 25, 1967.

[F.R. Doc. 67–4831; Filed, May 1, 1967; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart—Provisional Regulations

POSTPONEMENT OF CLOSING DATES OF PROVISIONAL LISTING; ADDITION TO PROVISIONAL LISTS

The color additive amendments of 1960 (Public Law 86–618; 74 Stat. 404; 21 U.S.C. 376, note) authorize the Secretary of Health, Education, and Welfare to postpone the closing date of a provisional listing of a color additive on his own initiative or upon application of an interested person.

The Commissioner of Food and Drugs finds that postponement of the closing dates of the provisionally listed color additives included in this order is necessary to complete current consideration of these color additives and also finds that this action is consistent with the protection of the public health.

Effective December 28, 1966, the provisional listing of riboflavin as a color additive for food use was terminated by an order published in the FEDERAL REGISTER of January 5, 1967 (32 F.R. 51), because the Food and Drug Administration at that time had no knowledge of its use as a color additive in food. The Borden Co., 350 Madison Avenue, New York, N.Y. 10017, has informed this Administration that riboflavin is being used as a color additive in food and has requested that the Commissioner permanently so list it on his own initiative. Accordingly, riboflavin is restored to the provisional list of color additives for use in coloring foods pending action on this request.

The Kellogg Co., Battle Creek, Mich. 49016, has requested that iron oxide be restored to the provisional list as a color additive for coloring mink feed pending completion of the scientific investigations required for permanent listing. Accordingly, the provisional listing of iron oxide is amended to include its use as a color additive in mink feed.

Therefore, pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (sec. 203(a)(2), Public Law 86–618; 74 Stat. 404; 21 U.S.C. 376, note), delegated by the Secretary to the Commissioner (21 CFR 2.120), § 8.501 *Provisional lists of color additives* is amended in the following respects:

1. In paragraph (e) *Color additives provisionally listed for food use on the basis of prior commercial sale but which have not been nor are now subject to certification*, the table is amended:

a. By changing the closing dates for the items "Carmine," "Carminic Acid," "Cochineal," and "Xanthophyll" to "June 30, 1967."

b. By changing the restriction for the item "Iron oxide" to read "For dog, cat, and mink foods only."

c. By alphabetically inserting the item "Riboflavin" with a closing date of "June 30, 1967," and with no restrictions.

2. In paragraph (f) *Color additives provisionally listed for drug use on the basis of prior commercial sale but which have not been nor are now subject to certification*, the table is amended by changing the closing dates for the items "Carminic acid" and "Cochineal" to "June 30, 1967."

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since section 203(a)(2) of Public Law 86–618 provides for this issuance.

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

(Sec. 203(a)(2), Public Law 86–618; 74 Stat. 404; 21 U.S.C. 376, note)

Dated: April 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67–4873; Filed, May 1, 1967; 8:49 a.m.]

PART 8—COLOR ADDITIVES

Subpart F—Listing of Color Additives for Drug Use Exempt From Certification

ALUMINA (DRIED ALUMINUM HYDROXIDE), CALCIUM CARBONATE, AND TALC

In the matter of establishing regulations listing for drug use and exempting from certification the color additives alumina (dried aluminum hydroxide), calcium carbonate, and talc.

Two comments were received in response to the notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of February 8, 1967 (32 F.R. 2645.) The Toilet Goods Association, Inc., requested that the order be amended to permit use of the color additives in cosmetics, and H. Kohnstamm and Co., Inc., requested that it be amended to permit use of alumina in food. These comments are not directly applicable to the proposed listing of alumina, talc, and calcium carbonate for drug use. Under the provisions of section 706(b) of the Federal Food, Drug, and Cosmetic Act, such additional listing for food use and for cosmetic use must be provided for apart from this listing for drug use.

Therefore, pursuant to the provisions of the act (sec. 706 (b)(1), (c)(2), (d), 74 Stat. 399, 402; 21 U.S.C. 376 (b)(1), (c)(2), (d)), and under the aurthority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120): *It is ordered*, That the amendments proposed be adopted without change, as set forth below.

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. 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, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be submitted in six copies.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b)(1), (c)(2), (d), 74 Stat. 399, 402; 21 U.S.C. 376 (b)(1), (c)(2), (d))

Dated: April 21, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

Part 8 is amended by adding to Subpart F the following new sections:

§ 8.6011 Alumina (dried aluminum hydroxide).

(a) *Identity.* (1) The color additive alumina (dried aluminum hydroxide) is a white, odorless, tasteless, amorphous powder consisting essentially of aluminum hydroxide ($Al_2O_3 \cdot X\ H_2O$).

(2) Color additive mixtures for drug use made with alumina (dried aluminum hydroxide) may contain only those diluents listed in this Subpart F as safe and suitable for use in color additive mixtures for coloring drugs.

(b) *Specifications.* Alumina (dried aluminum hydroxide) shall conform to the following specifications:

Acidity or alkalinity: Agitate 1 gram of the color additive with 25 milliliters of water and filter. The filtrate shall be neutral to litmus paper.

Matter insoluble in dilute hydrochloric acid, not more than 0.5 percent.

Lead (as Pb), not more than 10 parts per million.

Arsenic (as As), not more than 1 part per million.

Mercury (as Hg), not more than 1 part per million.

Aluminum oxide (Al_2O_3), not less than 50 percent.

(c) *Uses and restrictions.* Alumina (dried aluminum hydroxide) may be safely used in amounts consistent with good manufacturing practice to color drugs generally.

(d) *Labeling requirements.* The label of the color additive and of any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 8.32.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

§ 8.6012 Calcium carbonate.

(a) *Identity.* (1) The color additive calcium carbonate is a fine, white, synthetically prepared powder consisting essentially of precipitated calcium carbonate ($CaCO_3$).

(2) Color additive mixtures for drug use made with calcium carbonate may contain only those diluents listed in this Subpart F as safe and suitable for use in color additive mixtures for coloring drugs.

(b) *Specifications.* Calcium carbonate shall meet the specifications for precipitated calcium carbonate in the U.S.P.

(c) *Uses and restrictions.* Calcium carbonate may be safely used in amounts consistent with good manufacturing practice to color drugs generally.

(d) *Labeling requirements.* The label of the color additive and of any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 8.32.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

§ 8.6013 Talc.

(a) *Identity.* (1) The color additive talc is a finely powered, native, hydrous magnesium silicate sometimes containing a small proportion of aluminum silicate.

(2) Color additive mixtures for drug use made with talc may contain only those diluents listed in this Subpart F as safe and suitable for use in color additive mixtures for coloring drugs.

(b) *Specifications.* Talc shall meet the specifications for talc in the U.S.P. and the following:

Lead (as Pb), not more than 20 parts per million.

Arsenic (as As), not more than 3 parts per million.

Lead and arsenic shall be determined in the solution obtained by boiling 10 grams of the talc for 15 minutes in 50 milliliters of 0.5*N* hydrochloric acid.

(c) *Uses and restrictions.* Talc may be safely used in amounts consistent with good manufacturing practice to color drugs generally.

(d) *Labeling requirements.* The label of the color additive and of any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 8.32.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

[F.R. Doc. 67-4874; Filed, May 1, 1967; 8:49 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

CALCIUM DISODIUM EDTA

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 6J1997) filed by Oxford Royal Mushroom Products, Inc., Kelton, Pa. 19346, and other relevant material has concluded that the food additive regulations should be amended to provide for the safe use of calcium disodium EDTA as a color stabilizer in canned mushrooms. 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), § 121.1017 (b)(1) is amended by alphabetically inserting in the table a new item, as follows:

§ 121.1017 Calcium disodium EDTA.

* * * * * *

(b) * * *

(1) * * *

Food	Limitation (parts per million)	Use
* * *	* * *	* * *
Mushrooms (cooked canned)	200	Promote color retention when such use is prescribed by an effective temporary permit issued under § 10.5 of this chapter.
* * *	* * *	* * *

* * * * * * *

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: April 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-4876; Filed, May 1, 1967; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 19]

RULES OF PRACTICE AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO CEASE AND DESIST ORDERS

Notice of Proposed Rule Making

The Comptroller of the Currency is considering the adoption of a new Part 19 to the regulations of his Office (12 CFR Part 19).

The proposed Part 19 would prescribe rules of practice and procedure to be followed by the Office of the Comptroller of the Currency in hearings held pursuant to the provisions of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), as amended, pertaining to the issuance of cease and desist orders against any national bank or District bank.

Interested persons may send their comments with respect to this proposed regulation within 30 days of publication of this notice in the FEDERAL REGISTER to the Comptroller of the Currency, Treasury Department, Washington, D.C. 20220.

Chapter I, Title 12 of the Code of Federal Regulations is amended by addition of a new Part 19 as follows:

PART 19—RULES AND PROCEDURES APPLICABLE TO PROCEEDINGS RELATING TO CEASE AND DESIST ORDERS

Sec.

19.1 Scope.
19.2 Grounds for cease-and-desist orders.
19.3 Notice of charges and hearing.
19.4 Issuance of order.
19.5 Effective date.
19.6 Temporary cease-and-desist orders.
19.7 Effective date of temporary order.
19.8 Representation and suspension.
19.9 Notice of hearing.
19.10 Answer.
19.11 Conduct of hearings.
19.12 Subpenas.
19.13 Rules of evidence.
19.14 Motions.
19.15 Proposed findings and conclusions and recommended decision.
19.16 Exceptions.
19.17 Briefs.
19.18 Oral argument before the Comptroller.
19.19 Notice of submission to the Comptroller.
19.20 Decision of Comptroller.
19.21 Filing papers.
19.22 Service.
19.23 Copies.
19.24 Computing time.
19.25 Documents in proceedings confidential.
19.26 Formal requirements as to papers filed.

AUTHORITY: The provisions of this Part 19 issued under 12 U.S.C. 1818, 80 Stat. 1051; 5 U.S.C. 553, 80 Stat. 383.

§ 19.1 Scope.

The rules and procedures set forth in this part are applicable to proceedings by the Comptroller of the Currency to determine whether to order a national bank or a District bank to cease and desist from practices and violations described in section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), as amended, and enumerated in § 19.2. The procedures for issuing such orders prescribed in section 8 of such Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this part.

§ 19.2 Grounds for cease-and-desist orders.

If, in the opinion of the Comptroller of the Currency, any national bank or District bank is engaging in or has engaged, or the Comptroller of the Currency has reasonable cause to believe that the bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the Comptroller has reasonable cause to believe that the bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Comptroller in connection with the granting of an application or other request by the bank, or any written agreement entered into with the Comptroller, the Comptroller may issue and serve upon the bank a notice of charges in respect thereof.

§ 19.3 Notice of charges and hearing.

The notice referred to in § 19.2 shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank. Such hearing shall be set for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Comptroller at the request of the bank. Unless the bank appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order.

§ 19.4 Issuance of order.

In the event of the consent described in § 19.3, or if upon the record made at any such hearing, the Comptroller finds that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Comptroller may issue and serve upon the bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank and its directors, officers, employees, and agents to cease and desist from the same and to take affirmative action to correct the conditions resulting from any such violation or practice.

§ 19.5 Effective date.

A cease-and-desist order shall become effective at the expiration of 30 days after the service of such order upon the bank (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.

§ 19.6 Temporary cease-and-desist orders.

Whenever the Comptroller determines that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank and referred to in § 19.3, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to otherwise seriously prejudice the interests of its depositors, the Comptroller may issue a temporary order requiring the bank to cease and desist from any such violation or practice.

§ 19.7 Effective date of temporary order.

Such order referred to in § 19.6 shall become effective upon service upon the bank and, unless set aside, limited, or suspended by a court in proceedings authorized under section 8 of the Federal Deposit Insurance Act, as amended, shall remain effective and enforceable pending the completion of the administrative proceedings held pursuant to such notice and until such time as the Comptroller shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank pursuant to § 19.4, until the effective date of any such order.

§ 19.8 Representation and suspension.

(a) *Appearance before a hearing examiner.* Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, may represent others with respect to a cease-and-desist proceeding upon filing with the Administrative Assistant to the Comptroller a written declaration that he is currently qualified as provided by this paragraph and is authorized to represent the particular party on whose behalf he acts. Any other person desiring to represent others before a hearing examiner may be required to file with the Administrative Assistant

a power of attorney showing his authority to act in such capacity, and he may be required to show to the satisfaction of such examiner that he has the requisite qualifications. Attorneys or other representatives of parties to any proceeding provided for in this part shall file a written notice of appearance with the Administrative Assistant.

(b) *Summary suspension.* Contemptuous conduct at any hearing before the Comptroller or a hearing examiner shall be grounds for exclusion from any such hearing and suspension for the duration thereof.

§ 19.9 Notice of hearing.

Whenever a hearing is ordered by the Comptroller pursuant to section 8 of the Federal Deposit Insurance Act, a notice of hearing shall be given by the designated officer acting for the Comptroller to the party afforded the hearing. Such notice shall state the time, place, and nature of the hearing, the hearing examiner, and the legal authority and jurisdiction under which the hearing is to be held, and shall contain a statement of the matters of fact or law constituting the grounds for the hearing, and shall be delivered by personal service or by registered mail to the last known address, or other appropriate means, sufficiently in advance of the date set for hearing to comply with the provisions of the Federal Deposit Insurance Act, as amended, and § 19.3 of this part.

§ 19.10 Answer.

(a) *When required.* In any notice of hearing issued by the Comptroller, the Comptroller may direct the party afforded the hearing to file an answer to the allegations contained in the notice, and any party to any proceeding may file an answer. Except where a different period of not less than 10 days after service of a notice of hearing is specified by the Comptroller, a party directed to file an answer, or a party who elects to file an answer, shall file the same with the Administrative Assistant within 20 days after service upon him of the notice of hearing.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have and is unable to obtain sufficient information to admit or deny each allegation in the notice of hearing. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends in good faith to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) *Admitted allegations.* If a party filing an answer under this section elects not to contest the allegations of fact set forth in the notice of hearing, his answer shall consist of a statement that he admits all of the allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record basis on which the hearing examiner shall file with the Administrative Assistant his recommended decision and his findings of fact and conclusions of law. Any such party may, however, reserve the right to file with the Administrative Assistant exceptions to such recommended decision, findings, and conclusions as provided in § 19.16.

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the notice of hearing and to authorize the hearing examiner, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Administrative Assistant a recommended decision containing such findings and appropriate conclusions. The Comptroller or the hearing examiner may, for cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

(e) *Opportunity for informal settlement.* Any interested party may at any time submit to the Administrative Assistant, for consideration by the Comptroller, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No such offer or proposal, or counteroffer or proposal, shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular adjudicatory process by the filing of an answer as provided in this section, or by submission of the case to the trial examiner on a stipulation of facts and an agreed order.

§ 19.11 Conduct of hearings.

(a) *Authority of hearing examiner.* All hearings governed by this part shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. The hearing examiner designated by the Comptroller to preside at any such hearing shall have complete charge of the hearing, and he shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. Such examiner shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations:

(2) To issue subpenas and subpenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpena:

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof:

(4) To take or cause depositions to be taken:

(5) To regulate the course of the hearing and the conduct of the parties and their counsel:

(6) To hold conferences for the settlement or simplification of issues or for any other proper purpose; and

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding, except that a hearing examiner shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings.

Without limitation on the foregoing provisions of this paragraph, the hearing examiner, shall subject to the provisions of this part, have all the authority of section 556(c) of title 5 of the United States Code.

(b) *Prehearing conference.* The hearing examiner may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time and place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(1) Simplification and clarification of the issues:

(2) Stipulations, admissions of fact and of the contents and authenticity of documents:

(3) Matters of which official notice will be taken: and

(4) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

Such conferences, in the discretion of the hearing examiner, need not be recorded, but the hearing examiner shall enter in the record an order which recites the results of the conference. Such order shall include the examiner's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any; and such order shall control the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice. Except as authorized by law, the hearing examiner shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate, nor be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the hearing examiner except as a witness or counsel in the proceedings.

(c) *Attendance at hearings.* A hearing shall be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That where the Comptroller in his discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest, he may order the hearing be public.

(d) *Transcript of testimony.* Hearings shall be recorded and transcripts will be made available to any party upon payment of the cost thereof and, in the

event the hearing is public, shall be furnished on similar payment to other interested persons. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits, all papers and requests filed in the proceeding, and any briefs or memoranda of law theretofore filed in the proceeding, shall be filed with the Administrative Assistant to the Comptroller, who shall transmit the same to the hearing examiner. The Administrative Assistant shall promptly serve notice upon each of the parties of such filing and transmittal. The hearing examiner shall have authority to rule upon motions to correct the record.

(e) *Order of procedure.* The counsel for the Comptroller shall open and close.

(f) *Continuances and changes or extensions of time and changes of place of hearing.* Except as otherwise expressly provided by law, the Comptroller may by the notice of hearing or subsequent order provide time limits different from those specified in this part, and the Comptroller may, on his own initiative or for good cause shown, change or extend any time limit prescribed by these rules or the notice of hearing, or change the time and place for beginning any hearing hereunder. The hearing examiner may continue or adjourn a hearing from time to time and, as permitted by law or agreed to by the parties, from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a proceeding may be granted by the hearing examiner for good cause shown.

(g) *Call for further evidence, oral argument, briefs, reopening of hearing.* The hearing examiner may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification of his recommended decision to the Administrative Assistant. The Comptroller may order the reopening of any hearing at any time prior to the entry of his order disposing of the matter.

§ 19.12 Subpenas.

(a) *Issuance.* The hearing examiner or, in the event he is unavailable, the Comptroller, shall issue subpenas at the request of any party, requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing; except that where it appears to the hearing examiner or the Comptroller that the subpena may be unreasonable, oppressive, excessive in scope, or unduly burdensome, the party seeking the subpena may be required, as a condition precedent to the issuance of the subpena, to show the general relevance and reasonable scope of the testimony or other evidence sought. In the event the hearing examiner or the Comptroller, after consideration of all the circumstances, determines that the subpena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, he or it may refuse to issue the subpena, or issue it only upon such conditions as fairness requires.

(b) *Motion to quash.* Any person to whom a subpena is directed may, prior to the time specified therein for compliance but in no event more than five days after the date of service of such subpena, with notice to the party requesting the subpena, apply to the hearing examiner, or, if he is unavailable, to the Comptroller, to revoke, quash, or modify such subpena, accompanying such application with a statement of the reasons therefor.

(c) *Service of subpena.* Service of a subpena upon a person named therein shall be made by delivering a copy of the subpena to such person and by tendering the fees for one day's attendance and the mileage as specified in paragraph (d) of this section, except that when a subpena is issued at the request of the Comptroller of the Currency's counsel fees and mileage need not be tendered at the time of service of the subpena. If service is made by a United States marshal, or his deputy, or an employee of the Office of the Comptroller, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpena. In case of failure to make service, reasons for the failure shall be stated on the original subpena. The original subpena, bearing or accompanied by the required return, affidavit, or statement, shall be returned without delay to the hearing examiner.

(d) *Attendance of witnesses.* The attendance of witnesses and the production of documents pursuant to a subpena, issued in connection with a hearing, may be required from any place in any State or in any territory at any designated place where the hearing is being conducted. Witnesses subpenaed in any proceeding under this part shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(e) *Depositions.* The Comptroller or hearing examiner, by subpena or subpena duces tecum, may order evidence to be taken by deposition in any proceeding at any stage thereof. Such depositions may be taken by the hearing examiner or before any person designated by the Comptroller or hearing examiner and having power to administer oaths. Unless notice is waived, no deposition shall be taken except after at least five days' notice to the parties to the proceeding.

(f) *Application and order to take oral deposition.* Any party desiring to take the oral deposition of a witness, in connection with any hearing provided for in this part, shall make application in writing to the hearing examiner or, in the event he is unavailable, to the Comptroller setting forth the reasons why such deposition should be taken, the name and post office address of the witness, the matters concerning which the witness is expected to testify, its relevance, and the time when, the place where, and the name and post office address of the person before whom it is desired the deposition be taken. A copy of such application shall be served upon every other party to the proceeding by the party making such application. Upon a showing that (1) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age, sickness or infirmity, or will otherwise be unavailable at the hearing, (2) his testimony will be material, and (3) the taking of the deposition will not result in any undue burden to any other party or in undue delay of the proceeding, the hearing examiner or the Comptroller may, in his discretion, by such subpena or subpena duces tecum, order the oral deposition to be taken. Such subpena will name the witness whose deposition is to be taken and specify the time when, the place where, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is ordered to be taken, may or may not be the same as those named in the application. Notice of the issuance of such subpena shall be served upon each of the parties a reasonable time, and in no event less than five days, in advance of the time fixed for the taking of the deposition.

(g) *Procedure on deposition; objections.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objection relied upon; but the person taking the deposition shall not have power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver unless the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by the person taking the deposition, or under his direction. The deposition shall be subscribed by the witness, unless the parties by stipulation waived the signing or the witness is ill or cannot be found or refused to sign, and certified as a true and complete transcript thereof by the person taking the deposition. If the deposition is not subscribed to by the witness, such person shall state on the record this fact and the reason therefor. Such person shall promptly send the original and two copies of such deposition, together with the original and two copies of all exhibits, by registered mail to the Administrative Assistant to the Comptroller unless otherwise directed in the order authorizing the taking of the deposition. Interested parties shall make their own arrangements with the person taking the deposition for copies of the testimony and the exhibits.

(h) *Introduction as evidence.* Subject to appropriate rulings by the hearing examiner on such objections and answers as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying,

the deposition or any part thereof may be read in evidence by any party to the proceeding. Only such part or the whole of a deposition as is received in evidence at a hearing shall constitute a part of the record in such proceeding upon which a decision may be based.

(i) *Payment of fees.* Witnesses whose oral depositions are taken shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees of persons taking such depositions and the fees of the reporter shall be paid by the person upon whose application the deposition was taken.

§ 19.13 Rules of evidence.

(a) *Evidence.* Every party shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument thereon except as ordered by the hearing examiner. Rulings on such objections and on any other matters shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection.

(c) *Official notice.* All matters officially noticed by the hearing examiner shall appear on the record.

§ 19.14 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this part shall be made by motion. After a hearing examiner has been designated to preside at a hearing and before the filing with the Administrative Assistant of his recommended decision, pursuant to § 19.28, such applications or requests shall be addressed to and filed with him. At all other times motions shall be addressed to the Comptroller and filed with the Administrative Assistant. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the hearing examiner directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Objections.* Within 5 days after service of any written motion, or within such other period of time as may be fixed by the hearing examiner or the Comptroller, any party may file a written answer or objection to such motion. The moving party shall have no right to reply, except as permitted by the hearing examiner or the Comptroller. As a matter of discretion, the hearing examiner or the Comptroller may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the hearing examiner or the Comptroller. Written memoranda or briefs may be filed with motions or answers or objections thereto, stating the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the hearing examiner shall rule upon all motions properly addressed to him and upon such other motions as the Comptroller may direct, except that if the hearing examiner finds that a prompt decision by the Comptroller on a motion is essential to the proper conduct of the proceeding, he may refer such motion to the Comptroller for decision. The Comptroller shall rule upon all motions properly submitted to him for decision.

(e) *Appeal from rulings on motions.* All motions and answers or objections thereto and rulings thereon shall become part of the record. Rulings of a hearing examiner on any motion may not be appealed to the Comptroller prior to its consideration of the hearing examiner's recommended decision, findings and conclusions except by special permission of the Comptroller; but they shall be considered by the Comptroller in reviewing the record. Requests to the Comptroller for special permission to appeal from such rulings of the hearing examiner shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on every other party to the proceeding.

(f) *Continuation of hearing.* Unless otherwise ordered by the hearing examiner or the Comptroller, the hearing shall continue pending the determination of any motion by the Comptroller.

§ 19.15 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions and supporting briefs.* Within 15 days after the filing of the transcript with the Administrative Assistant (or within 15 days after the party's receipt of a copy of such transcript, if ordered before the conclusion of the hearing) a party may file with the Administrative Assistant for submission to the hearing examiner proposed findings and conclusions of law, which may be accompanied by a brief in support thereof. A copy of such proposals and brief in support thereof shall be delivered by the Administrative Assistant to the hearing examiner and a copy shall be served upon the other parties to the proceedings. All such proposals, briefs, and memoranda shall become part of the record.

(b) *Recommended decision and filing of record.* The hearing examiner shall, within 30 days after the expiration of the time allowed for the filing of proposed findings and conclusions, or within such further time as the Comptroller for good cause shall determine, file with the Administrative Assistant and certify to the Comptroller for decision the entire record of the hearing, which shall include his recommended decision and findings of fact and conclusions of law, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing the Administrative Assistant shall serve upon each party to the proceeding a copy of the hearing examiner's recommended decision, and findings and conclusions.

§ 19.16 Exceptions.

(a) *Filing.* Within 15 days after receipt of a copy of the recommended decision of the hearing examiner, any party may file with the Administrative Assistant exceptions to the recommended decision of the hearing examiner or any portion thereof or to his failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or to any other ruling, which exceptions may be accompanied by a supporting brief. A copy of such exceptions and brief shall be forthwith delivered by the Administrative Assistant to the hearing examiner and a copy shall also be served on the other parties to the proceedings.

(b) *Waiver.* Failure to file exceptions to the recommended decision of the hearing examiner or any portion thereof, or to his failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or to any ruling, within the time so required, shall be deemed to be a waiver of the objections thereto.

§ 19.17 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions or other authorities and by page reference to such portions of the record or recommended decision of the hearing examiner as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Further briefs may be filed only with the permission of the Comptroller.

(c) *Delays.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Comptroller.

§ 19.18 Oral argument before the Comptroller.

Upon his own initiative, or upon the written request of any party made within the time prescribed for the filing of exceptions, a brief in support thereof, or a reply brief, if any, for oral argument on the findings, conclusions and recommended decision of the hearing examiner, the Comptroller, if it considers justice will best be served, may order the matter to be set down for oral argument before the Comptroller. Oral argument before the Comptroller shall be recorded unless otherwise ordered by the Comptroller.

§ 19.19 **Notice of submission to the Comptroller.**

Upon the filing of the record with the Administrative Assistant and upon the expiration of the time for the filing of exceptions and all briefs permitted by the Comptroller and upon the hearing of oral argument by the Comptroller, if ordered by the Comptroller, the Administrative Assistant shall notify the parties that the case has been submitted to the Comptroller for final decision.

§ 19.20 **Decision of Comptroller.**

Appropriate members of the staff, who are not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Comptroller in the consideration of the case. Copies of the decision and order of the Comptroller shall be furnished by the Administrative Assistant to the parties to the proceedings and to the bank involved.

§ 19.21 **Filing papers.**

Recommended decisions, exceptions, briefs and other papers required to be filed with the Comptroller or his Administrative Assistant in any proceedings shall be filed with the Administrative Assistant to the Comptroller of the Currency, Washington, D.C. 20220. Any such papers may be sent to the Administrative Assistant by mail or express but must be received in the office of the Comptroller in Washington, D.C., or postmarked by a post office, within the time limit for such filing.

§ 19.22 **Service.**

(a) *By the Comptroller.* All documents or papers required to be served by the Comptroller upon any party afforded a hearing shall be served by the Administrative Assistant unless some other person shall be designated for such purpose by the Comptroller. Such service, except for service on counsel for the Comptroller, shall be made by personal service or by registered mail, addressed to the last known address as shown on the records of the Comptroller, on the attorney or representative of record of such party, provided that if there is no attorney or representative of record, such service shall be made upon such party at the last known address as shown on the records of the Comptroller. Such service may also be made in such other manner reasonably calculated to give actual notice as the Comptroller may by regulation or otherwise provide.

(b) *By the parties.* Except as otherwise expressly provided in this part, all documents or papers filed in a proceeding under this part shall be served by the party filing the same upon the attorneys or representatives of record of all other parties to the proceeding, or, if any party is not so represented, then upon such party. Such service may be made by personal service or by registered, certified, or regular first-class mail addressed to the last known address of such parties, or their attorneys or representatives of record. All such documents or papers shall, when tendered to the Comptroller or the hearing examiner for filing, show that such service has been made.

§ 19.23 **Copies.**

Unless otherwise specifically provided in the notice of hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Administrative Assistant under this part, except the transcript of testimony and exhibits, shall be furnished to the Administrative Assistant.

§ 19.24 **Computing time.**

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed is to be included, unless it is a Saturday, Sunday or legal holiday in the District of Columbia, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor legal holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation unless the time within which the act is to be performed is 10 days or less in which event Saturdays, Sundays and legal holidays shall not be included.

(b) *Service by mail.* Whenever any party has the right or is required to do some act or take some proceeding, within a period of time prescribed in this part, after the service upon him of any document or other paper of any kind, and such service is made by mail, three days shall be added to the prescribed period from the date when the matter served is deposited in the United States mail.

§ 19.25 **Documents in proceedings confidential.**

Unless and until otherwise ordered by the Comptroller, the notice of hearing, the transcript, the recommended decision of the hearing examiner, exceptions thereto, proposed findings and conclusions of the Comptroller and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Comptroller, the hearing examiner, and the parties.

§ 19.26 **Formal requirements as to papers filed.**

(a) *Form.* All papers filed under this subpart shall be printed, typewritten, or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* The original of all papers filed by a bank shall be signed by an officer thereof, and if filed by another party shall be signed by said party, or by the duly authorized agent or attorney of the bank or other party, and in all such cases shall show the signer's address. Counsel for the Comptroller shall sign the original of all papers filed by him.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Comptroller, the name of the party, and the subject of the particular paper.

Dated: April 24, 1967.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[F.R. Doc. 67-4869; Filed, May 1, 1967; 8:49 a.m.]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Date of Sale in Case of Short Sales of Stock or Securities at Loss

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

The Income Tax Regulations under sections 1091 (relating to wash sales of stock or securities) and 1233 (relating to gains and losses from short sales) of the Internal Revenue Code of 1954 are hereby amended to provide rules for determining the date of sale for purposes of section 1091 in the case of short sales of stock or securities at a loss:

PARAGRAPH 1. Section 1.1091-1 is amended by redesignating paragraph (g) as paragraph (h) and by adding a new paragraph (g). This added provision reads as follows:

§ 1.1091-1 **Losses from wash sales of stock or securities.**

* * * * *

(g) For purposes of determining under this section the 61-day period applicable to a short sale of stock or securities, the principles of paragraph (a) of § 1.1233-1 for determining the consummation of a short sale shall generally apply except that the date of entering into the short sale shall be deemed to be the date of sale if, on the date of entering into the short sale, the taxpayer owns (or on or before such date has entered into a contract or option to acquire) stock or securities identical to those sold short and subsequently delivers such stock or securities to close the short sale.

* * * * *

PAR. 2. Paragraph (a) of § 1.1233-1 is amended by adding a new subparagraph (5). This added provision reads as follows:

§ 1.1233–1 Gains and losses from short sales.

(a) *General.* * * *

(5) For rules for determining the date of sale for purposes of applying under section 1091 the 61-day period applicable to a short sale of stock or securities at a loss, see paragraph (g) of § 1.1091–1.

* * * * *

PAR. 3. The amendment is effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except that the special rule treating the date of entering into a short sale as the date of sale shall be applied only in the case of short sales entered into after the date on which this notice is published in the FEDERAL REGISTER.

[F.R. Doc. 67-4805; Filed, May 1, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

[7 CFR Parts 1030, 1031, 1038, 1039, 1045, 1051, 1063]

[Docket Nos. AO 361 etc.]

MILK IN CHICAGO, ILL., AND CERTAIN OTHER MARKETING AREAS

Supplemental Notice Amending Notice of Hearing on Proposed Marketing Agreements and Orders and Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Part	Marketing area	Docket No.
1030	Chicago	AO 361.
1031	Northwestern Indiana	AO 170-A24.
1038	Rock River Valley	AO 194-A17.
1039	Milwaukee	AO 212-A22.
1045	Northeastern Wisconsin	AO 334-A12.
1051	Madison	AO 329-A8.
1063	Quad Cities-Dubuque	AO 105-A27.

This notice is supplemental to the notice of hearing which was issued April 12, 1967 (32 F.R. 6035), and the supplemental notice which was issued April 21, 1967 (32 F.R. 6453), with respect to proposed marketing agreements and orders to regulate the handling of milk in the Chicago, Ill., marketing area and proposed amendments to tentative marketing agreements and orders, regulating the handling of milk in the six other respective marketing areas designated hereinbefore. As previously announced the hearing will be held at the Pick Congress Hotel, 520 South Michigan Avenue, Chicago, Ill., beginning at 10 a.m., local time, on May 3, 1967, at the Airways Inn Hotel, 5311 South Howell Avenue, Milwaukee, Wis., beginning at 10 a.m., local time, on May 16, 1967, and at such other times and places as the Hearing Examiner designates.

The following proposal No. 14 will be considered at the Milwaukee session of the hearing or at such later date and place as the Hearing Examiner designates.

Further notice is hereby given 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), that the hearing notice issued April 12, 1967 (32 F.R. 6035), and the supplemental notice issued April 21, 1967 (32 F.R. 6453), is hereby amended by adding proposal No. 14. Also, proposal No. 10 is amended by deleting from the list of proponents the name "Midwest Dairymen's Co."

Proposed by Mississippi Valley Milk Producers Association, Clinton Cooperative Milk Producers Association, and Mid-West Dairymen's Co.":

Proposal No. 14. Merge and consolidate the Quad Cities-Dubuque and the Rock River Valley milk orders to read as follows:

DEFINITIONS

§ 1063.1 Act.

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

§ 1063.2 Secretary.

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

§ 1063.3 Department.

"Department" means the U.S. Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the U.S. Department of Agriculture.

§ 1063.4 Person.

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

§ 1063.5 Cooperative association.

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

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

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales, or marketing milk or its products for its members.

§ 1063.6 Northern Illinois-Eastern Iowa marketing area.

"Northern Illinois-Eastern Iowa marketing area" hereinafter called the "marketing area" means all the territory geographically within the counties listed below and all territory wholly or partly therein occupied by municipal corporations or institutions owned or operated by the Federal, State, or local Governments.

BASE ZONE

ILLINOIS COUNTIES

Henry.
Mercer.
Rock Island.
City of East Dubuque in Jo Daviess County.

IOWA COUNTIES

Clinton.
Dubuque.
Jackson.
Muscatine.
Scott.

NORTHERN ZONE

WISCONSIN COUNTY

Rock.

ILLINOIS COUNTIES

Boone.
Carroll.
De Kalb.
Jo Daviess (except the City of East Dubuque).
Lee.
Ogle.
Stephenson.
Whiteside.
Winnebago.

§ 1063.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1063.14.

§ 1063.8 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and who receives no fluid milk products from other dairy farmers or from sources other than pool plants: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the volume of fluid milk products handled (including receipts from pool plants) and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1063.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its members diverted for its account from a pool plant to a nonpool plant pursuant to § 1063.14;

(d) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. The cooperative association, prior to the first day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered, that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(e) Any person in his capacity as the operator of an unregulated supply plant; and

(f) A producer-handler, or any person who operates an other order plant described in § 1063.61.

§ 1063.10 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which Grade A fluid milk products are disposed of on a route(s) in the marketing area during the month.

§ 1063.11 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1063.12 Pool plant.

"Pool plant" means a plant described in paragraphs (a), (b), or (c) of this section other than that of a producer-handler or one described in § 1063.61; *Provided*, That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as a part of a pool plant pursuant to this section:

(a) A distributing plant from which not less than 50 percent of the total Grade A milk receipts is disposed of during the month on routes and not less than 15 percent of such receipts is disposed of in the marketing area on routes.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products to pool plants qualified pursuant to paragraph (a) of this section: *Provided*, That a supply plant which qualified pursuant to this paragraph in each of the immediately preceding months of September through November shall be a pool plant for the months of March through June unless written application is filed with the market administrator on or before the first day of any such month to be designated a nonpool plant for such month and for each subsequent month through June during which it would not otherwise qualify as a pool plant.

(c) A plant operated by a cooperative association from whose members the total pounds of producer milk received at the pool plants of other handlers during the month, or during the 12-month period immediately preceding such month, are more than the total pounds of Grade A milk received at its plant from dairy farms during the corresponding period: *Provided*, That if written application is filed with the market administrator on and before the 5th day of any month, such plant may be designated a nonpool plant for such month and for any subsequent months.

§ 1063.13 Nonpool plant.

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

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

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

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

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which Grade A fluid milk products are shipped to a pool plant.

§ 1063.14 Producer milk.

"Producer milk" means all skim milk and butterfat produced by producers which is:

(a) Received during the month:

(1) At a pool plant from producers or from a cooperative association as a handler pursuant to § 1063.9(d): *Provided*, That milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling under the terms or provisions of another order issued pursuant to the Act shall not be producer milk; and

(2) By a cooperative association as a handler pursuant to § 1063.9(d) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1063.41(b)(7) or as Class I shrinkage; or

(b) Diverted by a handler who is the operator of a pool plant or by a cooperative association pursuant to the following conditions:

(1) Milk of a producer diverted from a pool plant for the account of the plant operator to another pool plant(s) for not more than the number of days that milk was delivered from the farm of a producer to a pool plant(s) during the month from which diverted;

(2) Milk of a producer diverted from a pool plant to a nonpool plant(s) at which the handling of milk is not fully subject to the pricing and pooling provisions of another order issued pursuant to the Act on any day during the months of February through June and in any other month for not more than the number of days that milk was delivered to a pool plant from the farm of a producer during the month;

(3) Milk of a producer diverted as Class II milk from a pool plant to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provisions of an other order issued pursuant to the Act on any day during the months of February through June and in any other month for not more than the number of days that milk was delivered to a pool plant from the farm of a producer during the month: *Provided*, That the milk so diverted shall not be producer milk if, notwithstanding the provisions of this subparagraph, the milk is fully subject to the pricing and pooling provisions of the other order; and

(4) For pricing purposes milk diverted pursuant to subparagraphs (2) and (3) of this paragraph shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

§ 1063.15 Other source milk.

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

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

(1) Fluid milk products received from pool plants;

(2) Producer milk; and

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

(b) Products, other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month; and

(c) Any disappearance of nonfluid milk products in a form in which they may be converted into a Class I product and which are not otherwise accounted for under this order.

§ 1063.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, plain or flavored milk and milk drinks (unmodified or fortified), including "dietary milk products" and reconstituted milk or skim milk; concentrated milk not in hermetically sealed containers, cream (sweet or sour), and mixtures of cream and milk or skim milk, but not including the following: Aerated cream products, frozen storage cream, sour cream and sour cream mixtures not labeled Grade A, eggnog, yogurt, frozen dessert mixes, evaporated, or condensed milk, and sterilized fluid milk products in hermetically sealed containers.

§ 1063.17 Route.

"Route" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product to a retail or wholesale outlet (a) other than a pool plant, or a nonpool plant, or (b) a commercial food processor pursuant to § 1063.41(b)(2).

§ 1063.18 Chicago butter price.

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

§ 1063.19 Reload point.

"Reload point" means a location at which facilities approved by a duly constituted health authority, only for the transfer of milk from one tank truck to another and for the washing of tank trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: *Provided*, That reloading facilities on the premises of a plant having equipment for

the receiving, cooling, storing and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

MARKET ADMINISTRATION

§ 1063.20 Designation.

The agency for the administration of this part shall be a market administrator, appointed by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by the Secretary.

§ 1063.21 Powers.

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

(a) Administer its terms and provisions;

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

(c) Make such rules and regulations as are necessary to effectuate its terms and provisions; and

(d) Recommended amendments to the Secretary.

§ 1063.22 Duties.

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

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

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

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

(d) Pay from the funds received pursuant to § 1063.87, the cost of his bond and of the bonds of his employees, his own compensation and all other expenses, except those incurred under § 1063.88 that are necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who within 10 days after the date upon which he is requested to perform such acts, has not made reports and payments required by this part;

(g) Prepare and disseminate, for the benefit of producers, consumers, and handlers, such statistics and information concerning the operation of this part as do not reveal confidential information;

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

(i) Publicly announce on or before:

(1) The 5th day of each month, the minimum price for Class I milk, pursuant to § 1063.51(a), and the Class I butterfat differential, pursuant to § 1063.52(a), both for the current month; and the minimum price for Class II milk, pursuant to § 1063.51(b), and the Class II butterfat differential, pursuant to § 1063.52(b), both for the preceding month; and

(2) The 10th day after the end of each month, the uniform price, pursuant to § 1063.71, and the producer differential, pursuant to § 1063.81.

(j) On or before the 11th day after the end of each month, report to each cooperative association, which so requests, with respect to milk delivered by such association or by its members to each handler during the month: (1) The percentage of such receipts classified in each class; and (2) the percentage relationship of such receipts to the total pounds of Class I milk available to assign such receipts exclusive of the Class I milk disposed of by such handler to the pool plant(s) of other handlers and to nonpool plants. For the purpose of these reports, the milk received from such association shall be treated on a pro rata basis of the total producer milk received by such handler during the month.

(k) The 11th day after the end of each month, report to each handler the amount and value of producer milk, amounts payable to or payable from the producer-settlement fund, and amounts due the administrative assessment and marketing service accounts;

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1063.45(a)(9) and the corresponding step of § 1063.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1063.45 pursuant to such report and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator to the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1063.30 Reports of receipts and utilization.

Not later than the 7th day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for the preceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk received directly from producers showing separately any milk of the handler's own farm production;

(ii) Milk received from a cooperative association pursuant to § 1063.9(d);

(iii) Fluid milk products received from other pool plants; and

(iv) Other source milk;

(2) The inventories of skim milk and butterfat on hand at the beginning and the end of the month;

(3) The utilization of all skim milk and butterfat required to be reported by this section, including a separate statement of the disposition of Class I milk outside the marketing area;

(4) The name and address of each producer from whom milk was received with statements showing dates on which such producer started shipping and the date on which milk shipments stopped; and

(5) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require;

(b) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1063.9(c) or (d):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1063.9(c);

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1063.9(d); and

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

(c) Each handled specified in § 1063.9(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(d) Each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1063.31 Other reports.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

§ 1063.32 Payroll reports.

(a) On or before the 20th day after the end of the month, each handler operating a pool plant for each of his pool plants and each cooperative association which is a handler pursuant to § 1063.9 (c) or (d) shall report to the market administrator his producer payroll for that month, which shall show for each producer:

(1) His name and, if not previously reported, post office address and farm location (county) for each producer;

(2) The total pounds of milk received from such producer;

(3) The plant at which such milk was received;

(4) The days for which milk was received from such producer;

(5) The average butterfat content of such milk; and

(6) The net amount of the handler's payment to each producer and cooperative association, together with the price paid and the amount and nature of any deduction.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments as required pursuant to § 1063.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received, the same information as required pursuant to paragraph (a) of this section.

§ 1063.33 Reports to cooperative associations.

Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 1063.80(b) shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

(a) On or before the 7th day after the end of the month (1) the total pounds of milk received from each producer together with the butterfat content of such milk, and (2) the amount or rate and nature of any deductions authorized by a cooperative association.

§ 1063.34 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data which are required to be reported pursuant to §§ 1063.30 through 1063.33 and the payments required to be made pursuant to §§ 1063.80 through 1063.88.

§ 1063.35 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act, or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1063.40 Skim milk and butterfat to be classified.

All skim milk and butterfat to be reported by each handler pursuant to § 1063.30 shall be classified each month by the market administrator pursuant to the provisions of §§ 1063.41 through 1063.46.

§ 1063.41 Classes of utilization.

Subject to the conditions set forth in §§ 1063.42 to 1063.46 the classes of utilization shall be as follows:

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

(1) Disposed of in form of fluid milk products, except those classified pursuant to paragraph (b) (2), (3), (4), and (6) of this section. Fluid milk products which have been fortified by the addition of nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content;

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

(3) Not accounted for as Class II.

(b) *Class II milk.* Class II shall be:

(1) All skim milk and butterfat used to produce any product other than a fluid milk product;

(2) All skim milk and butterfat disposed of in bulk to commercial food processors and used in a food product prepared for consumption off the premises;

(3) All skim milk and butterfat authorized by the market administrator to be dumped;

(4) All skim milk and butterfat accounted for as disposed of for livestock feed;

(5) The inventories of bulk fluid milk products on hand at the end of the month;

(6) The skim milk and butterfat contained in that portion of "fortified" fluid milk products not classified as Class I pursuant to paragraph (a)(1) of this section;

(7) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1063.46(b)(1) for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1063.9 (c) and (d), not to exceed the quantities calculated pursuant to subdivisions (i) through (viii) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat from producers (including receipts by a cooperative association pursuant to § 1063.9(d)) and milk diverted in bulk tank lots pursuant to § 1063.14; plus

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

(iii) One and one-half percent of milk received in bulk from cooperative associations in their capacity as handlers pursuant to § 1063.9(d) except that if the handler operating the pool plant files with the market administrator, prior to the 1st day of the month, notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of bulk transfers of milk to a pool plant of another handler (in the case of a cooperative association selling milk to a handler on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, the percentage shall be 2 percent); less

(vii) One and one-half percent of bulk transfers of milk to nonpool plants; less

(viii) One and one-half percent of milk diverted to nonpool plants (in the case of a nonpool plant receiving the milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph the percentage shall be 2 percent); and

(8) In shrinkage of skim milk and butterfat assigned pursuant to § 1063.46 (b)(2).

§ 1063.42 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butterfat should be classified in another class: *Provided*, That in the case of milk delivered by a cooperative association in its capacity as a handler pursuant to § 1063.9(d) such responsibility shall be

that of the plant operator receiving such milk; and

(b) Any skim milk or butterfat classified in one class shall be reclassified if verification by the market administrator reveals that such classification was incorrect.

§ 1063.43 Transfers and diversions.

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

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

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1063.45(a)(9) and the corresponding step of § 1063.45(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1063.45(a)(4) and the corresponding step of § 1063.45(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1063.45(a) (8) and (9) and the corresponding steps of § 1063.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

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

(c) As Class I milk, if transferred in packaged form to a nonpool plant which is not an other order plant;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles by the shortest highway distance as determined by the market administrator from the nearer of the city halls of Janesville, Wis., and Sterling, Ill., and Rock Island, Ill., except that cream so transferred may be classified as Class II if the handler claims Class II use and establishes that such cream was transferred to a nonpool plant without Grade A certification and that each container was labeled or tagged to indicate that the contents were for manufacturing use and that the shipment was so invoiced;

(e) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the city halls of Janesville, Wis., and Sterling, Ill., and Rock Island, Ill., unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1063.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

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

(f) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and the transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II;

(6) If the form in which any fluid milk product is transferred or diverted to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1063.41; and

(g) As Class II if diverted to an other order plant if the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators and sufficient Class II utilization (or comparable utilization under such other order) is available in the other order plant for such assignment after assignment of milk transferred pursuant to paragraph (f) of this section subject to the rules of allocation of the other order.

§ 1063.44 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1063.30 (a) and (b) and compute the total pounds of skim milk and butterfat, respectively, in each class: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids. Such computations shall be as follows:

(a) If any fluid milk products to be allocated pursuant to § 1063.45(a) (8) or (9) were received at any pool plant of a handler, there will be computed for such handler the total pounds of skim milk and butterfat, respectively, in each class at all of his pool plants combined, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1063.45 and computation of obligation pursuant to § 1063.70 shall be based upon the combined utilization so computed;

(b) If no fluid milk products to be allocated pursuant to § 1063.45(a) (8) or (9) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class will be computed for each pool plant of such handler, and allocation pursuant to § 1063.45 shall be made separately for each pool plant of the handler; and

(c) There will be computed for each cooperative association reporting pursuant to § 1063.30(b) the total pounds of skim milk and butterfat, respectively, in producer milk pursuant to § 1063.14 (a)(2) and (b) (2) and (3). The amounts so determined shall be those used for computation pursuant to § 1063.45(c).

§ 1063.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1063.44 the market administrator shall determine the classification of producer milk for each handler at all his pool plants (or at each pool plant, when § 1063.44(b) applies) as follows:

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

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1063.41(b)(7).

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

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

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

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

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

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

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

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

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

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

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

(a) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25; and

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants;

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

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

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

(8) Subtract from the pounds of skim milk remaining in each class pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (5) (i) and (ii) of this paragraph;

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

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1063.22(k); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers (and of the same handler, when § 1063.44(b) applies) according to the classification assigned pursuant to § 1063.43(a); and

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

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1063.44(c) into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1063.46 Shrinkage.

The market administrator shall:

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

(b) If other source milk is received at the pool plant, shrinkage at such plant shall be prorated between:

(1) Skim milk and butterfat, respectively, in the amounts of receipts used in the computations pursuant to § 1063.41(b)(7); and

(2) Skim milk and butterfat in other source milk in bulk fluid form, exclusive of that specified in § 1063.41(b)(7).

MINIMUM PRICES

§ 1063.50 Basic formula price.

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

§ 1063.51 Class prices.

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

(a) *Class I price.* (1) The Class I price applicable at plants located in the base zone shall, for the first 18 months beginning with the effective date of this provision, be the basic formula price for the preceding month plus $1.30: *Provided*, That such price shall be reduced 24 cents by the Class I equivalent price factor (determined Apr. 10, 1966, 31 F.R. 5685) applicable pursuant to Part 1063 of this chapter (Quad Cities-Dubuque);

(2) At pool plants located in the Northern zone, the Class I price shall be 18 cents less than the price computed pursuant to subparagraph (1) of this paragraph; and

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

§ 1063.52 Butterfat differentials to handlers.

For each class of milk containing more or less than 3.5 percent butterfat, the class price calculated pursuant to § 1063.51 shall be increased or decreased, respectively, for each one-tenth of a percent of butterfat at a rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12;

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.12.

§ 1063.53 Location adjustments to handlers.

(a) For producer milk and other source milk which is classified as Class I at a pool plant located in Dubuque and Jackson Counties, Iowa, and the city of East Dubuque, Ill., the price specified in § 1063.51(a)(1) for the base zone shall be reduced 10 cents;

(b) For producer milk and other source milk which is classified as Class I at a pool plant located outside the marketing area, the price specified in § 1063.51(a)(1) for the base zone shall be reduced 10 cents if such plant is 100 miles or more by the shortest highway distance as determined by the market administrator from the nearer of the city hall, Rock Island, Ill., or the post office, West Liberty, Iowa, or the city hall, Chicago, Ill., plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(c) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant only to the extent that 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1063.9(d), and the volume assigned to Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1063.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1063.60 Producer-handlers.

Sections 1063.40 through 1063.54 and 1063.61 through 1063.90 shall not apply to a producer-handler.

§ 1063.61 Plants subject to other Federal orders.

In the case of a handler in his capacity as operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except that such handler shall, with respect to his total receipts and disposition of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A distributing plant qualified pursuant to § 1063.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products is disposed of during the month from such plant as Class I route disposition in the marketing area regulated by the other order than as Class I route disposition in the Northern Illinois-Eastern Iowa marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this paragraph;

(b) A distributing plant qualified pursuant to § 1063.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk is disposed of during the month in the Northern Illinois-Eastern Iowa marketing area as Class I route disposition than as Class I route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation even though such plant has greater Class I route disposition in the marketing area of the Northern Illinois-Eastern Iowa order; and

(c) Any plant qualified pursuant to § 1063.12(c) for any portion of the period of February through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1063.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1063.30(c) and 1063.32(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1063.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts of such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1063.70(f) and a credit in the amount specified in § 1063.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1063.30(c) and 1063.32(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1063.12 (b) and (c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

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

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

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 1063.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler (for each pool plant when §1063.44(b) applies) during each month shall be a sum of money computed by the market administrator as follows:

(a) With respect to producer milk received by a pool handler (excluding milk received by diversion from another pool plant), multiply the quantity in each class as computed pursuant to § 1063.45 (c) by the applicable class prices (adjusted pursuant to §§ 1063.52 and 1063.53) excluding in the case of a cooperative association as a handler pursuant to § 1063.9(d), milk received by it and delivered to the pool plant of another handler;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1063.45(a)(11) and the corresponding step of § 1063.45(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1063.45(a)(6) and the corresponding step of § 1064.45(b);

(d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1063.45(a)(3) and the corresponding step of § 1063.45(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount;

(e) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1063.45(a)(4) and the corresponding step of § 1063.45(b); and

(f) Add an amount equal to the value at the Class I price, adjusted for location at the nearest nonpool plant(s) from which an equivalent volume was received with respect to skim milk and butterfat subtracted from Class I pursuant to § 1063.45(a)(8) and the corresponding step of § 1063.45(b). With respect to skim milk and butterfat which is subtracted from Class I pursuant to § 1063.45(a)(8) and the corresponding step of § 1063.45(b), add an amount equal to its value at the Class I price applicable at the pool plant.

§ 1063.71 Computation of the uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants located in the "base zone" as follows:

(a) Combine into one total the values computed pursuant to § 1063.70 for all handlers who filed the reports prescribed by § 1063.30 for the month and who made the payments pursuant to § 1063.80 and § 1063.84 for the preceding month;

(b) Add an amount equal to the sum of the location and zone differentials computed pursuant to § 1063.83 plus the amount obtained by multiplying by 10 cents the total hundredweight of producer milk received at plants in the northern zone;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1063.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

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

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1063.70(f).

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract 15 cents during the month of March, 25 cents during each of the months of April, May, and June, and 15 cents during the month of July per hundredweight on the total hundredweight of producer milk specified in paragraph (e)(1) of this section;

(i) Add 20 percent during the month of September, 30 percent during each of the months of October and November, and 20 percent during the month of December of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1063.72 Notification of handlers.

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

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

(b) The uniform price computed pursuant to § 1063.71 and the butterfat differential computed pursuant to § 1063.81; and

(c) The amounts to be paid by such handler pursuant to §§ 1063.84, 1063.87, and 1063.88 and the amount due such handler pursuant to § 1063.85.

PAYMENTS

§ 1063.80 Time and method of payment for producer milk.

Except as provided in paragraph (d) of this section, each handler shall make payment to each producer for milk received from such producer during such month:

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

(b) On or before the 17th day after the end of each month, an amount equal to not less than the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less the payment made pursuant to paragraph (a) of this section;

(ii) Less marketing service deductions made pursuant to § 1063.88;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer;

(iv) Less 10 cents for each hundredweight of milk received from each producer at a plant located in the northern zone; and

(v) Less proper deductions authorized in writing by such producer: *Provided*, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1063.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(c) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1063.5 or its duly authorized agent, which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing. Such handler shall, on or before the 15th day of the following month pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the

amount due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(d) On or before the 10th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives from a pool plant(s) operated by such association or for which such association is the handler pursuant to § 1063.9(d) not less than the minimum prices for milk in each class, subject to the applicable location and butterfat differentials;

§ 1063.81 Butterfat differential to producers.

In making payments for milk received from producers pursuant to § 1063.80 the uniform price shall be adjusted by adding or subtracting, respectively, for each one-tenth of 1 percent by which the average butterfat content of such milk is more or less than 3.5 percent, respectively, an amount determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined by § 1063.52, dividing the sum of such values by the total butterfat in producer milk and rounding the resulting figure to the nearest tenth of a cent.

§ 1063.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1063.53; and

(b) For purposes of computation pursuant to §§ 1063.84 and 1063.85 and the weighted average price shall be adjusted at the rates set forth in § 1063.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1063.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund", which shall function as follows: (a) All payments made by handlers pursuant to §§ 1063.62, 1063.84, and 1063.86 shall be deposited in such fund and out of which shall be made all payments pursuant to §§ 1063.85 and 1063.86: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler; and (b) all amounts subtracted pursuant to § 1063.71(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1063.80 in accordance with the requirements of § 1063.71(i).

§ 1063.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The sum of the net pool obligation computed pursuant to § 1063.70 for such handler;

(b) The sum of:

(1) The value of producer milk received by such handler at the applicable uniform prices specified in § 1063.80 excluding in the case of a cooperative association as a pool handler pursuant to § 1063.9(d) the value of milk delivered to pool plants of other handlers; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1063.70(f).

§ 1063.85 Payment out of the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1063.84(b) exceeds the amount computed pursuant to § 1063.84 (a). The market administrator shall offset any payment due any handler against payments due from such handler.

§ 1063.86 Adjustment of accounts.

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

§ 1063.87 Expense of administration.

As his prorata share of the expense of administration of the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1063.9(d) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1063.45(a) (4) and (8) and the corresponding steps of § 1063.45(b); and

(c) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1063.88 Marketing services.

(a) *Deduction of marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 1063.80, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such monies shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 15th day after the end of the month.

§ 1063.89 Adjustment of overdue accounts.

Any unpaid obligation of a handler pursuant to § 1063.84, § 1063.87, or § 1063.88 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

TERMINATION OF OBLIGATIONS

§ 1063.90 Termination of obligations.

The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator, or his representative all books and records required by this part to be

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

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund on such payment is claimed, unless such handler within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1063.100 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1063.101.

§ 1063.101 Suspension or termination.

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

§ 1063.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1063.103 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1063.104 Agents.

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

§ 1063.105 Separability of provisions.

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

Signed at Washington, D.C., on April 26, 1967.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 67-4814; Filed, May 1, 1967; 8:45 a.m.]

POST OFFICE DEPARTMENT

[39 CFR Part 132]

SECOND CLASS MAIL

Publications Prepared in Imitation of Typewriting

A notice of proposed revision in § 132.2 of Title 39, Code of Federal Regulations, was published in the FEDERAL REGISTER of March 14, 1967 (32 F.R. 4027), concerning the acceptance for second-class mailings of publications prepared in imitation of typewriting. Interested persons were given 30 days in which to submit written comments regarding the proposal.

After careful consideration of the comments received, the Department has decided to abandon its original proposal. It has decided to institute a new rule making procedure. The proposed new rule would state reproduction by stencil, mimeograph, or hectograph processes is reproduction in imitation of typewriting. The new proposed rule omits the requirement that the left and right margins must be even.

In order to voluntarily observe the rule making requirements of the Administrative Procedure Act (5 U.S.C. 553) patrons of the postal service may file written data, views, and arguments with the Director, Classification and Special Services Division, Bureau of Operations, Post Office Department, Washington, D.C. 20260, at any time prior to the 30th day following the date of publication of this notice in the FEDERAL REGISTER.

Accordingly, the revised proposed change to § 132.2(b)(3) of Title 39, Code of Federal Regulations, as set out above reads as follows:

§ 132.2 Qualifications for second-class privileges.

* * * * *

(b) *Basic qualifications.* * * *

(3) *Preparation.* Publications must be formed of printed sheets. They may not be reproduced by stencil, mimeograph, or hectograph processes or reproduced in imitation of typewriting. Reproduction by stencil, mimeograph, or hectograph processes is reproduction in imitation of typewriting and is not permissible. Reproduction by any other printing process is permissible. Any style of type may be used.

* * * * *

NOTE: The corresponding Postal Manual section is 132.223.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

APRIL 26, 1967.

[F.R. Doc. 67-4835; Filed, May 1, 1967; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 8]

COLOR ADDITIVES

Riboflavin; Listing for Food Use Exempt From Certification

Notice is given that the Commissioner of Food and Drugs, on his own initiative, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), (c)(2), (d), 74 Stat. 399, 402; 21 U.S.C. 376(b)(1), (c)(2), (d)), and under the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR 2.120), proposes the listing and exemption from certification of the color additive riboflavin for general use in foods in amounts consistent with good manufacturing practice. All interested persons are invited to submit their views in writing, preferably in quintuplicate, regarding this proposal within 30 days from its date of publication in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20204, and may be accompanied by a memorandum or brief in support thereof.

It is proposed that Part 8 be amended by adding to Subpart D the following new section:

§ 8.323 Riboflavin.

(a) *Identity.* (1) The color additive riboflavin is the riboflavin defined in the Food Chemicals Codex, First Edition, Publication 1406 (1966), National Academy of Sciences—National Research Council, Washington, D.C.

(2) Color additive mixtures made with riboflavin may contain as diluents only those substances listed in this Subpart D as safe and suitable for use in color additive mixtures for coloring foods.

(b) *Specifications.* Riboflavin shall meet the specifications given in the Food Chemicals Codex.

(c) *Uses and restrictions.* Riboflavin may be safely used for the coloring of foods generally, in amounts consistent with good manufacturing practice; except that it may not be used to color foods for which standards of identity have been promulgated under section 401 of the act, unless the use of added color is authorized by such standards.

(d) *Labeling.* The label of the color additive shall conform to the requirements of § 8.32.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

Dated: April 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-4877; Filed, May 1, 1967; 8:49 a.m.]

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

o-Phenylphenol and Its Sodium Salt

Tolerances are established for residues of the fungicide sodium *o*-phenylphenate, expressed as *o*-phenylphenol, from postharvest application in or on certain fruits and vegetables.

The U.S. Department of Agriculture reports there is considerable confusion regarding the direct use of *o*-phenylphenol since the tolerances for sodium *o*-phenylphenate are calculated as *o*-phenylphenol. Certain tolerances for sodium *o*-phenylphenate already permit application of *o*-phenylphenol. They suggest that each of the tolerances that permit use of only sodium *o*-phenylphenate be modified to include residues from direct application of *o*-phenylphenol. The Commissioner of Food and Drugs concludes that such modification will protect the public health.

Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and delegated by him to the Commissioner (21 CFR 2.120), it is proposed that § 120.129 be amended by revising the introduction to the section and by consolidating the two paragraphs beginning "20 parts per million * * * and the two paragraphs beginning "10 parts per million * * *" into a single paragraph each, as follows:

§ 120.129 *o*-Phenylphenol and its sodium salt; tolerances for residues.

Tolerances are established for residues of the fungicides *o*-phenylphenol and sodium *o*-phenylphenate, each expressed as *o*-phenylphenol, from postharvest application of either, as follows:

* * * * *

20 parts per million in or on carrots, peaches, plums (fresh prunes).

* * * * *

10 parts per million in or on citrus citron, cucumbers, grapefruit, kumquats, lemons, limes, oranges, peppers (bell), pineapples, tangelos, tangerines, tomatoes.

* * * * *

Any person who has registered or who has submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing the subject fungicides may request, within 30 days from the date of publication of this proposal in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Any interested person may, within 30 days from the date of publication of this notice 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 comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: April 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-4878; Filed, May 1, 1967; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 25]

PERMITS FOR ACCESS TO RESTRICTED DATA

Notice of Proposed Rule Making

Notice is hereby given of proposed issuance of amendments to the regulations (a) to remove category C-24 Isotope Separation—Gas Centrifuge Method from the regulations; (b) to clarify that Part 25 applies to all restricted data within the categories described in Appendix A whether it is the Commission's restricted data or, for example, is information developed or owned as a result of private endeavor; (c) to clarify that a private concern that develops restricted data within the categories described in Appendix A must apply for an access permit and its officers and employees who will have access to such restricted data require access authorizations in order to receive and exchange such restricted data; (d) to expand the scope of category C-92 b. by deleting the words which limit the category to developments by the AEC; and (e) to amend certain of the terms and conditions of access.

Interested persons may submit written comments for consideration in connection with the proposed amendment to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 45 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given if the comments are not filed within the period specified.

PART 25—PERMITS FOR ACCESS TO RESTRICTED DATA

GENERAL PROVISIONS

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25.31 Violations.

AUTHORITY: The provisions of this Part 25 issued under sec. 161, 68 Stat. 948; 42 U.S.C. 2201.

GENERAL PROVISIONS

§ 25.1 Purpose.

This part establishes procedures and standards for the issuance of an access permit to any person subject to this part who requires access to the Commission's restricted data or any other restricted data applicable to civil uses of atomic energy for use in his business, trade or profession; provides for the amendment, renewal, suspension, termination and revocation of an access permit; and specifies the terms and conditions under which the Commission will issue the permit.

§ 25.2 Applicability.

The regulations in this part apply to any person within or under the jurisdiction of the United States who desires access to the Commission's restricted data or any other restricted data for use in his business, profession or trade.

§ 25.3 Definitions.

As used in this part:

(a) "Access permit" means a permit, issued by the Atomic Energy Commission, authorizing access by the named

permittee to restricted data applicable to civil uses of atomic energy in accordance with the terms and conditions stated on the permit.

(b) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

(c) "Category" means a category of restricted data designated in Appendix A to the regulations in this part.

(d) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(e) "Permittee" means the holder of a permit issued pursuant to the regulations in this part.

(f) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(g) "Restricted data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the restricted data category pursuant to section 142 of the Act.

§ 25.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 25.5 Communications.

Communications concerning rule making, i.e., petition to change Part 25, should be addressed to Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545. All other communications concerning the regulations in this part, and applications filed under them, should be addressed to the Commission Operations Office listed in Appendix B of this part responsible for the geographical area in which (a) the applicant's principal place of business is located, or (b) the principal place where the applicant will use the restricted data is located.

§ 25.6 Categories of available information.

For administrative purposes the Commission has categorized Restricted Data subject to the regulations in this part in the categories as set forth in Appendix A to this part. Top secret information; information pertaining to the design, manufacture or utilization of atomic weapons; other information subject to the regulations in Part 26; and defense information other than restricted data are not included in these categories and will not be made available under this part.

§ 25.7 Specific waivers.

The Commission may, upon application of any interested party, grant such waivers from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

Applications

§ 25.11 Applications.

(a) Any person desiring access to restricted data pursuant to this part should submit an application (Form AEC 378), in triplicate, for an access permit to the Commission's Operations Office, listed in Appendix B to this part, responsible for the area in which (1) the applicant's principal place of business is located, or (2) the principal place where the applicant will use the restricted data is located.

(b) Where an individual desires access to restricted data for use in the performance of his duties as an employee, the application for an access permit must be filed in the name of his employer.

(c) Self-employed private consultants, desiring access to restricted data, must file the application in their own name for an individual access permit.

(d) Each application should contain the following information:

(1) Name of applicant (unincorporated subsidiaries or divisions of a corporation must apply in the name of the corporation);

(2) Address of applicant;

(3) Description of business or occupation of applicant;

(4) (i) If applicant is an individual, state citizenship.

(ii) If applicant is a partnership, state name, citizenship and address of each partner and the principal location where the partnership does business.

(iii) If applicant is a corporation or an unincorporated association, state:

(a) The State where it is incorporated or organized and the principal location where it does business;

(b) The names, addresses and citizenship of its directors and of its principal officers;

(c) Whether it is owned, controlled or dominated by an alien, a foreign corporation, or foreign government, and if so, give details.

(iv) If the applicant is acting as agent or representative of another person in filing the application, identify the principal and furnish information required under this subparagraph with respect to such principal;

(5) Total number of full-time employees;

(6) Classification of restricted data (confidential or secret) to which access is requested;

(7) Potential use of the restricted data in the applicant's business, profession or trade. If access to secret restricted data is requested, list the specific categories by number and furnish detailed reasons why such access within the specified categories is needed by the applicant. The need for secret information should be stated by describing its proposed use in specific research, design, planning, construction, manufacturing, or operating projects; in activities under licenses issued by the Commission; in studies or evaluations planned or under way; or in work or services to be performed for other organizations. In addition, if access to secret restricted data in Category C-65, Plutonium Production, is requested, the application should also include sufficient information to satisfy the requirements of § 25.15(b)(2).

(8) Principal location(s) at which restricted data will be used.

(e) Applications should be signed by a person authorized to sign for the applicant.

(f) Each application shall contain complete and accurate disclosure with respect to the real party or parties in interest and as to all other matters and things required to be disclosed.

§ 25.12 Noneligibility.

The following persons are not eligible to apply for an access permit:

(a) Corporations not organized under the laws of the United States or a political subdivision thereof.

(b) Any individual who is not a citizen of the United States.

(c) Any partnership not including among the partners one or more citizens of the United States; or any other unincorporated association not including one or more citizens of the United States among its principal officers.

(d) Any organization which is owned, controlled or dominated by the Government of, a citizen of, or an organization organized under the laws of a country or area listed as a Subgroup A country or destination in § 371.3 (15 CFR 371.3) of the Comprehensive Export Schedule of the U.S. Department of Commerce.

(e) Persons subject to the jurisdiction of the United States who are not doing business within the United States.

§ 25.13 Additional information.

The Commission may, at any time after the filing of the original application and before the termination of the permit, require additional information in order to enable the Commission to determine whether the permit should be granted or denied or whether it should be modified or revoked.

§ 25.14 Public inspection of applications.

Applications and documents submitted to the Commission in connection with applications may be made available for public inspection in accordance with the regulations contained in Part 2 of this chapter.

§ 25.15 Requirements for approval of applications.

(a) An application for an access permit authorizing access to confidential restricted data in the categories set forth in Appendix A (except C-91) will be approved only if the application demon-

strates that the applicant has a potential use or application for such data in his business, trade or profession and has filed a complete application form.

(b) (1) An application for an access permit authorizing access to secret restricted data will be approved only if the application demonstrates that the applicant has a need for such data in his business, trade or profession and has filed a complete application form.

(2) An application for an access permit authorizing access to secret restricted data in Category C–65, Plutonium Production will be approved only if the application demonstrates also that the applicant:

(i) Is directly engaged in a substantial effort to develop, design, build or operate a chemical processing plant or other facility related to his participation in the peaceful uses of atomic energy for which such production rate and cost data are needed; or

(ii) Is furnishing to a permittee having access to C–65 under subdivision (i) of this subparagraph, substantial scientific, engineering or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to category C–65.

(3) An application for an access permit authorizing access to confidential and secret restricted data in C–91, Nuclear Reactors for Rocket Propulsion, will be approved only if the application demonstrates also that the applicant:

(i) Possesses qualifications demonstrating that he is capable of making a contribution to research and development in the field of nuclear reactors for rocket propulsion and is directly engaged in or proposes to engage in a substantial research and development program in such field of work; or

(ii) Is engaged in or proposes to engage in a substantial study program in the field of nuclear reactors for rocket propulsion preparatory to the submission of a research and development proposal to the Atomic Energy Commission; or

(iii) Is furnishing to a permittee having access under subdivision (i) or (ii) of this subparagraph substantial scientific, engineering or other professional services to be used by that permittee in a study or research and development program for which said permittee received access.

PERMITS

§ 25.21 Issuance.

(a) Upon a determination that an application meets the requirements of this regulation, the Commission will issue to the applicant an access permit on Form AEC 379.

(b) An Access Permit is not an access authorization. It does not authorize any individual not having an appropriate AEC access authorization to receive restricted data. See § 25.24 and Part 95 of this chapter.

§ 25.22 Scope of permit.

(a) All access permits will as a minimum authorize access, subject to the terms and conditions of the access permit, to confidential restricted data in all the categories set forth in Appendix A, except C–91.

(b) In addition, access permits may authorize access, subject to the terms and conditions of the access permit, to such secret restricted data as is included within the particular category or categories specified in the permit.

§ 25.23 Terms and conditions of access.

(a) Neither the United States, nor the Commission, nor any person acting on behalf of the Commission makes any warranty or other representation, express or implied: (1) With respect to the accuracy, completeness or usefulness of any information made available pursuant to an access permit, or (2) that the use of any such information may not infringe privately owned rights.

(b) The Commission hereby waives such rights with respect to any invention or discovery as it may have pursuant to section 152 of the Act by reason of such invention or discovery having been made or conceived in the course of, in connection with, or resulting from access to Restricted Data received under the terms of an access permit.

(c) Each permittee granted access to the Commission's Restricted Data shall:

(1) Comply with all applicable provisions of the Atomic Energy Act of 1954 and with Part 95 of this chapter and with all other applicable rules, regulations and orders of the Commission;

(2) Be deemed to have waived all claims for damages under section 183 of title 35 U.S. Code by reason of the imposition of any secrecy order on any patent application and all claims for just compensation under section 173 of the Atomic Energy Act of 1954, with respect to any invention or discovery made or conceived in the course of, in connection with or as a result of access to restricted data received under the terms of the access permit;

(3) Be deemed to have waived any and all claims against the United States, the Commission and all persons acting on behalf of the Commission that might arise in connection with the use, by the applicant, of any and all information supplied by them pursuant to the access permit;

(4) Obtain and preserve in his files written agreements from all individuals who will have access to restricted data under his access permit. The agreement shall be as follows:

In consideration for receiving access to restricted data under the access permit issued by the AEC, I hereby agree to:

(a) Waive all claims for damages under section 183 of Title 35 U.S. Code by reason of the imposition of any secrecy order on any patent application, and all claims for just compensation under section 173 of the Atomic Energy Act of 1954, with respect to any invention or discovery made or conceived in the course of, in connection with or resulting from access to restricted data received under the terms of the access permit issued to (insert the name of the holder of the access permit);

(b) Waive any and all claims against the United States, the Commission and all persons acting on behalf of the Commission that might arise in connection with the use, by me, of any and all information supplied by them pursuant to the access permit issued to (insert the name of the holder of the access permit).

(5) Pay all established charges for personnel access authorizations, AEC consulting services, publication and reproduction of documents, and such other services as the Commission may furnish in connection with the access permit.

(d) All other permittees shall be subject only to the conditions in paragraph (c) (1) and (5) of this section.

§ 25.24 Administration.

With respect to each permit issued pursuant to the regulations in this part, the cognizant Operations Office will:

(a) Process all personnel access authorizations requested in connection with the permit;

(b) Review the procedures submitted by the Applicant, in accordance with Part 95 of this chapter, for the safeguarding of restricted data; and

(c) Provide information to the permittee with respect to the sources and locations of restricted data available under this permit and to assist the permittee in other matters pertaining to the administration of his permit.

§ 25.25 Term and renewal.

(a) Each access permit will be issued for a 2-year term, unless otherwise stated in the permit.

(b) Applications for renewal shall be filed in accordance with § 25.11. Each renewal application must be complete, without reference to previous applications. In any case in which a permittee has filed a properly completed application for renewal more than thirty (30) days prior to the expiration of his existing permit, such existing permit shall not expire until the application for a renewal has been finally acted upon by the Commission.

§ 25.26 Assignment.

An access permit is nontransferable and nonassignable.

§ 25.27 Amendment.

An access permit may be amended from time to time upon application by the permittee. An application for amendment may be filed, in triplicate, in letter form and shall be signed by an individual authorized to sign on behalf of the applicant. The term of an access permit shall not be altered by an amendment thereto.

§ 25.28 Commission action on application to renew or amend.

In considering an application by a permittee to renew or amend his permit, the Commission will apply the criteria set forth in § 25.15. Failure of an applicant to reply to a Commission request for additional information concerning an application for renewal or amendment within 60 days shall result in a rejection of the application without prejudice to resubmit a properly completed application at a later date.

§ 25.29 Suspension, revocation and termination of permits.

The Commission may revoke or suspend any access permit for any material false statement in the application or in any report submitted to the Commission pursuant to the regulations in this part or because of conditions or facts which would have warranted a refusal to grant the permit in the first instance, or for violation of any of the terms and conditions of the Atomic Energy Act of 1954 or Commission rules, regulations or orders issued pursuant thereto. A permittee should request termination of his permit when he no longer requires Restricted Data for use in his business, trade or profession.

§ 25.30 Exceptions and additional requirements.

Notwithstanding any other provision in the regulations in this part, the Commission may deny an application for an access permit or suspend or revoke any access permit, or incorporate additional conditions or requirements in any access permit, upon finding that such denial, revocation or the incorporation of such conditions and limitations is necessary or appropriate in the interest of the common defense and security or is otherwise in the public interest.

§ 25.31 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

APPENDIX A

CATEGORIES OF RESTRICTED DATA AVAILABLE (INCLUDING SCOPE NOTES FOR EACH CATEGORY)

C-44 Nuclear Technology. This category includes classified technical information concerning nuclear technology. It may contain information on the following:

a. Materials, including metals, ceramics, organic and inorganic compounds. Included are such technical areas as the technology and fabrication of fuel elements, corrosion studies, cladding techniques and radiation studies.

b. Chemistry, chemical engineering and radiochemistry of all the elements and their compounds. Included are techniques and processes of chemical separations, radioactive waste handling and feed material processing.

c. Reactor physics, engineering and technology including theory, design, criticality studies and operation of reactors, reactor systems and reactor components.

d. Aerospace safety, testing, studies and evaluations. Included are technology and evaluation of nuclear safety performance or characteristics of materials, components, subsystems and systems, for nuclear primary and auxiliary power, and/or propulsion devices by flight tests and ground environmental impact, chemical and thermal experiments. Also includes chemical kinetics, reactor kinetics, reentry burnup phenomena, fission product release and dispersion.

This category does not include:

a. Information which reveals or from which can be calculated actual or planned (as distinguished from design) capacities, production rates and unit costs for the plutonium production program; or

b. Information on an actual or planned reactor system which falls within the scope of categories C-90, 91, 92, 93, and 94.

c. Classified methods of isotope separation.

d. Classified information on specific aerospace system objectives, schedules or operational uses.

C-65 Plutonium Production. This category includes information on reactor, fuel element and separations technology which reveals or from which can be calculated actual or planned (as distinguished from design) capacities, production rates and unit costs for the Hanford and Savannah River production facilities.

Technology which does not reveal or enable calculation of production rates and unit costs of Hanford or Savannah River production facilities is categorized in C-44, Nuclear Technology.

C-90 Nuclear Reactors for Ram-Jet Propulsion. This category includes information on:

a. Programs pertaining to the development of nuclear reactors for application to ram-jet propulsion systems, including theory and/or design, test philosophy procedures and/or results.

b. Fabrication technology and evaluation of performance or characteristics of materials or components for such reactors.

c. Controls, control systems and instrumentation relating to the design or technology of such reactors.

d. Data pertaining to heat transfer, propellant kinetics or corrosion and erosion of materials under conditions of high temperature, high gas flows or other environmental conditions characteristic of ram-jet propulsion systems.

This category does not include information on:

a. Design details of weapons systems or nuclear warheads.

b. Military operational techniques or characteristics.

c. General aspects of nuclear ram-jet missiles, such as payload, aerodynamic characteristics, guidance systems, physical size, gross weight, thrust and information of this kind which is associated with utilization of a nuclear ram-jet propulsion system.

C-91 Nuclear Reactors for Rocket Propulsion. This category includes information on:

a. Programs pertaining to nuclear reactors for rocket propulsion; i.e., missile propulsion, theory and/or design, test philosophy procedures and/or results.

b. Design, fabrication technology, and evaluation of performance or characteristics of material, components, or subsystems or nuclear rocket reactors.

c. Controls, control systems, and instrumentation relating to the design or technology of rocket reactor systems.

d. Data pertaining to heat transfer, propellant kinetics, or corrosion and erosion of rocket reactor system materials under conditions of high temperature, high gas flows, or other environmental conditions characteristic of rocket reactors.

This category does not include information on:

a. Design details of weapons systems or nuclear warheads.

b. Military operational techniques or characteristics.

c. General aspects of payload and aerodynamic characteristics.

d. Design details and development information of components and subsystems of the nuclear rocket engine other than that associated with the reactor system.

C-92 Systems for Nuclear Auxiliary Power (SNAP). This category includes information on:

a. Isotopic SNAP Program, including theory, design, research and development, fabrication, test procedures and results for the device, including power conversion device and the fuels used.

b. Reactor SNAP Program, including theory, design, research and development, fabrication, test procedures and results for the reactor, including the directly associated power conversion device.

This category does not include basic technical and scientific data developed under the SNAP Advanced Concept Program which should be reported in C-93.

C-93 Advanced Concepts for Future Application.

C-93a Reactor Experiments. This category includes classified technical information developed in the pursuit of work on new or advanced concepts of reactors or components which the AEC considers essential to future growth or for general application to future generations of reactors. Classified information developed in the pursuit of work on the lithium cooled reactor experiment is an example of the type of information to be reported in this category, i.e., information resulting from an experimental reactor project or component development which may have many future applications but which is not currently being pursued to meet the specific needs of an approved requirement for which other information categories have been provided. For example, classified technical information developed in the pursuit of work on Naval, Ram-Jet, or Rocket nuclear reactors would not be reported here but under their respective specific categories. This category will include classified technical information on the following:

a. Theory, design, and performance, either estimated or actual.

b. Design details, composition, and performance characteristics of major components (e.g., fuel media, reflectors, moderators, heat exchangers, pressure shells or containment devices, control rods, conversion devices, instrumentation, and shielding).

c. Material (metals, ceramics, and compounds) development, alloying, cladding, corrosion, erosion, radiation studies, and fabrication techniques.

d. Chemistry, including chemical engineering, processes and techniques. Reactor physics, engineering, and criticality studies.

C-93b Conversion Devices. This category includes classified technical information developed in the pursuit of studies, designs, research and development, fabrication and operation of any energy conversion device to be used with nuclear energy sources which is not being applied to a specific system development project.

C-94 Military Compact Reactor (MCR). This category includes classified technical information on the actual or planned Military Compact Reactor and its components developed in the pursuit of studies, designs, research and development, fabrication, and operation of the reactor system or its components.

Examples of the areas of information included are:

a. Reactor core physics.

b. Fuel elements and fuel element components.

c. Moderator and reflector details.

d. Data on primary coolant system.

e. Radiation shield.

f. Controls and instrumentation.

This category does not include information on military operational characteristics or techniques.

APPENDIX B—COMMISSION'S OPERATIONS OFFICES AND GEOGRAPHICAL AREAS OF RESPONSIBILITY

Albuquerque Operations Office, U.S. Atomic Energy Commission, Post Office Box 5400, Albuquerque, N. Mex. 87115: Arizona, Kansas, New Mexico, Oklahoma, and Texas.

Chicago Operations Office, U.S. Atomic Energy Commission, 9800 South Cass Avenue, Argonne, Ill. 60439: Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

New York Operations Office, U.S. Atomic Energy Commission, 376 Hudson Street, New York, N.Y. 10114: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

Oak Ridge Operations Office, U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, Tenn. 37831: Arkansas, Kentucky, Louisiana, Mississippi, Missouri, Panama Canal Zone, Puerto Rico, Tennessee, Virginia, Virgin Islands, and West Virginia.

Richland Operations Office, U.S. Atomic Energy Commission, Post Office Box 550, Richland, Wash. 99352: Alaska, Oregon, and Washington.

San Francisco Operations Office, U.S. Atomic Energy Commission, 2111 Bancroft Way, Berkeley, Calif. 94704: California, Colorado, Hawaii, Idaho, Montana, Nevada, Utah, Wyoming, and U.S. Pacific Territories.

Savannah River Operations Office, U.S. Atomic Energy Commission, Post Office Box A, Aiken, S.C. 29802: Alabama, Florida, Georgia, North Carolina, and South Carolina.

Dated at Washington, D.C., this 26th day of April 1967.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary to the Commission.

[F.R. Doc. 67-4849; Filed, May 1, 1967; 8:47 a.m.]

[10 CFR Part 26]

DISSEMINATION OF AND ACCESS TO CERTAIN PRIVATE RESTRICTED DATA

Notice of Proposed Rule Making

Notice is hereby given of proposed issuance of regulations to control communication of and access to private restricted Data as defined in the proposed regulation.

Contemporaneously notice is being given of proposed amendments to Parts 25, Permits for Access to Restricted Data and 95, Safeguarding of Restricted Data to (a) state explicitly their applicability to privately developed restricted data within the categories described in the Appendix to Part 25; (b) remove Category 24, Isotope Separation—Gas Centrifuge Method, from Part 25; and (c) make Part 95 applicable to safeguarding private restricted data.

The provisions of Part 25 will continue to apply to restrictions on dissemination of restricted data including privately developed restricted data within the categories of restricted data in which the Commission has agreed to permit access to Government generated restricted data. Those categories of restricted data are described in Appendix A to Part 25. The proposed Part 26 will apply to restrictions on dissemination of only private restricted data in those categories of restricted data identified in the regulations. Proposed Part 26 does not provide for access to the Government's restricted data in the categories described in the Appendix to Part 26.

Interested persons may submit written comments for consideration in connection with the proposed amendment to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 45 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given if the comments are not filed within the period specified.

Statement of consideration. Part 26, Dissemination of and Access to Certain Private Restricted Data, is issued in the interest of the common defense and security to provide controls deemed necessary by the Commision over the dissemination of and access to private restricted data in the categories described in the Appendix. Dissemination is defined as meaning the publication of private restricted data, the communication of such data by any means from one individual or person to another and permitting anyone to have access to such data. The Atomic Energy Act of 1954 defines "restricted data" as "all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the restricted data category pursuant to section 142."

The statutory definition of restricted data is not limited to data developed under a Government program. It is applicable to all data within the statutory definition, including data generated in private work and even though such work may not be in the atomic energy field. The Commisison has from time to time become aware of private activities which were resulting or, if continued, would result in the generation of restricted data. This result was not always recognized by the private party engaged in the activity. Part 26 will help provide guidance to private persons as to areas of technology in which development and advances may involve restricted data. Part 26 also prescribes procedures and conditions under which private restricted data concerning the gaseous diffusion isotope separation process and naval nuclear propulsion reactors may be disseminated to other persons.

The Commision is responsible under the Atomic Energy Act of 1954, as amended, for controlling the dissemination of all restricted data in the interest of the common defense and security. One of the stated purposes of the Atomic Energy Act of 1954, as amended, is to provide a program for the dissemination of unclassified scientific and technical information "and for the control, dissemination, and declassification of restricted data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;" (sec. 3b.).

Section 141 of the Act states that "it shall be the policy of the Commission to control the dissemination and declassification of restricted data in such a manner as to assure the common defense and security * * *". Section 145b of the Act provides in part that, except in certain contingencies, the Commission shall not permit any individual to have access to restricted data until a security investigation is conducted and a determination made that permitting such person to have access to restricted data will not endanger the common defense and security.

Sections 224 and 225 provide criminal penalties for communicating or attempting or conspiring to communicate restricted data to any individual or person with the intent to injure the United States or to secure an advantage to any foreign nation or with reason to believe the restricted data will be so utilized.

Also, section 232 provides that whenever in the judgment of the Commission any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of the Act or any regulation or order issued thereunder, the Attorney General may apply for an order enjoining such acts or practices, or for an order enforcing compliance with such provision.

Finally, section 227 of the Act provides criminal penalties for "* * * whoever conspires to communicate or to receive any restricted data, knowing or having reason to believe that such data is restricted data to any person not authorized to receive restricted data pursuant to the provisions of this Act or under rule or regulation of the Commission issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive restricted data shall, upon conviction thereof, be punishable by a fine of not more than $2,500."

Pursuant to its responsibilities under the Act the Commission has issued regulations as 10 CFR Parts 25, Permits for Access to Restricted Data, and 95, Safeguarding of Restricted Data, which provide controls applicable to the Restricted Data described in the Appendix to Part 25. This Part 26 also implements the Commission's responsibility under the Act by controlling the dissemination (even to fellow employees and employers) of private restricted data which is defined in § 26.3(f) as all restricted data within the categories in the Appendix of Part 26 which is generated, acquired, used or possessed in the course of activities, or for purposes, other than (i) activities conducted by a Government agency or (ii) work under a contract with, and funded in whole or in part by, the Government of the United States.

In general, restricted data subject to Part 26 is of greater significance to the common defense and security than restricted data which is within the categories described in Part 25. More stringent controls are therefore necessary.

In addition, because of the importance of this restricted data to the common defense and security of the United States, it is considered necessary that the United States acquire the rights described in § 26.27(c) as a condition of issuing a dissemination permit or private restricted data access authorization.

Privately sponsored research and development which generates information in the categories described in the Appendix, therefore, is subject to the regulations in this Part 26.

It is important to recognize that it is possible for information developed in fields unrelated to atomic energy to be usable in the areas described in the Appendix and for it to be restricted data.

Persons undertaking research and development in areas which may generate information usable also in any of the categories described in the Appendix to this Part 26 are therefore encouraged to seek a determination from the Commission as to whether their work involves restricted data.

It may become necessary to enlarge on the categories listed in the Appendix to this Part 26 if experience shows that private work results in the generation of additional restricted data not within those categories and which in the judgment of the Commission should be subject to the controls of this Part 26.

Finally, attention is directed to the fact that no dissemination permit or access authorization will be issued for dissemination of or access to private restricted data concerning atomic weapons or the gas centrifuge isotope separation process. Dissemination of and access to such restricted data will be permitted only under contracts with the Government or as specifically authorized by the Commission.

PART 26—DISSEMINATION OF AND ACCESS TO CERTAIN PRIVATE RESTRICTED DATA

GENERAL PROVISIONS

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AUTHORITY: The provisions of this Part 26 issued under sec. 161, 68 Stat. 948, 42 U.S.C. 2201. Interpret or apply secs. 141, 145b., and 227, 68 Stat. 940, 942, 42 U.S.C. 2161, 2165, 2227.

GENERAL PROVISIONS

§ 26.1 Purpose.

The regulations in this part are promulgated by the Atomic Energy Commission, pursuant to the Atomic Energy Act of 1954, as amended, in the interest of the common defense and security of the United States to provide procedures and standards for the issuance of a dissemination permit to a person who desires to disseminate private restricted data; and to provide for the issuance of private restricted data access authorization to individuals desiring access to such restricted data.

§ 26.2 Scope.

The regulations in this part apply to any person within or under the jurisdiction of the United States who possesses private restricted data and to any person within or under the jurisdiction of the United States who desires to disseminate or to have access to private restricted data. Categories of restricted data subject to this part are described in the Appendix to this part. The regulations in this part do not apply to restricted data within the categories described in Part 25 of the regulations of this chapter.

§ 26.3 Definitions.

As used in this part:

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

(b) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(c) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(d) "Dissemination" means the publication of private restricted data; the communication of private restricted data by any means from one individual or person to another individual or person; or permitting any individual or person to have access to private restricted data.

(e) "Dissemination permit" means a permit issued by the Atomic Energy Commission authorizing the individual to whom the permit is issued to disseminate the private restricted data identified in the permit to each individual identified in the permit who is granted private restricted data access authorization by the Commission.

(f) "Private restricted data" means all restricted data within the categories in the Appendix of this part which is generated, acquired, used or possessed in the course of activities, or for purposes other than (1) activities conducted by a Government agency or (2) work under a contract with, and funded in whole or in part by, the Government of the United States.

(g) "Private restricted data access authorization" means a determination by the Atomic Energy Commission that an individual is eligible for access to specifically identified private restricted data.

(h) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, or other entity; and (2) any legal successor, representative, agent, or agency of the aforegoing.

(i) "Restricted data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but does not include data declassified or removed from the restricted data category pursuant to section 142 of the Act.

(j) "Technical information or data of a proprietary nature" means information or data which:

(1) Is not the property of the Government by virtue of any agreement;

(2) Concerns the details of trade secrets or manufacturing processes which the holder of a dissemination permit or private restricted data access authorization has protected from use by others; and

(3) Is specifically identified as proprietary at the time it is made available to the Commission.

§ 26.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 26.5 Communications.

All communications and reports concerning the regulations in this Part and applications filed under them should be addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C., or its offices at Germantown, Md.

§ 26.6 Specific waivers and exceptions.

The Commission may, upon application of any interested party, grant such waivers and exceptions from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

§ 26.7 Classification.

The Director, Division of Classification, U.S. Atomic Energy Commission, Washington, D.C. 20545, will, on request, provide classification advice with respect

to data within the restricted data category.

§ 26.8 Requirements.

Each person to whom those regulations apply shall comply with all applicable provisions of the Act, with the regulations in this Part 26, with the regulations in Part 95, Safeguarding of Restricted Data, and with all other applicable rules, regulations, and orders of the Commission.

DISSEMINATION PERMITS AND PRIVATE RESTRICTED DATA ACCESS AUTHORIZATIONS

§ 26.21 Applications for dissemination permits.

(a) Any person desiring to disseminate private restricted data (except as provided in § 95.31(a) (1) through (3) of this chapter) shall submit a written application in triplicate for a dissemination permit to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager.

(b) An applicant who desires to disseminate private restricted data in the performance of his duties as an employee, shall identify his employer.

(c) An application shall include the following information:

(1) Name of applicant;

(2) Address of applicant;

(3) Description of business or occupation of applicant;

(4) Citizenship and age of applicant.

(5) If application is submitted in connection with the applicant's duties as an employee:

(i) Name of employer;

(ii) A statement by the applicant's employer authorizing the submission of the application;

(iii) If employer is a partnership, the name, citizenship and address of each partner and the principal address where the partnership does business;

(iv) If employer is a corporation or an unincorporated association:

(*a*) The State where it is incorporated or organized and the principal address where it does business;

(*b*) The name, address, and citizenship of each director and principal officer;

(*c*) Whether it is owned, controlled, or dominated by an alien, a foreign corporation, or foreign government, and if so, the details.

(6) Description of the private restricted data that the applicant desires to disseminate and the period of time (not more than 2 years) during which such dissemination would take place.

(7) Whether the applicant desires to exchange, as well as disseminate, the private restricted data described in subparagraph (6) of this paragraph, with the persons identified in subparagraphs (8) and (9) of this paragraph, and thus will request a private restricted data access authorization.

(8) The total number of employees of the applicant or of the applicant's employer who would be given access to the private restricted data; the name and title of each such individual and a detailed explanation of each such individuals' previous access to restricted data.

(9) The name, title, and address of each person who is not employed by the applicant or by the applicant's employer to whom the applicant wishes to disseminate private restricted data and a detailed explanation of each such person's previous access to restricted data.

(10) A detailed explanation of the reason for the proposed dissemination of private restricted data.

(11) A detailed explanation showing the extent, if any, to which products or services provided by the applicant or by persons to whom the applicant desires to disseminate private restricted data would contain or reveal restricted data.

(12) A statement of security procedures adopted showing that the private restricted data is or will be protected in accordance with the regulations of Part 95 of this chapter.

(13) The application must be signed by the applicant.

§ 26.22 Requests for private restricted data access authorizations.

A request for a private restricted data access authorization may be made only by a person identified in a dissemination permit. The request for access authorization forms shall be in writing. Completed forms shall be submitted to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager.

§ 26.23 Additional information from applicants.

The Commission may at any time either before or after issuance of a dissemination permit or private restricted data access authorization, require additional information in order to enable the Commission to determine whether in the interest of the common defense and security a dissemination permit or a private restricted data access authorization should be granted, denied, continued, modified, or revoked.

§ 26.24 Issuance of dissemination permits.

(a) Upon a determination (1) that an application for a dissemination permit meets the requirements of these regulations, (2) that the application demonstrates that the proposed dissemination would advance the peaceful applications of restricted data or atomic energy; (3) that the application complied with such additional requirements that the Commission may adopt for a particular category of restricted data; and (4) that permitting dissemination of the private restricted data described in the application to the extent proposed, or as modified by the Commission, will not endanger the common defense and security, the Commission will issue to the applicant a dissemination permit identifying the private restricted data that may be disseminated and the individuals to whom it may be disseminated, and who may exchange it, provided those individuals are granted private restricted data access authorizations.

(b) In considering the determination in paragraph (a) of this section the Commission may take into account (1) the relative importance to the common defense and security of the category of private restricted data which would be disseminated if the permit is issued; (2) the total number of individuals to whom the applicant desires to disseminate the private restricted data; (3) the total number of individuals who have access to Restricted Data in the category identified in the application; and (4) any other factors which in the opinion of the Commission affect the common defense and security.

(c) A person who possesses a dissemination permit is authorized to disseminate the private restricted data identified in the permit to the individuals identified in the permit provided the individuals are granted private restricted data access authorizations for such private restricted data.

§ 26.25 Issuance of private restricted data access authorizations.

(a) Upon a determination (1) that a dissemination permit identifying the applicant for private restricted data access authorizations has been issued, (2) that the applicant's procedures for safeguarding the private restricted data are in compliance with the regulations in Part 95 of this chapter, (3) that the applicant is eligible for access to the private restricted data identified in the dissemination permit, and (4) that granting the access authorization will not endanger the common defense and security, the Commission will grant to the applicant a private restricted data access authorization to the private restricted data identified in the dissemination permit.

(b) An individual who possesses a private restricted data access authorization is authorized, for such time as a dissemination permit identifying him is in effect, (1) to have access to the private restricted data identified in the dissemination permit in which the individual is identified, (2) to exchange that private restricted data with the other individuals identified in the same dissemination permit and who have been granted private restricted data access authorization, and (3) to disseminate that private restricted data in accordance with the regulations in § 95.31(a) (1) through (3) of this chapter.

§ 26.26 Special conditions applicable to categories of private restricted data.

(a) *Restricted data concerning atomic weapons and gas centrifuges.* No dissemination permit authorizing dissemination of private restricted data concerning information in category (a) or category (b) of the Appendix or private restricted data access authorization to such data will be issued; any person possessing such data is subject to the provisions of the regulations in Part 95 of this chapter concerning safeguarding of private restricted data.

(b) *Restricted data concerning gaseous diffusion and Naval Nuclear Propulsion.* Applications for dissemination permits authorizing dissemination of private restricted data concerning information in categories (c) and (d) of the Appendix will be considered by the Com-

mission under the criteria described in § 26.24.

§ 26.27 Terms and conditions of dissemination permits and private restricted data access authorizations.

(a) Each person granted a dissemination permit and each person granted private restricted data access authorization shall comply with all applicable provisions of the Atomic Energy Act of 1954, as amended, with the provisions of Part 95 of this chapter, with the regulations in this Part 26 and with all other applicable rules, regulations, and orders of the Commission.

(b) Each person granted a dissemination permit shall pay all established charges for private restricted data access authorizations requested by individuals identified in his dissemination permit.

(c) (1) Each person subject to this regulation will, upon request grant to the United States a nonexclusive, irrevocable license, to use and have used for Government purposes any U.S. patent or any U.S. patent application (otherwise in condition for allowance except for a secrecy order thereon) on any invention or discovery made or conceived during the term of the dissemination permit or the private restricted data access authorization by the holder of the dissemination permit or person granted access authorization in the course of work with the private restricted data. The United States will pay reasonable royalties for any such use it may make of any such invention or discovery.

(2) Each person subject to the regulations of this part will, upon request, grant to the Commission the right to use, for any Commission research, development, production, or manufacturing programs, any technical information or data of a proprietary nature, developed during work with the private restricted data by the holder of a dissemination permit or persons granted access authorization in the course of work with the private restricted data and not covered by a U.S. patent or U.S. patent application referred to in subparagraph (1) of this paragraph. In the event that the Commission desires to make use of such proprietary technical information or data, it will pay reasonable compensation therefor. If the Commission disseminates any such proprietary technical information or data in its possession to any of its contractors for use in any Commission research, development, production, or manufacturing programs, it will do so under contractual provisions pursuant to which the contractor would undertake to use this information only for the work under the pertinent Commission contract. Notwithstanding the foregoing provisions of this subparagraph, a person furnishing any information or data to the Commission waives any claim against the Commission for compensation or otherwise, in connection with any use or dissemination of information or data not specifically identified and claimed as proprietary in a written notice to the Commission at the time of the furnishing of the information or data to the Commission. Technical information or data shall not be deemed proprietary in nature whenever substantially the same technical information is available to the Commission which has been prepared, developed, or furnished as nonproprietary information by another source independently of the information and data furnished by the person subject to this regulation. The acceptance, exercise, or use of the licenses or rights provided for in subparagraph (1) and this subparagraph (2) of this paragraph (c) shall not prevent the Government, at any time, from contesting their validity, scope or enforceability.

(3) Each person granted a dissemination permit and each person granted a private restricted data access authorization shall furnish the Commission such reports as the Commission may from time to time require concerning the results of work with private restricted data, including reports in writing, in reasonable detail, respecting all technical information or data which the person or the Commission considers may be of interest to the Commission, and reports of patent applications on inventions or discoveries and of technical information and data of a proprietary nature.

(4) Each person subject to these regulations agrees to make available to the Commission, at all reasonable times, for inspection by Commission personnel or, by mutual agreement, others on behalf of the Commission, all experimental equipment and technical data developed, during work with private restricted data, by the holder of a dissemination permit or persons granted private restricted data access authorization. The foregoing provision of this subparagraph (4) shall be subject to the provisions of subparagraphs (1) and (2) of this paragraph (c).

§ 26.28 Term.

(a) A dissemination permit shall be issued for a 2-year term unless otherwise stated in the permit. When no longer needed for the purpose specified in the application therefor dissemination permits and private restricted data access authorizations shall be surrendered to the Commission and on such surrender the authority they had granted shall terminate.

(b) An application for renewal of a dissemination permit shall be filed in accordance with § 26.21. Each renewal application must be complete, without reference to previous applications. In any case in which a dissemination permit holder has filed a properly completed application for renewal more than thirty (30) days prior to the expiration of his existing permit, such existing permit shall not expire until the application for a renewal has been finally acted upon by the Commission.

(c) The expiration, suspension or revocation of a dissemination permit or private restricted data access authorization shall not relieve any individual from compliance with the Act, the provisions of Part 95 of this chapter or the regulations of this part.

§ 26.29 Amendment.

A dissemination permit may be amended from time to time upon application by the person to whom it was issued, filed in triplicate, in letter form and signed by the applicant.

§ 26.30 Suspension and revocation of permits.

The Commission may revoke or suspend any dissemination permit for any material false statement in the application or in any report submitted to the Commission pursuant to the regulations in this part or because of conditions or facts which would have warranted a refusal to grant the permit in the first instance, or for violation of any of the terms and conditions of the Atomic Energy Act of 1954, or Commission rules, regulations, or orders issued pursuant thereto.

§ 26.31 Administration.

With respect to each dissemination permit issued pursuant to the regulations of this part, the Commission will:

(a) Make a determination with respect to each private restricted data access authorization requested in connection with the dissemination permit; and

(b) Review the procedures submitted by the applicant for a dissemination permit and applicants for private restricted data access authorizations for the safeguarding of restricted data.

Communications regarding these matters should be addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager.

§ 26.32 Exceptions and additional requirements.

Notwithstanding any other provision in the regulations in this part, the Commission may deny an application for a dissemination permit or a private restricted data access authorization or suspend or revoke any dissemination permit or private restricted data access authorization or incorporate additional conditions or requirements in any dissemination permit, upon finding that such denial, suspension, revocation, or the incorporation of such conditions or requirements is necessary or appropriate in the interest of the common defense and security or is otherwise in the public interest.

§ 26.33 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Such violations may also be subject to penal sanctions under the Act.

APPENDIX A—CATEGORIES OF PRIVATE RESTRICTED DATA

All Restricted Data (except that removed from the restricted data category pursuant to section 142) concerning:

(a) Atomic weapons and nuclear explosive devices or components thereof, including lasers and laser systems designed to produce or capable of producing in deuterium, tritium, or mixtures containing these materials, a 1 percent rise in temperature or a 1 percent rise in the mean kinetic energy of the charged particles at any point in the material or mixture as a result of thermonuclear reactions;

(b) Gas centrifuges and cascades of gas centrifuges capable of separating one or more isotopes of an element, technology concern-

ing and components of such centrifuges and cascades;

(c) Gaseous diffusion technology, gaseous diffusion plants, and gas seals and porous membranes useable in a gaseous diffusion plant; and

(d) Naval nuclear propulsion reactors and components of such reactors.

Dated at Washington, D.C., this 26th day of April 1967.

For the Atomic Energy Commission.

W. B. McCool,
Secretary to the Commission.

[F.R. Doc. 67-4850; Filed, May 1, 1967; 8:47 a.m.]

[10 CFR Part 95]

SAFEGUARDING OF RESTRICTED DATA

Notice of Proposed Rule Making

Notice is hereby given of proposed issuance of amendments to the regulations to make them applicable (in addition to persons receiving restricted data under an access permit issued pursuant to Part 25) (a) to any person who possesses restricted data which is within the categories of restricted data described in Appendix A to Part 25 and which is not under the direct security control, by contract or otherwise, of the Commission or a Government Agency, and (b) to any person possessing private restricted data.

Interested persons may submit written comments for consideration in connection with the proposed amendment to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 45 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given if the comments are not filed within the period specified.

PART 95—SAFEGUARDING OF RESTRICTED DATA

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95.45 Violations.

AUTHORITY: The provisions of this Part 95 issued under sec. 161, 68 Stat. 948, 42 U.S.C. 2201.

GENERAL PROVISIONS

§ 95.1 Purpose.

The regulations in this part establish requirements for the safeguarding of (a) restricted data which is within the categories of restricted data described in Appendix A to Part 25 and is not in the possession of or under the direct security control by contract or otherwise of the Commission or a Government agency and (b) private restricted data.

§ 95.2 Scope.

The regulations in this part apply to all persons (a) who possess restricted data which is within the categories of restricted data described in Appendix A to Part 25 and which is not under the direct security control, by contract or otherwise, of the Commission or a Government agency and (b) who possess private restricted data.

§ 95.3 Definitions.

As used in this part,

(a) "Access authorization" means an administrative determination by the AEC that an employee of an AEC contractor, an employee of a contractor of another Federal agency, or an employee of an access permittee is eligible for access to restricted data;

(b) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto;

(c) "Commission," "USAEC," or "AEC" means the U.S. Atomic Energy Commission or its duly authorized representatives;

(d) "Document" means any piece of recorded information regardless of its physical form or characteristics;

(e) "DOD" means the Department of Defense;

(f) "L(X) access authorization" means a determination by the AEC that an individual is eligible for access to confidential restricted data under an access permit;

(g) "NASA" means the National Aeronautics and Space Administration;

(h) "Permittee" means the holder of an access permit issued pursuant to the regulations in Part 25 of this chapter;

(i) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing;

(j) "Q(X) access authorization" means a determination by the AEC that an individual is eligible for access to secret and confidential restricted data under an access permit;

(k) "Restricted data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the restricted data category pursuant to section 142 of the Act;

(l) "Security area" means a physically defined space, access to which is subject to security restrictions and control;

(m) "Security clearance" means an administrative determination by the AEC that an employee of the AEC or of another Federal agency is eligible for access to restricted data or defense information;

(n) "United States," when used in a geographical sense, includes all territories and possessions of the United States, the Canal Zone, and Puerto Rico.

(o) "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(p) "Dissemination permit" means a permit issued by the Atomic Energy Commission authorizing the named permittee to disseminate the private restricted data identified in the permit to the individuals identified in the permit provided those individuals are granted private restricted data access authorizations.

(q) "Private restricted data" means all restricted data identified in the Appendix of Part 26 which is generated, acquired, used or possessed in the course of activities, or for purposes other than (1) activities conducted by a Government agency or (2) work under a contract with, and funded in whole or in part by, the Government of the United States; and

(r) "Private restricted data access authorization" means a determination by the Atomic Energy Commission that an individual is eligible for access to specifically identified private restricted data.

§ 95.4 Communications.

Communications concerning the regulations in this part should be addressed to the U.S. Atomic Energy Commission at the Commission Operations Office (listed in Appendix B of 10 CFR Part 25) administering access permits for the geographical area if the communication involves an access permit or to the Atomic Energy Commission, Washington, D.C. 20545, attention: Assistant General Manager, if the communication involves any other matter. Communications involving an access permit may

be delivered in person at the Commission Operations Office. Other communications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C., or its office at Germantown, Md.

§ 95.5 Submission of procedures by access permit holder.

No permittee shall have access to restricted data until he shall have submitted to the Commission a written statement of his procedures for the safeguarding of restricted data and for the security education of his employees and the Commission shall have determined and informed the permittee that his procedures for the safeguarding of restricted data are in compliance with the regulations in this part and that his procedures for the security education of his employees assure that all his employees, who will have access to restricted data, are informed about and understand the regulations in this part.

§ 95.6 Specific waivers.

The Commission may, upon application of any interested party, grant such waivers from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

§ 95.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 95.8 Requirements.

Each person to whom the regulations in this part apply shall comply with all applicable provisions of the Act, and with all other applicable rules, regulations and orders of the Commission.

PHYSICAL SECURITY

§ 95.21 Protection of restricted data in storage.

(a) All persons subject to the regulations of this part shall store secret and confidential documents and material when not in use in accordance with one of the following methods:

(1) In a locked vault, safe or safe-type steel file cabinet having a three-position dial-type combination lock; or

(2) In a dual key, bank safety deposit box; or

(3) In a steel file cabinet secured by a steel lock bar and a three-position dial-type changeable combination padlock; or

(4) In a locked steel file cabinet when located in a security area established under § 95.23 or when the cabinet or the place in which the cabinet is located is under Commission approved automatic alarm protection.

(b) Changes of combination: Each person subject to the regulations of this part shall change the combinations on locks of his safekeeping equipment whenever such equipment is placed in use, whenever an individual knowing the combination no longer requires access to the repository as a result of change in duties or position in the permittee's organization, or termination of employment with the permittee, or whenever the combination has been subjected to compromise, and in any event at least once a year. Permittees shall classify records of combinations no lower than the highest classification of the documents and material authorized for storage in the safekeeping equipment concerned.

(c) The lock on safekeeping equipment of the type specified in paragraph (a)(4) of this section shall be replaced immediately whenever a key is lost.

§ 95.22 Protection while in use.

While in use, documents and material containing restricted data shall be under the direct control of an appropriately cleared individual and the restricted data shall be capable of being removed from sight immediately.

§ 95.23 Establishment of security areas.

(a) When, because of their nature or size, it is impracticable to safeguard documents and material containing restricted data in accordance with the provisions of §§ 95.21 and 95.22, a security area to protect such documents and material shall be established.

(b) The following controls shall apply to security areas:

(1) Security areas shall be separated from adjacent areas by a physical barrier designed to prevent entrance into such areas, and access to the restricted data within the areas, by unauthorized individuals.

(2) During working hours, admittance shall be controlled by an appropriately cleared individual posted at each unlocked entrance.

(3) During nonworking hours, admittance shall be controlled by protective personnel on patrol, with protective personnel posted at unlocked entrances, or by such automatic alarm systems as the Commission may approve.

(4) Each individual authorized to enter a security area shall be issued a distinctive badge or pass when the number of employees assigned to the area exceeds thirty.

§ 95.24 Special kinds of classified material.

When the restricted data contained in material is not ascertainable by observation or examination at the place where the material is located and when the material is not readily removable because of size, weight, radioactivity, or similar factors, the Commission may authorize the permittee to provide such lesser protection than is otherwise required by §§ 95.21 to 95.23, inclusive, as the Commission determines to be commensurate with the difficulty of removing the material.

§ 95.25 Protective personnel.

Whenever protective personnel are required by § 95.23, such protective personnel shall:

(a) Be armed with side-arms of not less than .38 caliber, and

(b) With respect to restricted data within the categories of Appendix A to Part 25, possess a "Q" or "L" security clearance or "Q(X)" or "L(X)" access authorization if the restricted data being protected is classified confidential or a "Q" security clearance or "Q(X)" access authorization if the restricted data being protected is classified Secret, or

(c) With respect to private restricted data, possess a private restricted data access authorization.

CONTROL OF INFORMATION

§ 95.31 Access to restricted data.

(a) Except as the Commission may authorize, no person subject to the regulations in this part shall permit any individual to have access to secret or confidential restricted data in his possession unless the individual:

(1) Is an AEC employee who requires access to the restricted data in connection with his official duties; or

(2) Has been certified to the Commission by DOD or NASA and the individual needs such access in connection with his duties as certified by DOD or NASA; or

(3) Is a Commission contractor employee, who has been granted appropriate access authorization by the Commission for access to the restricted data and who requires access to the restricted data in the course of the performance of his duties; or

(4) Has appropriate access authorization, is authorized by an access permit to receive restricted data in the categories involved and, in the case of secret restricted data, the permittee determines that the individual requires the access in the course of his duties; or

(5) Has been granted a private restricted data access authorization for the specific private restricted data.

(b) Inquiries concerning the clearance status of individuals, the scope of access permits, or the nature of contracts should be addressed to the Commission Office administering the access permit or the contract. Inquiries concerning private restricted data access authorizations should be addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Assistant General Manager.

§ 95.32 Classification and preparation of documents.

(a) *Classification.* (1) Restricted data originated by an access permit holder must be appropriately classified. "Guide to the Unclassified Fields of Research" will be furnished each permittee. In the event an access permit holder originates information within the definition of restricted data (§ 95.3(k)) or information which he is not positive is not within that definition and "Guide to Unclassified Fields of Research" does not provide positive classification guidance for such information, he shall designate the information as confidential restricted data and request classification guidance from the USAEC through the classification officer at the operations office administering the permit, who will refer the request to the Director, Division of Classification,

U.S. Atomic Energy Commission, Washington, D.C. 20545, if he does not have authority to provide the guidance.

(2) Private restricted data must be appropriately classified. Classification guidance is available from the Director, Division of Classification, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(b) *Classification consistent with content.* Each document containing restricted data shall be classified secret or confidential according to its own content.

(c) *Document which custodian believes improperly classified or lacking appropriate classification markings.* If a person receives a document which in his opinion is not properly classified, or omits the appropriate classification markings, he shall communicate with the sender and suggest the classification which he believes to be appropriate. Pending final determination of proper classification, such documents shall be safeguarded with the highest classification in question.

(d) *Classification markings.* Unless otherwise authorized below, the assigned classification of a document shall be conspicuously marked or stamped at the top and bottom of each page and on the front cover, if any, and the document shall bear the following additional markings on the first page and on the front cover:

RESTRICTED DATA

This document contains restricted data as defined in the Atomic Energy Act of 1954. Its transmittal or the disclosure of its contents in any manner to an unauthorized person is prohibited.

(e) *Documentation.* (1) All secret documents shall bear on the first page a properly completed documentation stamp such as the following:

This document consists of ____ pages. Copy No. ____ of ____ Series ____.

(2) The series designation shall be a capital letter beginning with the letter "A" designating the original set of copies prepared. Each subsequent set of copies of the same documents shall be identified by the succeeding letter of the alphabet.

(f) *Letter of transmittal.* A letter transmitting restricted data shall be marked with a classification at least as high as its highest classified enclosure. When the contents of the letter of transmittal warrant lower classification or require no classification, a stamp or marking such as the following shall be used on the letter:

When separated from enclosures handle this document as ----------.

(g) *Permanently fastened documents.* Classified books or pamphlets, the pages of which are permanently and securely fastened together, shall be conspicuously marked or stamped with the assigned classification in letters at least one-fourth (¼) inch in height at the top and bottom on the outside front cover, on the title page, on the front page and on the inside and outside of the back cover. The additional markings referred to in paragraph (d) of this section shall be placed on the first page and on the front cover.

(h) *Physically connected documents.* The classification of a file or group of physically connected documents shall be at least as high as that of the most highly classified document therein. It shall bear only one overall classification, although pages, paragraphs, sections, or components thereof may bear different classifications. Each document separated from the file or group shall be handled in accordance with its individual classification.

(i) *Attachment of security markings.* Documents which do not lend themselves to marking or stamping shall have securely affixed or attached a tag, sticker, or similar device bearing the appropriate security markings.

§ 95.33 External transmission of documents and material.

(a) *Restrictions.* (1) Documents and material containing restricted data shall be transmitted only to persons who possess appropriate clearance or access authorization and are otherwise eligible for access under the requirements of § 95.31.

(2) In addition, such documents and material shall be transmitted only to persons who possess facilities for their physical security consistent with this part. Any person subject to the regulation in this part who transmits such documents or material shall be deemed to have fulfilled his obligations under this subparagraph by securing a written certification from the prospective recipient that such recipient possesses facilities for its physical security consistent with this part.

(3) Documents and material containing restricted data shall not be exported from the United States without prior authorization of the Commission.

(b) *Preparation of documents.* Documents containing restricted data shall be prepared for transmission outside an individual installation in accordance with the following:

(1) They shall be enclosed in two sealed opaque envelopes or wrappers.

(2) The inner envelope or wrapper shall be addressed in the ordinary manner and sealed with tape, the appropriate classification shall be placed on both sides of the envelope and the additional marking referred to in § 95.32(d) shall be placed on the side bearing the address.

(3) The outer envelope or wrapper shall be addressed in the ordinary manner. No classification, additional marking or other notation shall be affixed which indicates that the document enclosed therein contains classified information or restricted data.

(4) A receipt, which identifies the document, the date of transfer, the recipient and the person transferring the document shall accompany the document and shall be signed by the recipient and returned to the sender whenever the custody of a secret document is transferred.

(c) *Preparation of material.* Material, other than documents, containing restricted data shall be prepared for shipment outside an individual installation in accordance with the following:

(1) The material shall be so packaged that the classified characteristics will not be revealed.

(2) A receipt which identifies the material, the date of shipment, the recipient, and the person transferring the material shall accompany the material and the recipient shall sign such receipt whenever the custody of secret material is transferred.

(d) *Methods of transportation.* (1) Secret documents and material shall be transported only by one of the following methods:

(i) Registered mail.

(ii) Railway or air express in "Armed Guard Service" or "Armed Surveillance Service."

(iii) Individuals possessing appropriate AEC security clearance or access authorization who have been given written authority by their employers.

(2) Confidential documents and material shall be transported by one of the methods set forth in subparagraph (1) of this paragraph or by one of the following methods:

(i) Certified or first-class mail, if approved by the Manager of Operations administering the Permit. Certified or first-class mail may not be used in any transmission of Confidential documents to Alaska, Hawaii, the Canal Zone, Puerto Rico, or any U.S. territory or possession.

(ii) Railway or air express "Protective Signature Service"; railway express "Recorded Tally Service" airlines "Protective Signature Service," when available; rail or motor vehicles in sealed car or sealed van service; or services providing equivalent protection.

(iii) Material in less than carload, truckload, or planeload lots, by regular commercial carrier when the container and its contents weigh more than 500 pounds and such container is locked and sealed.

(e) *Transmission by crytographic means.* Cryptographic systems shall not be used for the transmission of restricted data unless approved by the Commission.

(f) *Telephone conversations.* No discussion of classified information is permitted during a telephone conversation.

§ 95.34 Accountability for secret documents.

Each person subject to the regulations of this part possessing documents containing secret restricted data shall establish a document accountability procedure and shall maintain records to show the disposition of all such documents which have been in his custody at any time.

§ 95.35 Authority to reproduce.

Nothing in this part shall be deemed to prohibit any person possessing documents containing restricted data from reproducing any confidential documents, or any secret documents originated by him. He shall not reproduce any other documents containing secret restricted data without prior authorization from the Commission or from the originator of the document.

§ 95.36 Changes in classification.

Documents containing restricted data shall not be downgraded to a lower classification or declassified except as authorized by the Commission. Requests for downgrading or declassification shall be submitted to the AEC's Operations Office administering the permit; the U.S. Atomic Energy Commission, Declassification Branch, Oak Ridge Operations Office, Post Office Box E, Oak Ridge, Tenn. 37831 or U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Division of Classification. If the Commission approves a change of classification or declassification, the previous classification marking shall be canceled and the following statement, properly completed, shall be placed on the first page of the document:

Classification canceled (or changed to) _____ by authority of _____
(Insert appropriate classification)

_____
(Person authorizing change in classification)

by _____
(Signature of person making change and date thereof)

Any person making a change in classification or receiving notice of such a change shall forward notice of the change in classification to holders of all copies as shown on his records.

§ 95.37 Destruction of documents or material containing restricted data.

(a) Documents containing restricted data may be destroyed only by shredding and burning, pulping, or by any other method that assures complete destruction of the information. If the document contains secret restricted data, a permanent record of the subject, title, or report number of the document, its date of preparation, its series designation and copy number, and the date of destruction shall be signed by the person destroying the document and shall be maintained in the office of the last custodian.

(b) Restricted data contained in material, other than documents, may be destroyed only by a method that assures complete obliteration, removal, or destruction of the restricted data.

§ 95.38 Suspension or revocation of access authorization or private restricted data access authorization.

In any case where the access authorization or the private restricted data access authorization of an individual subject to the regulations in this part is suspended or revoked in accordance with the procedures set forth in Part 10 of this chapter, such individual shall, upon due notice from the Commission of such suspension or revocation and demand by the Commission, deliver to the Commission any and all documents or materials in his possession containing restricted data for safekeeping and such further disposition as the Commission determines to be just and proper.

§ 95.39 Expiration, suspension, or revocation of access permits.

(a) Upon expiration of an access permit, the person to whom such permit has been issued may, except as provided in paragraph (b) of this section: (1) Deliver all documents or materials in his possession containing restricted data to the Commission or to a person authorized to receive them and file with the Commission a certificate of nonpossession of restricted data; (2) destroy them, and file with the Commission a certificate of nonpossession; or (3) file with the Commission a certified inventory of restricted data attached to a request for approval of retention of such data. A person retaining restricted data must maintain an active access permit unless otherwise authorized by the Commission.

(b) In any case where an access permit has expired or has been suspended or revoked and the Commission has determined that further possession by the former access permit holder of documents or materials containing restricted data would endanger the common defense and security, such former access permit holder shall upon due notice from the Commission of such expiration, suspension, or revocation and of such determination, deliver to the Commission any and all documents or materials in his possession containing restricted data for safekeeping and such further disposition as the Commission determines to be just and proper.

§ 95.40 Expiration, suspension, or revocation of dissemination permits or private restricted data access authorizations.

(a) Upon expiration of a dissemination permit or a private restricted data access authorization, the person to whom such permit or access authorization has been issued may, except as provided in paragraph (b) of this section: (1) Deliver all documents or materials in his possession containing restricted data to the Commission or to a person authorized to receive them and file with the Commission a certificate of nonpossession of restricted data, or (2) destroy them and file with the Commission a certificate of nonpossession, or (3) file with the Commission a certified inventory of restricted data attached to a statement that all restricted data in his possession will be retained and safeguarded in accordance with the provisions of the regulations of this part.

(b) In any case where a dissemination permit or private restricted data access authorization has expired or has been suspended or revoked and the Commission has determined that further possession by the former dissemination permittee or person formerly possessing the private restricted data access authorization of documents or materials containing restricted data would endanger the common defense and security, such former permittee or former access authorization holder shall upon due notice from the Commission of such expiration, suspension or revocation and of such determination, deliver to the Commission any and all documents or materials in his possession containing restricted data for safekeeping and such further disposition as the Commission determines to be just and proper.

§ 95.41 Termination of employment or change of duties.

Each permittee or holder of a dissemination permit shall furnish promptly to the Commission written notification of the termination of employment of each individual who possesses an access authorization or private restricted data access authorization under his permit or whose duties are changed so that access to restricted data is no longer needed. Upon such notification, the Commission may (a) terminate the individual's access authorization or private restricted data access authorization or (b) transfer the individual's access authorization to the new employer of the individual to allow continued access to restricted data where authorized pursuant to Commission regulations. Permittees shall also report to the cognizant AEC Operations Office at the end of each calendar year the use made of the permit and access authorizations during the year, the number of "Q(X)" and "L(X)" access authorizations received or terminated during the year and the number remaining active at the end of the year and such other information requested by the Commission for determination of the use and continuing need of the access permit program.

§ 95.42 Continued applicability of the regulations in this part.

The expiration, suspension, revocation of other termination of a security clearance, access authorization, access permit, private restricted data access authorization, or dissemination permit shall not relieve any person from compliance with the regulations in this part.

§ 95.43 Reports.

Each person subject to the regulations of this part shall report promptly to the Commission Office administering the access permit, dissemination permit or private restricted data access authorization all losses of restricted data documents or material and to that Commission Office and the nearest office of the Federal Bureau of Investigation any alleged or suspected violation of the Atomic Energy Act or the Espionage Act.

§ 95.44 Inspection.

The Commission may make such inspections of the premises, activities, records, and procedures of any person subject to the regulations in this part as the Commission deems necessary to effectuate the purposes of the Act.

§ 95.45 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Any person who willfully violates, attempts to violate or conspires to violate any provision of the Act or any regulation or order issued thereunder, including the provisions of this part, may be guilty of a crime and upon conviction may be punished by fine or imprisonment, or both, as provided by law.

Dated at Washington, D.C., this 26th day of April 1967.

For the Atomic Energy Commission.

W. B. McCool,
Secretary to the Commission.

[F.R. Doc. 67-4851; Filed, May 1, 1967; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 233]

[Docket No. 18470]

TRANSPORTATION OF MAIL

Free Travel for Postal Employees

April 26, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration amendments to Part 233 of its Economic Regulations (14 CFR Part 233), which would add to and modify the list of Post Office Department employees eligible for free air transportation without having to present a "Request for Access to Aircraft for Free Transportation" on U.S. Government Standard Form No. 160.

The principal features of the proposed amendments are described in the Explanatory Statement below and the proposed amendments are set forth in the Proposed Rule below. The revised regulation is proposed under the authority of sections 204(a) and 405(j) of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 760; 49 U.S.C. 1324, 1375).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before June 1, 1967, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] Harold R. Sanderson,
Secretary.

Explanatory statement. Under section 405(j) of the Act, "such duly accredited agents and officers of the Post Office Department * * * as the Board may by regulation prescribe" are entitled to free air transportation "while traveling on official business relating to the transportation of mail by aircraft." Part 233 implements this section. The Post Office Department has requested amendments to § 233.1 (c) through (f), to expand and modify the list of Postal employees who may obtain free transportation merely upon presentation of their credentials. The Department states that this request has been necessitated by the creation, under Public Law 89-492, of a new Departmental Bureau and of an additional Assistant Postmaster General, by creation of other new positions, and by the increased need for certain officials to travel on business relating to the transportation of mail by aircraft. The rule proposed herein would amend Part 233 in accordance with the Department's request.

Proposed rule. It is proposed to amend Part 233 of the Economic Regulations (14 CFR Part 233) by amending paragraphs (c) through (f) of § 233.1 to read as follows:

§ 233.1 Postal employees to be carried free.

* * * * *

(c) The Executive Assistant to the Postmaster General; the three (3) Special Assistants to the Postmaster General; the Administrative Assistant to the Posmaster General; the two (2) Executive Assistants to the Deputy Postmaster General; and the Director, Office of Regional Administration and his Deputy.

(d) The Assistant Postmaster General—Operations; the Assistant Postmaster General—Transportation and International Services; the Assistant Postmaster General—Finance and Administration; the Assistant Postmaster General—Facilities; the Assistant Postmaster General—Personnel; the principal Deputy of each of the foregoing Assistant Postmasters General; the Assistant Postmaster General—Research and Engineering; and the Director of Administration in the Bureau of Research and Engineering.

(e) The Chief Postal Inspector; the Deputy Chief Postal Inspector; the General Counsel; the Deputy General Counsel; and the Director, Office of Planning and Systems Analysis.

(f) The Director, Distribution and Routing Division; the Director, Air Transportation Branch; the Director, International Service Division, Bureau of Transportation and International Services; the Assistant General Counsel, Transportation; the Regional Director in each of the fifteen Postal Regions; the fifteen (15) Postal Inspectors-in-Charge; and the Field Service Officers in Alaska.

* * * * *

[F.R. Doc. 67-4871; Filed, May 1, 1967; 8:49 a.m.]

[14 CFR Part 302]

[Docket No. 18467]

LOCAL SERVICE CARRIERS

Servicing Expense

April 25, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration an amendment to Subpart K of Part 302 of the Procedural Regulations (14 CFR Part 302) which would prescribe a new standardized method for use in Board proceedings for estimating servicing expense for local service routes and route proposals.

The principal features of the proposed amendment are described in the explanatory statement below and the proposed amendment is set forth in the proposed rule below. The amendment is proposed under the authority of sections 204(a) and 1001 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 788; 49 U.S.C. 1324, 1481).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant communications received on or before June 1, 1967, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon request thereof.

By the Civil Aeronautics Board.

[SEAL] Harold R. Sanderson,
Secretary.

Explanatory statement. Subpart K of Part 302 of the Board's Procedural Regulations prescribes a standardized method to be used in preparing cost estimates for Board proceedings where cost estimates are desired for existing or proposed local service routes or segments. This subpart was originally adopted by the Board on August 27, 1963, in order to eliminate from these proceedings extensive arguments and introduction of evidence as to the soundness or unsoundness of particular costing methods used, and to facilitate comparing the expenses of different carriers, something not easily done when varying methods of estimating costs were used. When the Board issued the notice of proposed rule making for Subpart K, PDR-17 (26 F.R. 12623), it stated that because of the "complexity, magnitude and importance of the problem" of formulating a standardized costing method, the proposed method "should be viewed as a tentative solution which is being advanced because it is the only costing technique currently known to the Board which satisfies the desired criteria of uniformity and objectivity."

We are now proposing to amend the present Subpart K by replacing the present method of computing servicing expense (expenses not associated with aircraft operating expense) with a more advanced technique which meets the standards of uniformity and objectivity. Section 302.1105 of the Procedural Regulations, which deals with servicing expenses, will be the only section affected.

The present § 302.1105 divides servicing expense into regional and system servicing expense and local servicing expense, the latter involving expenses related to particular stations. This division was adopted because it was being used in the Schedule P-9 of the Form 41 reports, and variations in these two expense categories have, in some instances, had good correlations with variations of traffic. The difficulty with this procedure, however, is that the division between system and local servicing expense results entirely from accounting allocations. This permits changes in the proportion of the total expense in each of these categories merely by modifications in a carrier's accounting methods and allocation of expenses, even though the

actual nature of a carrier's operations has remained unchanged. Such changes in allocations, in turn, would affect the final calculation of unit cost in each category, thus affecting the prediction of a carrier's costs on a proposed route.[1] In addition, there is no way of knowing whether a change in a carrier's ratio of local and system unit costs has resulted from alterations in its accounting allocations or the nature of its operation. And since methods of allocation of system and local expenses vary from carrier to carrier, there is also the problem of lack of standardization that existed before the present cost methods were proposed. The proposed method would eliminate the problems resulting from accounting allocations, because it is a statistical approach which combines all servicing expense as part of one set of calculations.

The second important improvement over the present method in § 302.1105 is that the procedure for computing station (local) expenses would be prescribed by the Board. The present rule prescribes only the method for estimating the regional and system portion of servicing expense, and each party is free to compute the station expense in any manner which it chooses. Although station costs are an important part of the total servicing expense, the Board followed this course because the original proposal did not give proper weight to the many variable factors affecting station expense.[2] The proposed method, however, includes statistical measurements which take into account the effect of these variables, thus enabling the inclusion of station costs in the servicing expense estimates.

The new method involves the use of a multiple regression formula instead of a simple regression, and thus four factors are used, instead of one, to measure changes in servicing expense. The present estimates of expense are based on changes in traffic alone, whereas the volume of service offered and the number of stations served[3] are also important factors. Although historically there is a close correlation between variations in traffic and servicing expense, a carrier's costs are also affected by changes in its volume of service and number of stations. Therefore, if the cost variations related to each of these factors can be measured, this should be done in order to correlate costs more closely with actual operations rather than relying entirely on historical traffic relationships. The proposed method would thus permit assessment of the changes in volume of service, number of points served, as well as volume of traffic and length of haul.

The theoretical basis of the proposed costing technique is a statistical correlation between reported airline servicing expense and the various measures of effort expended by the carriers. Unit costs are determined by multiple regression analyses of the relationships of the various units of effort with servicing expense. The total cost of any operation is then obtained by multiplying the number of units of each type of effort by its unit cost and summing their products.

Under the proposed method, total servicing expense is obtained by subtracting aircraft operating expense from total operating expense as reported by each carrier. The units of effort are classified in three broad functional categories to measure (1) volume of service, (2) volume of traffic and (3) the number of points served. Statistical factors were derived, where necessary, to give each of these categories a value based on a standard arithmetic unit of measurement. Volume of service is measured in units of weighted departures. Each departure performed is weighted by the capacity of the aircraft type used in order to reflect the differing sizes of departures. The capacity of each type of aircraft is derived for each carrier by dividing the reported available ton-miles by the reported aircraft miles flown in revenue service. Volume of traffic is measured in units of revenue tons originated and revenue ton-miles. Revenue tons originated measure the volume of traffic boarded, while revenue ton-miles (the sum of the miles each ton is carried) reflects the length of haul. The number of points served is measured by the average number of stations on the system. Since stations also vary in size and activity, they are weighted by the number of weighted departures produced.

The use of two components to measure traffic permits distinguishing between short and long haul operations and reflecting the consequent effect upon cost. The boarding cost, which is reflected by the cost per ton originated, is used in conjunction with haul cost based upon the cost per mile each ton is carried. The combination of these cost aspects will produce a decreasing rate per ton-mile as the boarding cost is spread over longer trips or journeys. Likewise, as traffic increases in relation to weighted departures, the increased efficiency is reflected in lower unit cost by spreading the cost of capacity[4] over increasing volumes of traffic. Improved efficiency and cost relationships can also be gained in a similar fashion by spreading station cost over greater volumes of traffic and service. Accordingly, under the proposed method, the proportionate mix of volume of service, volume of traffic, and number of points served, as opposed to single units of measure, will play an increased role in the determination of expense estimates and comparative efficiencies.

The proposed costing method is stated in terms of cost per weighted departure unit, which varies with the number of revenue tons originated and revenue ton-miles per weighted departure, and the total number of stations on the system. These units are derived by dividing total servicing expense, revenue tons originated and revenue ton-miles by total weighted departures for each of the 24 local service and domestic trunkline carriers for 12-month periods ending March 31 and September 30 of each year, over a 5-year period. The average number of stations on each carrier's system during each period is then introduced. The equation would appear as follows:[5]

$$\frac{\text{Servicing expense}}{\text{Weighted departures}} = a + \frac{(\text{Revenue tons originated})}{(\text{Weighted departures})} b + \frac{(\text{Revenue ton-miles})}{(\text{Weighted departures})} c + (\text{Number of Stations})\, d$$

A tabulation of the above data results in 240 observations consisting of one dependent variable and three independent variables. The result of the multiple regression produces an industry trend from which each individual carrier may deviate from time to time. Therefore, after values are computed for each carrier based upon the industry trend, they are then adjusted to coincide with each carrier's actual experience during the most recent 12-month period used in the regression analysis.

The procedures to be followed in constructing estimates of servicing expense associated with route modifications are set forth in the proposed rule. The proposed prescribed unit cost, basic data and computations are in the compilation entitled "Proposed Local Service Air Carriers' Unit Cost for Estimating Total Servicing Expense," copies of which are available at the Board's offices in the Docket Section, Room 710 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Proposed rule. It is proposed to amend Subpart K of Part 302 by replacing the present § 302.1105 with a new § 302.1105, which reads as follows:

§ 302.1105 Servicing expense.

(a) In order to determine the amount of servicing expense, add the cost associated with the change in the number of (1) weighted departures, (2) weighted stations, (3) revenue tons originated and (4) revenue ton-miles as determined herein.

(b) In order to determine the amount of expense associated with the number of weighted departures, proceed in accordance with the following steps:

[1] Cost estimates are made by first calculating a carrier's incremental costs (cost per revenue ton-mile, since that is the basic unit now used) for a prescribed period. Then that incremental cost is multiplied by the change in the number of such units associated with the route modification.

[2] See preamble to Subpart K, 28 F.R. 9591, Aug. 31, 1963.

[3] Although the total number of stations has only a small effect in causing variations in the total system expense, it is important to isolate the cost causing effect of the number of stations because of the necessity for local service carriers to add or delete stations as a result of Board orders.

[4] Capacity is measured by weighted departures. See derivation of weighted departures, in the previous paragraph.

[5] In the equation, "a" represents the unit cost of each weighted departure; "b" represents the unit cost of a revenue ton originated; "c" represents the unit cost per revenue ton-mile; and "d" represents the unit cost per weighted station.

(1) Refer to the compilation for the latest 12-month period setting forth each carrier's average capacity by aircraft type. Multiply the change in the number of departures to be caused by the proposed route modifications by the relevant aircraft capacity to obtain the total weighted departure units involved in the change.

(2) Refer to the compilation for the latest 12-month period setting forth the prescribed weighted departure unit rate for each carrier, and ascertain the applicable figure.

(3) Multiply the amount ascertained in subparagraph (2) of this paragraph by the number of weighted departure units determined in subparagraph (1) of this paragraph to determine the amount of weighted departure expense.

(c) In order to determine the amount of expense associated with the change in the number of weighted station units, proceed in accordance with the following steps:

(1) In accordance with paragraph (b)(1) of this section, ascertain the change in the number of weighted departures which would occur at existing stations on the carrier's system caused by the proposed modification. Multiply the change in the number of weighted departures by the total number of existing stations on the carrier's system to determine the change in the number of weighted station units associated with existing stations.

(2) In accordance with paragraph (b)(1) of this section, ascertain the number of weighted departures which would occur at any new stations to be added to the carrier's system caused by the proposed route change. Multiply the number of weighted departures occurring at the new stations by the sum of the existing stations on the carrier's system plus the number of new stations to be added to the system to determine the number of weighted station units associated with any new stations to be added to the carrier's system caused by the proposed route change.

(3) Refer to the compilation for the latest 12-month period setting forth the prescribed weighted station unit rate for each carrier and ascertain the applicable figure.

(4) Multiply the amount ascertained in subparagraph (3) of this paragraph by the sum of the weighted station units determined in subparagraphs (1) and (2) of this paragraph to determine the amount of weighted station expense.

(d) In order to determine the amount of expense associated with the change in the number of revenue tons originated, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth for each carrier the prescribed unit rate per revenue ton originated, and ascertain the applicable figure.

(2) Multiply the amount ascertained in subparagraph (1) of this paragraph by the change in the number of revenue tons originated to be caused by the proposed route modification in order to determine the amount of expense for revenue tons originated.

(e) In order to determine the amount of expense associated with the change in the number of revenue ton-miles, proceed in accordance with the following steps:

(1) Refer to the compilation for the latest 12-month period setting forth for each carrier the prescribed unit rate per revenue ton-mile, and ascertain the applicable figure.

(2) Multiply the amount ascertained in subparagraph (1) of this paragraph by the change in the number of revenue ton-miles to be caused by the proposed route modification in order to determine the amount of expense for revenue ton-miles.

[F.R. Doc. 67-4872; Filed, May 1, 1967; 8:49 a.m.]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 308]

RULES OF PRACTICE AND PROCEDURES FOR CONDUCT OF HEARINGS

Notice of Proposed Rule Making

The Board of Directors of the Federal Deposit Insurance Corporation is considering the adoption of a revised Part 308 of its rules and regulations (12 CFR Part 301 et seq.).

The proposed revised Part 308 would prescribe rules of practice and procedures to be followed by the Federal Deposit Insurance Corporation in hearings held pursuant to the provisions of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) pertaining to (1) involuntary termination of the insured status of any bank, (2) the issuance of cease-and-desist orders against any insured State nonmember bank, and (3) the issuance of orders removing or suspending from office and/or prohibiting from further participation in the conduct of the bank's affairs, any director or officer of an insured State nonmember bank or any other person participating in the conduct of the affairs of such a bank.

This notice is published pursuant to section 4 of the Administrative Procedure Act and Part 302 of the Federal Deposit Insurance Corporation's rules and regulations (12 CFR Part 302).

To aid in the consideration of these matters, the Board of Directors will be glad to receive from interested persons any relevant data, views, or arguments. Such material should be sent to the Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All such material should be submitted in writing to be received not later than May 31, 1967.

The proposed revised Part 308 would read as follows:

PART 308—RULES OF PRACTICE AND PROCEDURES

Subpart A—Rules of Practice Applicable to All Hearings

Sec.
308.1 Scope.
308.2 Appearance and practice before the Corporation.
308.3 Notice of hearing.
308.4 Answer.
308.5 Conduct of hearings.
308.6 Subpenas.
308.7 Rules of evidence.
308.8 Motions.
308.9 Proposed findings and conclusions and recommended decision.
308.10 Exceptions.
308.11 Briefs.
308.12 Oral argument before the Board of Directors.
308.13 Notice of submission to the Board of Directors.
308.14 Decision of Board of Directors.
308.15 Filing papers.
308.16 Service.
308.17 Copies.
308.18 Computing time.
308.19 Documents in proceedings confidential.
308.20 Formal requirements as to papers filed.

Subpart B—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

308.21 Scope.
308.22 Grounds for termination of insured status.
308.23 Notice of intention to terminate insured status.
308.24 Order terminating insured status.
308.25 Consent to termination of insured status.
308.26 Notice of termination of insured status.
308.27 Termination of insured status of banking institution not engaged in the business of receiving deposits other than trust funds.

Subpart C—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

308.28 Scope.
308.29 Grounds for cease-and-desist orders.
308.30 Notice of charges and hearing.
308.31 Issuance of order.
308.32 Effective date.
308.33 Temporary cease-and-desist orders.
308.34 Effective date of temporary order.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

308.35 Scope.
308.36 Grounds for removal order.
308.37 Grounds for suspension order.
308.38 Effective date of suspension order.
308.39 Notice of intention to remove and hearing.
308.40 Issuance of removal order and effective date.
308.41 Suspensions and removal where felony charged.

AUTHORITY: The provisions of this Part 308 issued under sec. 9, 64 Stat. 881; 12 U.S.C. 1819. Interpret or apply secs. 8, 10, 64 Stat. 879, 882; 80 Stat. 1028; 12 U.S.C. 1818, 1820.

Subpart A—Rules of Practice Applicable to All Hearings

§ 308.1 Scope.

(a) This subpart prescribes rules of practice and procedure followed by the

Federal Deposit Insurance Corporation in hearings held pursuant to the provisions of section 8 of the Federal Deposit Insurance Act pertaining to (1) involuntary termination of the insured status of any bank, (2) the issuance of cease-and-desist orders against any insured State nonmember bank, and (3) the issuance of orders removing or suspending from office and/or prohibiting from further participation in the conduct of the bank's affairs, any director or officer of an insured State nonmember bank or any other person participating in the conduct of the affairs of such a bank.

(b) In connection with any proceeding under Subparts C or D of this part, the Corporation will provide the appropriate State supervisory authority with timely notice of its intent to institute such a proceeding and the grounds therefor. Unless within such time as the Corporation deems appropriate in the light of the circumstances of the case (which time will be specified in the notice) satisfactory corrective action is effectuated by action of the State supervisory authority, the Corporation will proceed as provided in Subparts C and D of this part.

§ 308.2 Appearance and practice before the Corporation.

(a) *Power of attorney and notice of appearance.* Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, may represent others before the Corporation upon filing with the Secretary a written declaration that he is currently qualified as provided by this paragraph, and is authorized to represent the particular party on whose behalf he acts. Any other person desiring to appear before or transact business with the Corporation in a representative capacity may be required to file with the Secretary of the Corporation a power of attorney showing his authority to act in such capacity, and he may be required to show to the satisfaction of the Board of Directors that he has the requisite qualifications. Attorneys and representatives of parties to proceedings shall file a written notice of appearance with the Secretary or with the trial examiner.

(b) *Summary suspension.* Contemptuous conduct at an argument before the Board of Directors or at a hearing before a trial examiner shall be ground for exclusion therefrom and suspension for the duration of the argument or hearing.

§ 308.3 Notice of hearing.

Whenever a hearing is ordered by the Board of Directors in any proceeding pursuant to section 8 of the Federal Deposit Insurance Act, a notice of hearing shall be given by the Secretary or other designated officer acting for the Board of Directors to the party afforded the hearing and to the appropriate supervisory authority. Such notice shall state the time, place, and nature of the hearing, the trial examiner, and the legal authority and jurisdiction under which the hearing is to be held, and shall contain a statement of the matters of fact or law constituting the grounds for the hearing, and shall be delivered by personal service, by registered or certified mail to the last known address, or other appropriate means, sufficiently in advance of the date set for hearing to comply with the provisions of the Federal Deposit Insurance Act.

§ 308.4 Answer.

(a) *When required.* In any notice of hearing issued by the Board of Directors, the Board of Directors may direct the party or parties afforded the hearing to file an answer to the allegations contained in the notice, and any party to any proceeding may file an answer. Except where a different period of not less than 10 days after service of a notice of hearing is specified by the Board of Directors, a party directed to file an answer, or a party who elects to file an answer, shall file the same with the Secretary within 20 days after service upon him of the notice of hearing.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit or deny each allegation in the notice of hearing unless the party is without knowledge or information, in which case his answer shall so state and the statement shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends in good faith to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) *Admitted allegations.* If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the notice of hearing, his answer shall consist of a statement that he admits all of the allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record basis on which the trial examiner shall file with the Secretary his recommended decision containing his findings of fact, conclusions of law and proposed order. Any such party may, however, upon service of the recommended decision, findings, conclusions and proposed order of the trial examiner, file exceptions thereto within the time provided in § 308.10(a).

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the notice of hearing and to authorize the trial examiner, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Secretary a recommended decision containing such findings and appropriate conclusions. The Board of Directors or the trial examiner may, for cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

(e) *Opportunity for informal settlement.* Any interested party may at any time submit to the Secretary, for consideration by the Board of Directors, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No such offer or proposal, or counteroffer or proposal, shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular adjudicatory process by the filing of an answer as provided in this section, or by submission of the case to the trial examiner on a stipulation of facts and an agreed order.

§ 308.5 Conduct of hearings.

(a) *Selection of trial examiner.* Any hearing shall be held before a trial examiner selected by the Civil Service Commission and designated by the Board of Directors and, unless otherwise provided in the notice of hearing, shall be conducted as hereinafter provided.

(b) *Authority of trial examiner.* All hearings governed by this part shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. The trial examiner designated by the Board of Directors to preside at any such hearing shall have complete charge of the hearing, and he shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. Such examiner shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas and subpenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpena;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take or cause depositions to be taken;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of issues or for any other proper purpose; and

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding, except that a trial examiner shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings.

Without limitation on the foregoing provisions of this paragraph, the trial examiner shall, subject to the provisions of this part, have all the authority of section 556(c) of title 5 of the United States Code.

(c) *Prehearing conference.* The trial examiner may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time and place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact and of the contents and authenticity of documents;

(3) Matters of which official notice will be taken; and

(4) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

Such conferences shall, at the request of any party, be recorded and at the conclusion thereof the trial examiner shall enter in the record an order which recites the results of the conference. Such order shall include the examiner's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any; and such order shall control the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice. Except as authorized by law, the trial examiner shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate, nor be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the trial examiner except as a witness or counsel in the proceedings.

(d) *Attendance at hearings.* A hearing shall be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That where the Board of Directors, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest, the Board of Directors may order the hearing be public.

(e) *Transcript of testimony.* Hearings shall be recorded and transcripts will be made available to any party upon payment of the cost thereof and, in the event the hearing is public, shall be furnished on similar payment to other interested persons. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits, all papers and requests filed in the proceeding, and any briefs or memoranda of law theretofore filed in the proceeding, shall be filed with the Secretary of the Corporation, who shall transmit the same to the trial examiner. The Secretary shall promptly serve notice upon each of the parties of such filing and transmittal. The trial examiner shall have authority to rule upon motions to correct the record.

(f) *Order of procedure.* The counsel for the Corporation shall open and close.

(g) *Continuances and changes or extensions of time and changes of place of hearing.* Except as otherwise expressly provided by law, the Board of Directors may by the notice of hearing or subsequent order provide time limits different from those specified in this part, and the Board of Directors may, on its own initiative or for good cause shown, change or extend any time limit prescribed by the rules of this part or the notice of hearing, or change the time and place for beginning any hearing hereunder. The trial examiner may continue or adjourn a hearing from time to time and, as permitted by law or agreed to by the parties, from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a proceeding may be granted by the trial examiner for good cause shown.

(h) *Call for further evidence, oral argument, briefs, reopening of hearing.* The trial examiner may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification of his recommended decision to the Secretary. The Board of Directors shall render its decision within 90 days after the Secretary has notified the parties, pursuant to § 308.13, that the case has been submitted to the Board of Directors for final decision, unless within such 90-day period the Board of Directors shall order that such notice be set aside and the case reopened for further proceedings.

§ 308.6 **Subpenas.**

(a) *Issuance.* The trial examiner, or in the event he is unavailable, the Board of Directors, shall issue subpenas at the request of any party, requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing; except that where it appears to the trial examiner or the Board of Directors that the subpena may be unreasonable, oppressive, excessive in scope, or unduly burdensome, the party seeking the subpena may be required, as a condition precedent to the issuance of the subpena, to show the general relevance and reasonable scope of the testimony or other evidence sought. In the event the trial examiner or the Board of Directors, after consideration of all the circumstances, determines that the subpena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, he or it may refuse to issue the subpena, or issue it only upon such conditions as fairness requires.

(b) *Motion to quash.* Any person to whom a subpena is directed may, prior to the time specified therein for compliance but in no event more than five days after the date of service of such subpena, with notice to the party requesting the subpena, apply to the trial examiner, or, if he is unavailable, to the Board of Directors, to revoke, quash, or modify such subpena, accompanying such application with a statement of the reasons therefor.

(c) *Service of subpena.* Service of a subpena upon a person named therein shall be made by delivering a copy of the subpena to such person and by tendering the fees for 1 day's attendance and the mileage as specified in paragraph (d) of this section, except that when a subpena is issued at the instance of the Board of Directors fees and mileage need not be tendered at the time of service of the subpena. If service is made by a U.S. marshal, or his deputy, or an employee of the Corporation, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpena. In case of failure to make service, reasons for the failure shall be stated on the original subpena. The original subpena, bearing or accompanied by the required return, affidavit or statement, shall be returned without delay to the trial examiner.

(d) *Attendance of witnesses.* The attendance of witnesses and the production of documents pursuant to a subpena, issued in connection with a hearing provided for in Subpart B, C, or D of this part, may be required from any place in any State or in any territory at any designated place where the hearing is being conducted. Witnesses subpenaed in any proceeding under this Part shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(e) *Depositions.* The Board of Directors or trial examiner, by subpena or subpena duces tecum, may order evidence to be taken by deposition in any proceeding at any stage thereof. Such depositions may be taken by the trial examiner or before any person designated by the Board of Directors or trial examiner and having power to administer oaths. Unless notice is waived, no deposition shall be taken except after at least 5 days' notice to the parties to the proceeding.

(f) *Application and order to take oral deposition.* Any party desiring to take the oral deposition of a witness, in connection with any hearing provided for in this part, shall make application in writing to the trial examiner or, in the event he is unavailable, to the Board of Directors, setting forth the reasons why such deposition should be taken, the name and post office address of the witness, the matters concerning which the witness is expected to testify, its relevance, and the time when, the place where, and the name and post office address of the person before whom it is desired the deposition be taken. A copy of such application shall be served upon every other party to the proceeding by the party making such application. Upon a showing that (1) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age, sickness or infirmity, or will otherwise be unavailable at the hearing, (2) his testimony will be material, and (3) the taking of the deposition will not result in any undue burden to any other party or in undue delay of the proceeding, the trial examiner or the Board of Directors may, in his or its discretion, by such subpena or subpena duces tecum, order the oral deposition to be taken. Such subpena will name the witness whose deposition is to be taken and specify the time when, the place

where, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is ordered to be taken, may or may not be the same as those named in the application. Notice of the issuance of such subpena shall be served upon each of the parties a reasonable time, and in no event less than five days, in advance of the time fixed for the taking of the deposition.

(g) *Procedure on deposition; objections.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or evidence shall be in short form, stating the grounds of objection relied upon; but the person taking the deposition shall not have power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver except where the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by the person taking the deposition, or under his direction. The deposition shall be subscribed by the witness, unless the parties by stipulation waived the signing or the witness is ill or cannot be found or refused to sign, and certified as a true and complete transcript thereof by the person taking the deposition. If the deposition is not subscribed to by the witness, such person shall state on the record this fact and the reason therefor. Such person shall promptly send the original and two copies of such deposition, together with the original and two copies of all exhibits, by registered mail to the Secretary of the Corporation unless otherwise directed in the order authorizing the taking of the deposition. Interested parties shall make their own arrangements with the person taking the deposition for copies of the testimony and the exhibits.

(h) *Introduction as evidence.* Subject to appropriate rulings on such objections to questions of evidence as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying (except objections waived under the third sentence of paragraph (g) of this section), the deposition or any part thereof may be read in evidence by any party to the proceeding. Only such part or the whole of a deposition as is received in evidence at a hearing shall constitute a part of the record in such proceeding upon which a decision may be based.

(i) *Payment of fees.* Witnesses whose oral depositions are taken shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees of persons taking such depositions and the fees of the reporter shall be paid by the person upon whose application the deposition was taken.

§ 308.7 Rules of evidence.

(a) *Evidence.* Every party shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument thereon except as ordered, allowed, or requested by the trial examiner. Rulings on such objections and on any other matters shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection.

(c) *Official notice.* All matters officially noticed by the trial examiner shall appear on the record.

§ 308.8 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this part shall be made by motion. After a trial examiner has been designated to preside at a hearing and before the filing with the Secretary of his recommended decision, pursuant to § 308.9, such applications or requests shall be addressed to and filed with him. At all other times motions shall be addressed to the Board of Directors and filed with the Secretary. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the trial examiner directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Objections.* Within five days after service of any written motion, or within such other period of time as may be fixed by the trial examiner or the Board of Directors, any party may file a written answer or objection to such motion. The moving party shall have no right to reply, except as permitted by the trial examiner or the Board of Directors. As a matter of discretion, the trial examiner or the Board of Directors may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the trial examiner or the Board of Directors. Written memoranda or briefs may be filed with motions or answers or objections thereto, stating the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the trial examiner shall rule upon all motions properly addressed to him and upon such other motions as the Board of Directors may direct, except that if the trial examiner finds that a prompt decision by the Board of Directors on a motion is essential to the proper conduct of the proceeding, he may refer such motion to the Board of Directors for decision. The Board of Directors shall rule upon all motions properly submitted to it for decision.

(e) *Appeal from rulings on motions.* All motions and answers or objections thereto and rulings thereon shall become part of the record. Rulings of a trial examiner on any motion may not be appealed to the Board of Directors prior to its consideration of the trial examiner's recommended decision, findings and conclusions except by special permission of the Board of Directors; but they shall be considered by the Board of Directors in reviewing the record. Requests to the Board of Directors for special permission to appeal from such rulings of the trial examiner shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on every other party to the proceeding.

(f) *Continuation of hearing.* Unless otherwise ordered by the trial examiner or the Board of Directors, the hearing shall continue pending the determination of any motion by the Board of Directors.

§ 308.9 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* Each party to a hearing shall have a period of 15 days after service of the Secretary's notice of the filing and transmittal of the record, as provided in paragraph (e) of § 308.5, or such further time as the trial examiner for good cause shall determine, to file with the trial examiner proposed findings of fact, conclusions of law and order, which may be accompanied by a brief or memorandum in support thereof. Such proposals shall be supported by citation of such statutes, decisions and other authorities, and by page references to such portions of the record, as may be relevant. All such proposals, briefs and memoranda shall become a part of the record.

(b) *Recommended decision and filing of record.* The trial examiner shall, within 30 days after the expiration of the time allowed for the filing of proposed findings, conclusions, and order, or within such further time as the Board of Directors for good cause shall determine, file with the Secretary and certify to the Board of Directors for decision the entire record of the hearing, which shall include his recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing the Secretary shall serve upon each party to the proceeding a copy of the trial examiner's recommended decision, findings, conclusions, and proposed order. The provisions of this paragraph and § 308.10 shall not apply, however, in any case where the hearing was held before the Board of Directors.

§ 308.10 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision, findings, conclusions, and proposed order of the trial examiner, or such further time

as the Board of Directors for good cause shall determine, any party (other than a party who has not filed an answer in accordance with paragraphs (a) and (d) of § 308.4, unless no answer was required of such party by the Board of Directors) may file with the Secretary exceptions thereto or any part thereof, or to the failure of the trial examiner to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other ruling of the trial examiner, supported by such brief as may appear advisable.

(b) *Waiver.* Failure of a party to file exceptions to the recommended decision, findings, conclusions, and proposed order of the trial examiner or any portion thereof, or to his failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or other ruling of the trial examiner, within the time prescribed in paragraph (a) of this section, shall be deemed to be a waiver of objection thereto.

§ 308.11 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions or other authorities and by page reference to such portions of the record or recommended decision of the trial examiner as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the Secretary of the Corporation within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Further briefs may be filed only with the permission of the Board of Directors.

(c) *Delays.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Board of Directors.

§ 308.12 Oral argument before the Board of Directors.

Upon its own initiative, or upon the written request of any party made within the time prescribed for the filing of exceptions, a brief in support thereof, or a reply brief, if any, for oral argument on the findings, conclusions and recommended decision of the trial examiner, the Board of Directors, if it considers justice will best be served, may order the matter to be set down for oral argument before the Board of Directors or one or more members thereof. Oral argument before the Board of Directors shall be recorded unless otherwise ordered by the Board of Directors.

§ 308.13 Notice of submission to the Board of Directors.

Upon the filing of the record with the Secretary of the Corporation, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any further briefs permitted by the Board of Directors and upon the hearing of oral argument by the Board of Directors, if ordered by the Board of Directors, the Secretary shall notify the parties that the case has been submitted to the Board of Directors for final decision.

§ 308.14 Decision of Board of Directors.

Appropriate members of the staff, who are not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Board of Directors in the consideration of the case and in the preparation of appropriate documents for its disposition. Copies of the decision and order of the Board of Directors shall be furnished by the Secretary of the Corporation to the parties to the proceedings, the bank involved and to the appropriate State supervisory authority, in the case of a State bank. Where the proceedings involve the involuntary termination of the insured status of a bank, copies of the decision and order shall also be furnished to the Board of Governors of the Federal Reserve System in the case of a State member bank, or to the Comptroller of the Currency in the case of a national bank or a District bank.

§ 308.15 Filing papers.

Recommended decisions, exceptions, briefs and other papers required to be filed with the Board of Directors or Secretary in any proceedings shall be filed with the Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429. Any such papers may be sent to the Secretary by mail or express but must be received in the office of the Corporation in Washington, D.C., or postmarked by a post office, within the time limit for such filing.

§ 308.16 Service.

(a) *By the Board of Directors.* All documents or papers required to be served by the Board of Directors upon any party afforded a hearing shall be served by the Secretary of the Corporation unless some other person shall be designated for such purpose by the Board of Directors. Such service, except for service on counsel for the Board of Directors, shall be made by personal service or by registered mail, addressed to the last known address as shown on the records of the Board of Directors, on the attorney or representative of record of such party, provided that if there is no attorney or representative of record, such service shall be made upon such party at the last known address as shown on the records of the Board of Directors. Such service may also be made in such other manner reasonably calculated to give actual notice as the Board of Directors may by regulation or otherwise provide.

(b) *By the parties.* Except as otherwise expressly provided in this part, all documents or papers filed in a proceeding under this part shall be served by the party filing the same upon the attorneys or representatives of record of all other parties to the proceeding, or, if any party is not so represented, then upon such party. Such service may be made by personal service or by registered, certified, or regular first-class mail addressed to the last known address of such parties, or their attorneys or representatives of record. All such documents or papers shall, when tendered to the Board of Directors or the trial examiner for filing, show that such service has been made.

§ 308.17 Copies.

Unless otherwise specifically provided in the notice of hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Secretary of the Corporation under this part, except the transcript of testimony and exhibits, shall be furnished to the Secretary of the Corporation.

§ 308.18 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday, or legal holiday in the District of Columbia, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor such legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation unless the time within which the act is to be performed is 10 days or less in which event Saturdays, Sundays, and legal holidays shall not be included.

(b) *Service by mail.* Whenever any party has the right or is required to do some act or take some proceeding, within a period of time prescribed in this part, after the service upon him of any document or other paper of any kind, and such service is made by mail, 3 days shall be added to the prescribed period from the date when the matter served is deposited in the United States mail.

§ 308.19 Documents in proceedings confidential.

Unless and until otherwise ordered by the Board of Directors, the notice of hearing, the transcript, the recommended decision of the trial examiner, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Board of Directors and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Board of Directors, the trial examiner, the parties and appropriate supervising authorities.

§ 308.20 Formal requirements as to papers filed.

(a) *Form.* All papers filed under this subpart shall be printed, typewritten, or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* The original of all papers filed by a bank shall be signed by an officer thereof, and if filed by another party shall be signed by said party, or by the duly authorized agent or attorney of the bank or other party.

and in all such cases shall show the signer's address. Counsel for the Corporation shall sign the original of all papers filed by him.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Corporation, the name of the party, and the subject of the particular paper.

Subpart B—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

§ 308.21 Scope.

Under the authority of section 8 of the Federal Deposit Insurance Act, the Board of Directors of the Corporation may terminate the insured status of an insured bank upon the grounds set forth therein and enumerated in §§ 308.22 and 308.27. The procedure for terminating the insured status of a bank as therein prescribed will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 308.22 Grounds for termination of insurance.

Whenever the Board of Directors finds that an insured bank or its directors or trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or that such bank is in an unsafe or unsound condition to continue operations as an insured bank, or that such bank or its directors or trustees have violated an applicable law, rule, regulation or order, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the bank, or any written agreement entered into with the Corporation, the Board of Directors will first give to the Comptroller of the Currency in the case of a national bank or a District bank, to the authority having supervision of the bank in the case of a State bank, and to the Board of Governors of the Federal Reserve System in the case of a State member bank, a statement with respect to such practices or violations for the purpose of securing the correction thereof and will forward a copy thereof to the bank.

§ 308.23 Notice of intention to terminate insured status.

Unless correction of the practices, condition or violations set forth in the statement prescribed in § 308.22 is made within 120 days, or such shorter period not less than 20 days fixed by the Corporation in any case where the Board of Directors in its discretion has determined that the insurance risk of the Corporation is unduly jeopardized, or fixed by the Comptroller of the Currency in the case of a national bank, or the State authority in the case of a State bank, or Board of Governors of the Federal Reserve System in the case of a State member bank, as the case may be, the Board of Directors, if it determines to proceed further, will give to the bank not less than 30 days' written notice of its intention to terminate the status of the bank as an insured bank, and will fix a time and place for a hearing before the Board of Directors or before a person designated by it to conduct such hearing, at which evidence may be produced, and upon such evidence the Board of Directors will make written findings which shall be conclusive.

§ 308.24 Order terminating insured status.

If the Board of Directors finds that any unsafe or unsound practice or condition or violation specified in such statement has been established and has not been corrected within the time prescribed under § 308.23, in which to make such corrections, the Board of Directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in the notice of intention issued under § 308.23.

§ 308.25 Consent to termination of insured status.

Unless the bank appears at the hearing designated in the notice of hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank. In the event the bank fails to appear at such hearing, the trial examiner shall forthwith report the matter to the Board of Directors and the Board may thereupon issue an order terminating the bank's insured status.

§ 308.26 Notice of termination of insured status.

Prior to the effective date of the termination of the insured status of a bank under section 8(a) of the Federal Deposit Insurance Act and at such time as the Board of Directors shall specify, the bank shall mail to each depositor at his last address of record on the books of the bank and publish in not less than two issues of a local newspaper of general circulation and shall furnish the Corporation with proof of publication of notice of such termination of insured status. The notice shall be as follows:

NOTICE

_____
(Date)

1. The status of the _____, _____, as an insured bank under the provisions of the Federal Deposit Insurance Act, will terminate as of the close of business on the -- day of _____, 19--;

2. Any deposits made by you after that date, either new deposits or additions to existing deposits, will not be insured by the Federal Deposit Insurance Corporation;

3. Deposits in the bank on the -- day of _____, 19--, up to a maximum of $15,000 for each depositor, will continue to be insured, as provided by the Federal Deposit Insurance Act, for 2 years after the close of business on the -- day of _____, 19--: *Provided, however,* That any withdrawals after the close of business on the -- day of _____, 19--, will reduce the insurance coverage by the amount of such withdrawals.

_____
(Name of banking institution)

_____
(Address)

There may be included in such notice any additional information or advice the banking institution may deem desirable.

§ 308.27 Termination of insured status of banking institution not engaged in the business of receiving deposits other than trust funds.

Whenever the Board of Directors shall have evidence indicating that an insured banking institution is not engaged in the business of receiving deposits, other than trust funds, it will give notice in writing to the banking institution of such fact, and will direct the banking institution to show cause why the insured status of the banking institution should not be terminated under the provisions of section 8(p) of the Federal Deposit Insurance Act. The banking institution shall have 30 days, or such greater period of time as the Board of Directors shall prescribe, after receipt of such notice to submit affidavits or other written proof that it is engaged in the business of receiving deposits, other than trust funds. The Board of Directors may, in its discretion, upon written request of the banking institution, authorize a hearing before it or any person designated by it. If upon consideration of the evidence, the Board of Directors finds that the banking institution is not engaged in the business of receiving deposits, other than trust funds, such finding shall be conclusive and the Corporation will notify the banking institution that its insured status will terminate at the expiration of the first full semiannual assessment period following such notice. Prior to the date of the termination of the insured status of a banking institution under section 8(c) of the Federal Deposit Insurance Act, and within the time specified by the Board of Directors, the banking institution shall mail to each depositor at his last address of record on its books and publish in not less than two issues of a local newspaper of general circulation, a notice of such termination in form substantially as follows:

NOTICE

_____
(Date)

The status of the _____
(Name of banking institution)

_____
(City or town) (State)

as an insured bank under the Federal Deposit Insurance Act, will terminate on the -- day of _____, 19--, and its deposits will thereupon cease to be insured.

_____
(Name of banking institution)

_____
(Address)

There may be included in such notice any additional information or advice the banking institution may deem desirable.

Subpart C—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

§ 308.28 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors with a view to ordering an insured State non-

member bank (other than a District bank) to cease and desist from practices and violations described in section 8 of the Federal Deposit Insurance Act and enumerated in § 308.29. The procedures for issuing such orders prescribed in section 8 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 308.29 Grounds for cease-and-desist orders.

If, in the opinion of the Board of Directors, any insured State nonmember bank (other than a District bank) or bank which has insured deposits is engaging or has engaged, or the Board of Directors has reasonable cause to believe that the bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the Board of Directors has reasonable cause to believe that the bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Board of Directors in connection with the granting of an application or other request by the bank, or any written agreement entered into with the Corporation, the Board of Directors may issue and serve upon the bank a notice of charges in respect thereof.

§ 308.30 Notice of charges and hearing.

The notice referred to in § 308.29 will contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank. The hearing will be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Board of Directors at the request of the bank. Unless the bank appears at the hearing by a duly authorized representative, it will be deemed to have consented to the issuance of the cease-and-desist order.

§ 308.31 Issuance of order.

In the event of such consent, or if upon the record made at any such hearing, the Board of Directors finds that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board of Directors may issue and serve upon the bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank and its directors, officers, employees, and agents to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

§ 308.32 Effective date.

A cease-and-desist order will become effective at the expiration of 30 days after the service of such order upon the bank concerned (except in the case of a cease-and-desist order issued upon consent, which will become effective at the time specified therein), and will remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board of Directors or a reviewing court.

§ 308.33 Temporary cease-and-desist orders.

Whenever the Board of Directors determines that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges referred to in § 308.28, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to otherwise seriously prejudice the interests of its depositors, the Board of Directors may issue a temporary order requiring the bank to cease and desist from any such violation or practice.

§ 308.34 Effective date of temporary order.

Such order will become effective upon service upon the bank and, unless set aside, limited, or suspended by a court in proceedings authorized under the Federal Deposit Insurance Act will remain effective and enforceable pending the completion of the administrative proceedings held pursuant to such notice and until such time as the Board of Directors dismisses the charges specified in such notice, or if a cease-and-desist order is issued against the bank pursuant to § 308.29, until the effective date of any such order.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

§ 308.35 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors to remove or suspend directors or officers of an insured State nonmember bank (other than a District bank) or any other person participating in the conduct of the affairs of such a bank, and/or prohibit such director, officer or other person from further participation in the conduct of the affairs of such a bank, upon the grounds set forth in section 8 of the Federal Deposit Insurance Act and enumerated in this subpart. The procedures for issuing such orders prescribed in section 8 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 308.36 Grounds for removal order.

(a) Whenever, in the opinion of the Board of Directors, any director or officer of an insured State nonmember bank (other than a District bank) has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board of Directors determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, the Board of Directors may serve upon such director or officer a written notice of its intention to remove him from office.

(b) Whenever, in the opinion of the Board of Directors, any director or officer of an insured State nonmember bank (other than a District bank), by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director or officer and, whenever, in the opinion of the Board of Directors, any other person participating in the conduct of the affairs of an insured State nonmember bank (other than a District bank), by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such insured bank, the Board of Directors may serve upon such director, officer, or other person a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

§ 308.37 Grounds for suspension order.

In respect to any director or officer of an insured State nonmember bank (other than a District bank) or any other person referred to in paragraph (a) or (b) of § 308.36 the Board of Directors may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank.

§ 308.38 Effective date of suspension order.

Any suspension and/or prohibition which is subject to the notice prescribed in § 308.37, shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by the Federal Deposit Insurance Act, shall remain in effect pending the completion of the administrative proceedings held pursuant to the notice served under paragraph (a) or (b) of § 308.36 and until such time as the Board of Directors shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice will also be served upon the bank of which he is a director or officer

or in the conduct of whose affairs he has participated.

§ 308.39 Notice of intention to remove and hearing.

A notice of intention to remove a director, officer, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured bank, will contain a statement of the facts constituting grounds therefor and will fix a time and place at which a hearing will be held thereon. Such hearing will be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Board of Directors at the request of (a) such director or officer or other person, and for good cause shown, or (b) the Attorney General of the United States. Unless such director, officer, or other person appears at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition.

§ 308.40 Issuance of removal order and effective date.

In the event of such consent, or if upon the record made at any such hearing the Board of Directors finds that any of the grounds specified in such notice has been established, the Board of Directors may issue such orders of suspension or removal from office, and/or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. Any such order shall become effective at the expiration of 30 days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Board of Directors or a reviewing court.

§ 308.41 Suspension and removal where felony charged.

(a) Whenever any director or officer of an insured State nonmember bank (other than a District bank), or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a U.S. attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Board of Directors may, by written notice served upon such director, officer, or other person suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice will also be served upon the bank. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board of Directors.

(b) In the event that a judgment of conviction with respect to such offense is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board of Directors may issue and serve upon such director, officer, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the Board of Directors. A copy of such order will also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge will not preclude the Board of Directors from thereafter instituting proceedings to remove such director, officer, or other person from office and/or to prohibit further participation in bank affairs, pursuant to the provisions of this subpart.

Dated this 27th day of April 1967.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary

[F.R. Doc. 67-4852; Filed, May 1, 1967; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

[12 CFR Part 263]

RULES OF PRACTICE FOR FORMAL HEARINGS

Notice of Proposed Rule Making

The Board of Governors of the Federal Reserve System is considering the adoption of a revised Part 263 of its rules and regulations (12 CFR Part 201 et seq.).

The proposed revised Part 263 would prescribe rules of practice and procedures to be followed by the Board in connection with adjudications with respect to which a hearing is required by law or is ordered by the Board. Among such adjudications are those relating to: Suspension of a member bank from the use of credit facilities of the Federal Reserve System under section 4 of the Federal Reserve Act (12 U.S.C. 301); termination of a bank's membership in the System pursuant to section 9 of the Federal Reserve Act (12 U.S.C. 327); issuance of a cease-and-desist order under section 11 of the Clayton Act (15 U.S.C. 21); issuance of a cease-and-desist order under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818); issuance of a removal or suspension order under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818); applications filed with the Board pursuant to sections 3 and 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842, 1843) as to which a hearing is required by the Act, or for other reason is ordered by the Board; and such proceedings as may be ordered by the Board with respect to bank merger applications under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)).

This notice is published pursuant to 5 U.S.C. 553 and Part 262 of the rules and regulations of the Board of Governors of the Federal Reserve System (12 CFR Part 262).

To aid in the consideration of these matters, the Board of Governors will receive from interested persons any relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 31, 1967.

The proposed revised Part 263 would read as follows:

PART 263—RULES OF PRACTICE FOR FORMAL HEARINGS

Subpart A—Rules of Practice Applicable to All Formal Hearings

Sec.
263.1 Scope.
263.2 Definitions.
263.3 Appearance and practice before the Board.
263.4 Notice of hearing.
263.5 Answer.
263.6 Conduct of hearings.
263.7 Subpenas.
263.8 Depositions.
263.9 Rules of evidence.
263.10 Motions.
263.11 Proposed findings and conclusions and recommended decision.
263.12 Exceptions.
263.13 Briefs.
263.14 Oral argument before the Board.
263.15 Decision of Board.
263.16 Filing papers.
263.17 Service.
263.18 Copies.
263.19 Computing time.
263.20 Documents in proceedings confidential.
263.21 Formal requirements as to papers filed.

Subpart B—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

263.22 Scope.
263.23 Grounds for cease-and-desist orders.
263.24 Notice of charges and hearings.
263.25 Issuance of order.
263.26 Effective date.
263.27 Temporary cease-and-desist orders.
263.28 Effective date of temporary order.

Subpart C—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

263.29 Scope.
263.30 Grounds for removal order.
263.31 Grounds for suspension order.
263.32 Effective date of suspension order.
263.33 Notice of intention to remove and hearing.
263.34 Issuance of removal order and effective date.
263.35 Suspensions and removal where felony charged.

AUTHORITY: The provisions of this Part 263 issued under sec. 11(l), 38 Stat. 262, sec. 202(n), 80 Stat. 1052, sec. 2[18], 64 Stat. 873, as amended, sec. 5, 70 Stat. 137, sec. 8, 38 Stat. 732, as amended; 12 U.S.C. 248(l), 1818(n), 1828(c), 1844; 15 U.S.C. 19.

Subpart A—Rules of Practice Applicable to All Formal Hearings

§ 263.1 Scope.

This subpart prescribes rules of practice and procedure followed by the Board with respect to adjudications as to which a hearing is required by law or is for other reason ordered by the Board. Among such adjudications are those relating to: Suspension of a member bank from the use of credit facilities of the

Federal Reserve System under section 4 of the Federal Reserve Act (12 U.S.C. 301); termination of a bank's membership in the System pursuant to section 9 of the Federal Reserve Act (12 U.S.C. 327); issuance of a cease-and-desist order under section 11 of the Clayton Act (15 U.S.C. 21); issuance of a cease-and-desist order or a removal or suspension order under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818); applications pursuant to sections 3 and 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842, 1843) as to which a hearing is required by the Act, or for other reason is ordered by the Board; and such proceedings as may be ordered by the Board with respect to bank merger applications under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)).

§ 263.2 Definitions.

As used in this part—

(a) The term "Secretary" means the Secretary to the Board; and

(b) The term "presiding officer" means the Board, one or more members thereof, or a duly designated hearing examiner or other duly designated hearing officer, and as used in this part the term shall be construed to refer to whichever of these shall preside at a hearing hereunder, except as otherwise specified in the text.

(c) The term "party" means a person or agency named or admitted as a party, or any person or agency who has filed a written request and is entitled as of right to be admitted as a party; but a person or agency may be admitted for a limited purpose.

§ 263.3 Appearance and practice before the Board.

(a) *Power of attorney and notice of appearance.* Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia, may represent others before the Board upon filing with the Secretary a written declaration that he is currently qualified as provided in this paragraph, and is authorized to represent the particular party on whose behalf he acts. Any other person desiring to appear before or transact business with the Board in a representative capacity may be required to file with the Secretary a power of attorney showing his authority to act in such capacity, and he may be required to show to the satisfaction of the Board that he has the requisite qualifications. Attorneys and other representatives of parties to proceedings shall file a written notice of appearance with the Secretary or with the presiding officer.

(b) *Summary suspension.* Contemptuous conduct at any hearing to which the rules of this part are applicable, by any person, shall be ground for exclusion from any such hearing or for such further period as the Board may prescribe.

§ 263.4 Notice of hearing.

Whenever a hearing is ordered by the Board, notice of such hearing (together with a copy of any document incorporated therein by reference) shall be given by the Secretary or other designated officer acting for the Board to the party or parties to the proceeding and to the appropriate financial institution supervisory authority where required by law. The Board may give whatever additional notice is deemed appropriate in any given hearing. Such notice shall state the time, place, and nature of the hearing, the legal authority and jurisdiction under which the hearing is to be held, and, if a presiding officer has been designated to preside at the hearing, the name and address of the presiding officer, and shall also contain, or incorporate by appropriate reference, a statement of the matters of fact or law constituting the grounds for the hearing. Unless otherwise provided by law or ordered by the Board, notice of any hearing shall be given not less than 20 days prior to the date set for hearing and shall be given general circulation by publication in the FEDERAL REGISTER and, where practical, by release to the public press. The Board may amend a notice of hearing in any manner and to the extent consistent with provisions of applicable law.

§ 263.5 Answer.

(a) *When required.* In any notice of hearing issued by the Board, the Board may direct the party afforded the hearing to file an answer to the allegations contained in the notice or referenced documents, and any party to any proceeding may file an answer. Except where a different period is provided by law or specified by the Board, a party directed to file an answer, or a party who elects to file an answer, shall file the same with the Secretary within 20 days after service upon him of the notice of hearing.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the notice of hearing. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) *Admitted allegations.* If a party filing an answer under this section elects not to contest the allegations of fact set forth in the notice of hearing or referenced documents, his answer shall consist of a statement that he admits all of the allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged, and together with the notice and any referenced documents will provide a record basis on which the presiding officer shall file with the Secretary his recommended decision and his findings of fact and conclusions of law. Such admission shall not constitute a waiver of the right of such party to file with the Secretary exceptions to such recommended decision, findings and conclusions.

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the notice of hearing and shall constitute authorization for the presiding officer, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Secretary a recommended decision containing such findings and appropriate conclusions. The Board or the presiding officer may, for cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

(e) *Opportunity for informal settlement.* Any interested party may at any time submit to the Secretary, for consideration by the Board, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No offer or proposal shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this paragraph shall not preclude settlement of any proceeding through the regular adjudicatory process by the filing of an answer as provided in paragraph (c) of this section, or by the submission of the case to the presiding officer on a stipulation of facts and an agreed order.

§ 263.6 Conduct of hearings.

(a) *Designation of presiding officer.* When evidence is to be taken in a hearing, either the Board or, when duly designated for that purpose, one or more of its members, a hearing examiner, or other lawfully appointed hearing officer may preside at the hearing. All such hearings, unless otherwise provided in the notice of hearing, shall be conducted as hereinafter provided. Except as authorized by law, the presiding officer shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate, nor shall he be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Board engaged in the performance of investigative or prosecutive functions. A designated presiding officer may at any time withdraw if he deems himself disqualified; and, upon filing of a timely and sufficient affidavit of personal bias or disqualification of such presiding officer, the Board will determine the matter as a part of the record and decision in the case.

(b) *Authority of presiding officer.* All hearings governed by this part shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. The presiding officer shall have complete charge of the hearing, and he shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. Such officer shall have all powers necessary to that end, including but not limited to the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas and subpenas duces tecum, as authorized by law, and

to revoke, quash, or modify any such subpena;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take or cause depositions to be taken;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of issues or for any other proper purpose; and

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding, except that a presiding officer other than the Board shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings.

Without limitation on the foregoing provisions of this paragraph, the presiding officer shall, subject to the provisions of this part, have all the authority set forth in section 556(c) of title 5 of the United States Code.

(c) *Prehearing conference.* The presiding officer may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time and place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact and of the contents and authenticity of documents;

(3) Matters of which official notice will be taken; and

(4) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

Such conferences, in the discretion of the presiding officer, need not be recorded, but the presiding officer shall enter in the record an order which recites the results of the conference. Such order, a copy of which shall be served on each party and Board counsel, shall include the officer's rulings upon matters considered at the conference, together with appropriate directions, if any, to the parties; and such order shall control the subsequent course of the proceedings, unless modified at the hearing for good cause found, and by appropriate order of the presiding officer.

(d) *Attendance at hearings; representation of the Board.* Unless otherwise specifically provided by statute or by rule of the Board, a hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, representatives of the Board, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That on written request by a party or representatives of the Board, or on the Board's own motion, the Board, in its discretion and to the extent permitted by law, may permit other persons to attend or may order the hearing to be public. In connection with any such hearing or proceeding related thereto, the Board may designate as Board counsel an attorney from its staff or other attorney who shall represent the Board. For the purposes of the rules of this part, any attorney so designated is referred to as "Board counsel". In case of adjudication other than initial licensing proceedings, neither Board counsel nor any officer or employee of the Board who has engaged in the performance of any investigative or prosecutive function in the case, or a factually related case, may participate in or advise as to the presiding officer's recommended decision or the Board's decision, except as witness or counsel in such hearing or related proceeding. Proceedings with respect to applications for initial licenses shall include, but not be limited to, applications for Board approval under section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) and such proceedings as may be ordered by the Board with respect to applications under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)). In such initial licensing proceedings, Board counsel shall represent the Board in a nonadversary capacity for the purpose of developing for the record information relevant to the issues to be determined by the presiding officer and the Board.

(e) *Transcript of testimony.* Hearings shall be recorded and transcripts will be made available at prescribed rates to any party and, in the event the hearing is public, to any other interested persons. The presiding officer shall have authority to order the record corrected, either upon motion to correct, upon stipulation of counsel, or upon the presiding officer's initiative. The transcript of testimony taken at any hearing, duly certified by the reporter, together with all exhibits, papers, and requests, briefs, or memoranda of law filed in connection with the hearing shall be filed in duplicate with the Secretary by the presiding officer. The Secretary shall promptly serve notice upon each of the parties of such filing and transmittal. Following the service of notice of filing of the record, the record shall be returned to the presiding officer.

(f) *Continuances and changes or extensions of time and changes of place of hearing.* Except as otherwise expressly provided by law, the Board may by the notice of hearing or subsequent order provide time limits different from those specified in this part, and may, on its own initiative or for good cause shown, change or extend any time limit prescribed by the rules of this part or the notice of hearing, or change the time or place for beginning any hearing hereunder. The presiding officer may, for good cause shown, and as permitted by law, change the time or place for beginning such hearing and may continue or adjourn a hearing from time to time or from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a hearing may be granted by the presiding officer for good cause shown.

(g) *Call for further evidence, oral argument, briefs, reopening of hearing.* The presiding officer may call for the production of further evidence upon any issue, may permit oral argument, the submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification of his recommended decision to the Secretary. The Board may reopen the record at any time permitted by law.

§ 263.7 Subpenas.

(a) *Issuance.* Where authorized by law, subpenas for the attendance of witnesses or for the production of documentary evidence, unless directed by the Board upon its own motion, will issue only upon application in writing to the presiding officer or, in the event he is unavailable, to the Board, except that during sessions of a hearing, such application may be made orally on the record before the presiding officer. The party seeking the subpena may be required, as a condition precedent to the issuance of the subpena, to show the general relevance and reasonable scope of the testimony or other evidence sought. In the event the presiding officer or the Board, after consideration of all the circumstances, determines that the subpena or any of its terms is unreasonable, oppressive, excessive in scope, unduly burdensome, or otherwise improper, he or it may refuse to issue the subpena, or issue it only upon such conditions as fairness requires.

(b) *Motion to quash.* Any person to whom a subpena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpena, with notice to the party requesting the subpena, apply to the presiding officer or, if he is unavailable, to the Board, to revoke, quash, or modify such subpena, accompanying such application with a statement of the reasons therefor.

(c) *Service of subpena.* In making service of a subpena, a copy thereof shall be exhibited to and left with the person named therein. If service is made by a U.S. marshal or his deputy, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service was made, and return such affidavit on or with the original subpena. In case of failure to make service, the reasons for the failure shall be stated on the original subpena. The original subpena, bearing or accompanied by the required return, affidavit or statement, shall be returned without delay to the Secretary or, if so directed on the subpena, to the presiding officer before whom the person named in the subpena is required to appear.

(d) *Attendance of witnesses.* The attendance of witnesses and the production of documents pursuant to a subpena, issued in connection with a hearing provided for in Subparts B and C of this part, may be required from any place in any State or in any territory at any designated place where the hearing is

being conducted. Witnesses subpenaed in any proceeding under this part shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States, except that when a subpena is issued upon the Board's own motion or at the request of Board counsel, fees and mileage need not be tendered at the time of service of the subpena.

§ 263.8 Depositions.

(a) *When permissible.* The Board or presiding officer, upon its or his own motion or upon appropriate application by a party to the proceeding or Board counsel, may, by subpena or subpena duces tecum, order evidence to be taken by deposition at any stage of any proceeding in which such depositions are authorized. Depositions may be taken before the presiding officer or before any person designated in the subpena and having the power to administer oaths.

(b) *Notice and application.* Unless notice is waived, no deposition shall be taken except after at least 5 days' written notice to Board counsel and the parties to the proceeding or their attorneys of record and to the Board. In such notice and application to take evidence by deposition, the party desiring to take the deposition shall state the name and post office address of the witness, the subject matter concerning which the witness is expected to testify, its relevance, the time, place, and the name and post office address of the person before whom it is desired the deposition be taken, and the reason why such deposition should be taken. Thereupon, the presiding officer or the Board may, in his or its discretion, by subpena or subpena duces tecum order the oral deposition to be taken. Such subpena will name the witness whose deposition is to be taken and specify the time when, the place where, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is ordered to be taken, may or may not be the same as those named in the notice and application. Notice of the issuance of such subpena shall be served upon each of the parties a reasonable time in advance of the time fixed for the taking of the deposition, but in no event less than 5 days in advance of such time.

(c) *Procedure on deposition; objections.* Each witness testifying upon oral deposition shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objection relied upon; but the person recording the deposition shall not have power to rule upon questions of competency or materiality or relevancy of evidence. Failure to object to questions or evidence shall not be deemed a waiver unless the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by the officer before whom the deposition is to be taken, or under his direction. The deposition shall be subscribed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign, and certified as a true and complete transcript thereof by the person recording the testimony. If the deposition is not subscribed to by the witness, the person recording the testimony shall state on the record this fact and the reason therefor. The officer before whom the deposition is taken shall promptly send the original and two copies of such deposition, together with the original and two copies of all exhibits, by registered mail to the Secretary unless otherwise directed in the order authorizing the taking of the deposition or in the notice of the issuance thereof. Interested parties shall make their own arrangements with the person recording the testimony for copies of the testimony and the exhibits.

(d) *Introduction as evidence.* Subject to appropriate rulings by the presiding officer on such objections and answers as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying, the deposition or any part thereof may be received in evidence by the presiding officer. Only such part or the whole of a deposition as is received in evidence at a hearing shall constitute a part of the record in such proceeding upon which a decision may be based.

(e) *Payment of fees.* Deponents whose oral depositions are taken and the reporter taking the same shall be entitled to the same fees as are paid for like services in the courts of the United States, which fees shall be paid by the person upon whose application the deposition is taken.

§ 263.9 Rules of evidence.

(a) *Evidence.* Every party shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument except as ordered by the presiding officer. Rulings on such objections and on any other matters shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection, but no exception to a ruling on an objection need be noted before the presiding officer in order to urge the same in the consideration of the matter by the Board.

(c) *Stipulations.* Independently of the orders or rulings issued as provided by § 263.6(c), the parties and Board counsel may stipulate as to any relevant matters of fact or the authenticity of any relevant documents. Such stipulations may be received in evidence at a hearing, and when so received shall be binding on the parties and Board counsel with respect to the matters therein stipulated.

(d) *Official notice.* All matters officially noticed by the presiding officer shall appear on the record.

§ 263.10 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this part shall be made by motion. After a presiding officer has been designated to preside at a hearing and before the filing with the Secretary of his recommended decision, pursuant to § 263.11, such applications or requests shall be addressed to and filed with him. At all other times motions shall be addressed to the Board and filed with the Secretary. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the presiding officer directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor. When a motion is addressed to the presiding officer, an original and two copies of such motion shall be filed.

(b) *Objections.* Within 5 days after service of any written motion, or within such other period of time as may be fixed by the presiding officer or the Board, any party may file a written answer or objection, together with two copies thereof, to such motion. The moving party shall have no right to reply, except as permitted by the presiding officer or the Board. The presiding officer or the Board, in his or its discretion, may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the presiding officer of the Board. Written memoranda or briefs may be filed with motions or answers or objections, stating the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the presiding officer shall rule upon all motions properly addressed to him and upon such other motions as the Board may direct, except that if the presiding officer finds that a prompt decision by the Board on a motion is essential to the proper conduct of the proceeding, he may refer such motion to the Board for decision. The Board shall rule upon all motions properly submitted to it for decision.

(e) *Appeal from rulings on motions.* All motions and answers or objections and rulings thereon shall become part of the record. The rulings of a presiding officer on any motion may not be appealed to the Board prior to its consideration of the presiding officer's recommended decision, findings and conclusions except by special permission of the Board, but shall be considered by the Board in reviewing the record. Requests to the Board for special permission to appeal from such rulings of the presiding officer shall be filed promptly, in writing, and shall briefly state the grounds relied on.

(f) *Continuation of hearing.* Unless otherwise ordered by the presiding officer or the Board, the hearing shall continue pending the determination of any motion by the Board.

(g) *Closing of hearing.* The record of the hearing shall be closed by announcement to that effect by the presiding officer when the taking of evidence has been concluded. In the discretion of the presiding officer, the record may be closed as of a future date in order to permit the admission into the record, under circumstances determined by the presiding officer, of exhibits to be prepared.

§ 263.11 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions and supporting briefs.* Any party or Board counsel who may wish to file with the presiding officer proposed findings and conclusions of law shall file the same, with two copies thereof, within 15 days after the receipt of written notice from the Secretary advising that the transcript has been filed with the Secretary. Proposed findings and conclusions shall be supported by citation to any relevant authorities and by page references to such portions of the record as may be relevant and, in addition, may be accompanied by a brief in support thereof. In initial licensing proceedings, in lieu of proposed findings and conclusions of law, and within such time as the presiding officer may allow, Board counsel may submit comments with respect to the evidence of record and/or proposed findings and conclusions of law submitted by any party. All such proposed findings and conclusions of law, briefs, and other submissions shall become part of the record.

(b) *Recommended decision and filing of record.* In proceedings in which the Board or one or more of its members has not presided at the reception of evidence, the presiding officer shall, within 45 days after the expiration of the time allowed for the filing of proposed findings and conclusions, or within such other time as the Board for good cause shall determine, file with the Secretary and certify to the Board for decision the entire record of the hearing, which shall include his recommended decision and findings of fact and conclusions of law, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing the Secretary shall serve upon each party to the proceeding a copy of the presiding officer's recommended decision, and findings and conclusions.

(c) *Board as presiding officer.* In proceedings in which the Board or one or more of its members has presided at the reception of evidence, the presiding officer's recommended decision, findings of fact, and conclusions of law will be omitted. In such proceedings the proposed findings and conclusions of law, briefs and other submissions permitted under paragraph (a) of this section may be filed with the Secretary for consideration by the Board.

§ 263.12 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision and findings and conclusions of the presiding officer, or such further time as the Board for good cause shall determine, any party or Board counsel may file with the Secretary exceptions thereto or to any part thereof, or to the failure of the presiding officer to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other ruling of the presiding officer, supported by such brief as may appear advisable. In any proceeding where the Board is the presiding officer, the provisions of this section will not be applicable.

(b) *Waiver.* Failure to file exceptions to the recommended decision of the presiding officer or any portion thereof, or to his failure to adopt a proposed finding or conclusion, or the admission or exclusion of evidence or other ruling of the presiding officer, within the time prescribed in paragraph (a) of this section, shall be deemed to be a waiver of objection.

§ 263.13 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each proposed finding, conclusion, or exception which is briefed shall be supported by a concise supporting statement or by citation of such statutes, decisions, or other authorities and by page reference to such portions of the record or recommended decision of the presiding officer as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Answering briefs.* Answering briefs may be filed within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Further briefs may be filed with the presiding officer only with his permission or that of the Board; and may be filed with the Board only with its permission.

§ 263.14 Oral argument before the Board.

Upon its own initiative, or upon written request by any party or Board counsel made within the time prescribed for the filing of exceptions, a brief in support thereof, or a responsive brief, the Board, in its discretion, may order the matter to be set down for oral argument before the Board or one or more members thereof. Oral argument before the Board shall be recorded unless otherwise ordered by the Board.

§ 263.15 Decision of Board.

Appropriate members of the staff, who are not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Board in the consideration of the case and in the preparation of appropriate documents for its disposition. Copies of the decision and order of the Board shall be served by the Secretary upon the parties to the proceedings and furnished to such other persons as the Board may direct or the law may require.

§ 263.16 Filing papers.

Recommended decisions, exceptions, briefs, and other papers required to be filed with the Board or Secretary in any proceedings shall be filed with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Any such papers may be sent to the Secretary by mail or express but must be received in the office of the Board in Washington, D.C., within the time limit for such filing.

§ 263.17 Service.

(a) *By the Board.* All documents or papers required to be served by the Board shall be served by the Secretary unless some other person shall be designated for such purpose by the Board. Such service, except for service on Board counsel, shall be made by personal service or by registered mail on the attorney or representative of record of the party, addressed to the last known address as shown on the records of the Board: *Provided,* That if there is no attorney or representative of record, such service shall be made upon such party at the last known address as shown on the records of the Board. Such service may also be made in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide.

(b) *By the parties.* All documents or papers filed in a proceeding under this part shall be served by the party filing the same upon the attorneys or representatives of record of all other parties to the proceeding and upon Board counsel, or, if any party is not so represented, then upon such party. Such service may be made by personal service or by registered, certified, or regular first-class mail addressed to the last known address of such parties, or their attorneys or representatives of record. All such documents or papers, when tendered to the Board or the presiding officer for filing, shall contain a certificate of service.

§ 263.18 Copies.

Unless otherwise specifically provided in the notice of hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Secretary under this part shall be furnished to the Secretary, except that an original and only one copy of the transcript of testimony and exhibits shall be filed with the Secretary by the presiding officer. All documents and papers filed with the presiding officer shall be filed in duplicate.

§ 263.19 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed is to be included, unless it is a Saturday, Sunday,

or legal holiday in the District of Columbia, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation unless the time within which the act is to be performed is 10 days or less, in which event Saturdays, Sundays, and legal holidays shall not be included. Half holidays shall be considered as other days and not as holidays.

(b) *Service by mail.* Whenever any party has the right or is required to do some act within a period of time prescribed in this part, after the service upon him of any document or other paper of any kind, and such service is made by mail, 3 days shall be added to the prescribed period from the date when the matter served is deposited in the U.S. mail.

§ 263.20 Documents in proceedings confidential.

Unless and until otherwise ordered by the Board or unless otherwise provided by statute or by Board rule, the notice of hearing, the transcript, proposed findings or conclusions, the recommended decision of the presiding officer, exceptions thereto, the findings and conclusions of the Board and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Board and its staff, the presiding officer, the parties and, where appropriate, other supervising authorities.

§ 263.21 Formal requirements as to papers filed.

(a) *Form.* All papers filed under this subpart shall be printed, typewritten, or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* All papers shall be dated and signed by the party filing the same, or his duly authorized agent or attorney, or Board counsel and, except in the case of Board counsel, must show the address of the signer.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Board and of the filing party, the title of the proceeding, and the subject of the particular paper.

Subpart B—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

§ 263.22 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board with a view to ordering a State member bank (other than a District bank) to cease and desist from practices and violations described in section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) and enumerated in § 263.23. The procedures for issuing such orders prescribed in section 8 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part. In connection with any proceeding under this subpart, the Board will provide the appropriate State supervisory authority with timely notice of intent to institute such a proceeding and the grounds therefor. Unless within such time as the Board deems appropriate in the circumstances of the case (which time will be specified in the notice) satisfactory corrective action is effectuated by action of the State supervisory authority, the Board will proceed as provided herein. Copies of any notice or order served upon any State bank in connection with such proceedings will also be sent to the appropriate State supervisory authority.

§ 263.23 Grounds for cease-and-desist orders.

If, in the opinion of the Board, any State member bank (other than a District bank) is engaging or has engaged, or the Board has reasonable cause to believe that the bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the Board has reasonable cause to believe that the bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Board in connection with the granting of an application or other request by the bank, or any written agreement entered into with the Board, the Board may issue and serve upon the bank a notice of charges in respect thereof.

§ 263.24 Notice of charges and hearing.

The notice referred to in § 263.23 will contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and fix a time and place at which a hearing will be held to determine whether an order to cease and desist thereform should issue against the bank. The hearing will be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Board at the request of the bank. Unless the bank appears at the hearing by a duly authorized representative, it will be deemed to have consented to the issuance of the cease-and-desist order.

§ 263.25 Issuance of order.

In the event of such consent, or if upon the record made at any such hearing, the Board finds that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank and its directors, officers, employees, and agents to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

§ 263.26 Effective date.

A cease-and-desist order will become effective at the expiration of 30 days after the service of such order upon the bank concerned (except in the case of a cease-and-desist order issued upon consent, which will become effective at the time specified therein), and will remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

§ 263.27 Temporary cease-and-desist orders.

Whenever the Board determines that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges referred to in § 263.23, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or of earnings of the bank, or is likely to otherwise seriously prejudice the interests of its depositors, the Board may issue a temporary order requiring the bank to cease and desist from any such violation or practice.

§ 263.28 Effective date of temporary order.

Such order will become effective upon service upon the bank, and, unless set aside, limited, or suspended by a court in proceedings authorized under section 8(h)(2) of the Federal Deposit Insurance Act, will remain effective and enforceable pending the completion of the administrative proceedings held pursuant to such notice and until such time as the Board dismisses the charges specified in such notice, or if a cease-and-desist order is issued against the bank pursuant to § 263.25, until the effective date of any such order.

Subpart C—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

§ 263.29 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board to remove or suspend a director, officer, or any other person participating in the conduct of the affairs of a State member bank (other than a District bank) or of a national banking association or a District bank where the facts are certified to the Board pursuant to 12 U.S.C. 1818(e)(2), 12 U.S.C. 1818(e)(4), or 12 U.S.C. 1818(e)(6), and/or prohibit such director, officer, or other person from further participation in the conduct of the affairs of such a bank, upon the grounds set forth in section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) and enumerated in this subpart. The procedures for issuing such orders prescribed in section 8 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part. In connection with any proceeding under this subpart relating to a director, officer, or other person participating in the affairs of a State member bank (other than a District bank), the Board will provide the appropriate State supervisory authority with timely notice of intent to institute such a proceeding and the grounds therefor. Unless within such time as the Board deems appropriate in the circumstances of the case

(which time will be specified in the notice) satisfactory corrective action is effectuated by action of the State supervisory authority, the Board will proceed as provided herein. Copies of any notice or order served upon any State bank in connection with such proceedings will also be sent to the appropriate State supervisory authority. In connection with any proceeding under this subpart relating to a director, officer, or other person participating in the affairs of a national banking association or a District bank where the facts are certified to the Board pursuant to 12 U.S.C. 1818(e)(2), 12 U.S.C. 1818(e)(4), or 12 U.S.C. 1818(e)(6), the Comptroller of the Currency shall be entitled to sit as a member of the Board and to participate in its deliberations on any such case and to vote thereon in all respects as a member of the Board.

§ 263.30 Grounds for removal order.

(a) Whenever, in the opinion of the Board, any director or officer of a State member bank (other than a District bank) or of a national banking association or a District bank where the facts are certified to the Board pursuant to 12 U.S.C. 1818(e)(2) has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, the Board may serve upon such director or officer a written notice of its intention to remove him from office.

(b) Whenever, in the opinion of the Board, any director or officer of a State member bank (other than a District bank) or of a national banking association or a District bank where the facts are certified to the Board pursuant to 12 U.S.C. 1818(c)(4), by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director or officer, and whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of such bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such bank, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

§ 263.31 Grounds for suspension order.

In respect to any director or officer of a State member bank (other than a District bank) or any other person referred to in paragraphs (a) or (b) of § 263.30 and in respect to any such director or officer of, or other person participating in the conduct of the affairs of, a national banking association or a District bank where the facts are certified to the Board pursuant to 12 U.S.C. 1818(e)(6), the Board may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank.

§ 263.32 Effective date of suspension order.

Any suspension and/or prohibition which is subject to the notice prescribed in § 263.31 shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by section 8(f) of the Federal Deposit Insurance Act, shall remain in effect pending the completion of the administrative proceedings held pursuant to the notice served under paragraphs (a) or (b) of § 263.30 and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice will also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

§ 263.33 Notice of intention to remove and hearing.

A notice of intention to remove a director, officer, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured bank will contain a statement of the facts constituting grounds therefor and will fix a time and place at which a hearing will be held thereon. Such hearing will be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Board at the request of (a) such director or officer or other person, and for good cause shown, or (b) the Attorney General of the United States. Unless such director, officer, or other person appears at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition.

§ 263.34 Issuance of removal order and effective date.

In the event of such consent, or if upon the record made at any such hearing the Board finds that any of the grounds specified in such notice has been established, the Board may issue such orders of suspension or removal from office, and/or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. Any such order shall become effective at the expiration of 30 days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

§ 263.35 Suspension and removal where felony charged.

(a) Whenever any director or officer of an insured State member bank (other than a District bank), or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a U.S. attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Board may, by written notice served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice will also be served upon the bank. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until such suspension and/or prohibition is terminated by the Board.

(b) In the event that a judgment of conviction with respect to such offense is entered against such director, officer, or other person, at such time as such judgment is not subject to further appellate review, the Board may issue and serve upon such director, officer, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the Board. A copy of such order will also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge will not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office and/or to prohibit further participation in bank affairs, pursuant to other provisions of this subpart.

Dated at Washington, D.C., the 27th day of April 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 67-4893; Filed, May 1, 1967; 8:50 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Antidumping—ATS 643.3-1]

ALUMINUM SHEATHED COAXIAL CABLE FROM CANADA

Notice of Tentative Determination

APRIL 25, 1967.

Information was received on August 1, 1966, that aluminum sheathed coaxial cable, also known as insulated electrical conductor cable, imported from Canada, manufactured by Canada Wire & Cable Co., Ltd., Toronto, Canada, was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). This information was the subject of an "Antidumping Proceeding Notice" which was published pursuant to § 14.6(d), Customs Regulations, in the FEDERAL REGISTER of August 27, 1966, on page 11401 thereof.

The merchandise under consideration is commonly used to conduct television signals from antennas to receivers.

I hereby make a tentative determination that aluminum sheathed coaxial cable, also known as insulated electrical conductor cable, imported from Canada, manufactured by Canada Wire & Cable Co. Ltd., Toronto, Canada, is not being, nor likely to be, sold at less than fair value within the meaning of section 201 (a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement Of Reasons On Which This Tentative Determination Is Based. Based on available information, it was determined that for fair value purposes the appropriate bases for comparison are purchase price and home market price.

The purchase price was determined to be the export price to the U.S. wholesale distributors, less included charges for U.S. duty, brokerage, inland freight in some instances, and a cash discount.

The home market price was determined to be the price, exclusive of the Canadian Federal sales tax, at which the merchandise is sold in the home market, ex-factory, Toronto, to the same class of purchaser as the U.S. purchasers, namely, the wholesale distributor, less the same cash discount applicable to export sales.

The purchase price of each type of cable was in no case lower than the home market price for the same type.

Such written submissions as interested parties may care to make with respect to the contemplated action will be given appropriate consideration by the Secretary of the Treasury.

If any person believes that any information obtained by the Bureau of Customs in the course of this antidumping proceeding is inaccurate or that for any other reason the tentative determination is in error, he may request in writing that the Secretary of the Treasury afford him an opportunity to present his views in this regard.

Any such written submissions or requests should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20226, in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 14.8(a) of the Customs Regulations (19 CFR 14.8(a)).

[SEAL] TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-4870; Filed, May 1, 1967; 8:49 a.m.]

DEPARTMENT OF JUSTICE

Office of the Attorney General

SUNFLOWER COUNTY, MISS.

Certification of the Attorney General Pursuant to Section 6 of the Voting Rights Act of 1965 (Public Law 89-110)

In accordance with section 6 of the Voting Rights Act of 1965, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the 15th Amendment to the Constitution of the United States in Sunflower County, Miss. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the FEDERAL REGISTER on August 7, 1965 (30 F.R. 9897).

RAMSEY CLARK,
Attorney General of the United States.

APRIL 29, 1967.

[F.R. Doc. 67-4953; Filed, May 1, 1967; 9:34 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[New Mexico 1218]

NEW MEXICO

Notice of Proposed Classification

APRIL 24, 1967.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), notice is hereby given of a proposal to classify the lands described below for disposal through exchange, under the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315g), as amended, for lands within the exterior boundaries of Cibola National Forest, N. Mex.

The District Advisory Board, local governmental officials and other interested parties have been notified of this application. Information derived from discussions and other sources indicate that these lands meet the criterion of 2410.1-3(c)(4), which authorizes classification of lands "for exchange under appropriate authority where they are found to be chiefly valuable for public purposes because they have special values, arising from the interest of exchange proponents, for exchange for other lands which we need for the support of a Federal program." Information concerning the lands, including the record of public discussions, is available for inspection and study in the Land Office, Bureau of Land Management, U.S. Post Office and Federal Building, Santa Fe, N. Mex. 87501; and Albuquerque District Office, 1304 Fourth Street NW., Albuquerque, N. Mex. 87101.

For a period of 60 days from the date of this publication, interested parties may submit comments to the District Manager of the Albuquerque District Office.

The lands affected by this proposal are located in San Juan and McKinley Counties, New Mexico and are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 20 N., R. 6 W.,
  Sec. 23, W½, and SE¼;
  Sec. 27, SE¼.
T. 17 N., R. 8 W.,
  Sec. 32, SW¼.
T. 21 N., R. 8 W.,
  Sec. 5, lots 2, 3, 4, SW¼NE¼, S½NW¼, N½SW¼, and SW¼SW¼;
  Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
  Sec. 7, lots 1, 2, 3, 4, W½E½, and E½W½;
  Sec. 18, lots 1, 2, 3, 4, W½E½, and E½W½.
T. 20 N., R. 9 W.,
  Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
  Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
  Sec. 8, all;
  Sec. 18, NE¼.
T. 17 N., R. 11 W.,
  Sec. 32, N½NW¼.
T. 25 N., R. 11 W.,
  Sec. 5, SW¼;
  Sec. 6, lots 1, 2, S½NE¼, and SE¼.
T. 24 N., R. 12 W.,
  Sec. 3, lots 8, 9, 16, and 17;
  Sec. 4, lots 5 to 20, inclusive;
  Sec. 5, lots 5, 6, 11, 12, 13, 14, 19, and 20;
  Sec. 8, lots 1, 2, and lots 7 to 16, inclusive;
  Sec. 9, lots 3, 4, 5, 6, 12, and 13;
  Sec. 17, lots 1 to 16, inclusive;
  Sec. 18, lots 5, 6, and lots 11 to 20 inclusive;
  Sec. 19, lots 5 to 19, inclusive;
  Sec. 20, lots 2 to 6, inclusive;
  Sec. 30, lots 6 to 11, inclusive, and lots 14 to 19, inclusive;
  Sec. 31, lots 6 to 11, inclusive, and lots 14 to 19, inclusive.

T. 25 N., R. 12 W.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and SE¼;
Sec. 3, lots 1, 2, 3, 4, S½N½, and SE¼;
Sec. 4, lots 1, 2, and S½NE¼;
Sec. 5, lots 3, 4, and S½NW¼;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, E½, and E½NW¼;
Sec. 17;
Sec. 19, E½.
T. 24 N., R. 13 W.,
Sec. 13, S½;
Sec. 14, S½;
Secs. 23, 24, 25, 26, 35, and 36.
T. 27 N., R. 13 W.,
Secs. 11, 13, and 14.
T. 14 N., R. 17 W.,
Sec. 16, W½, and SE¼;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 20, NW¼.
T. 13 N., R. 18 W.,
Sec. 4, lots 1, 2, 3, 4, S½N½, and SE¼;
Sec. 28, W½.

The areas described aggregate 22,217.76 acres.

W. J. ANDERSON,
State Director.

[F.R. Doc. 67-4832; Filed, May 1, 1967; 8:46 a.m.]

Office of the Secretary

MAXWELL S. McKNIGHT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) Delete "Ford Motor Co."
(3) None.
(4) None.

This statement is made as of April 27, 1967.

Dated: April 17, 1967.

MAXWELL S. McKNIGHT.

[F.R. Doc. 67-4861; Filed, May 1, 1967; 8:48 a.m.]

GEORGE E. MILLICAN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of April 7, 1967.

Dated: April 19, 1967.

G. EVERETT MILLICAN.

[F.R. Doc. 67-4862; Filed, May 1, 1967; 8:48 a.m.]

JAMES S. BROADDUS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of April 7, 1967.

Dated: April 7, 1967.

JAMES S. BROADDUS.

[F.R. Doc. 67-4863; Filed, May 1, 1967; 8:48 a.m.]

GEORGE E. HRUBESKY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) Vice President—Power Generation and Engineering.
(2) No change.
(3) None.
(4) None.

This statement is made as of April 24, 1967.

Dated: April 24, 1967.

GEORGE E. HRUBESKY.

[F.R. Doc. 67-4864; Filed, May 1, 1967; 8:48 a.m.]

KENNETH I. SEWELL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 10, 1967.

Dated: April 10, 1967.

K. I. SEWELL.

[F.R. Doc. 67-4865; Filed, May 1, 1967; 8:48 a.m.]

ELWYN FRANK TIMME

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 7, 1967.

Dated: April 7, 1967.

E. F. TIMME.

[F.R. Doc. 67-4866; Filed, May 1, 1967; 8:48 a.m.]

EDWARD W. WELCH

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

There have been no changes made in the last 6 months, except converted some "K" bonds to "H", no deletions as to amounts.

This statement is made as of April 11, 1967.

Dated: April 11, 1967.

EDWARD W. WELCH.

[F.R. Doc. 67-4867; Filed, May 1, 1967; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[P. & S. Docket No. 456]

MARKET AGENCIES AT UNION STOCK YARDS, OGDEN, UTAH

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on December 3, 1965 (24 A.D. 1578), continuing in effect to and including December 19, 1967, an order issued on November 24, 1961 (20 A.D. 1117), which, as modified by orders issued on March 10, 1964 (23 A.D. 310), August 27, 1964 (23 A.D. 958), and February 17, 1967 (26 A.D. 137), authorizes the respondents, Market Agencies at the Union Stock Yards, Ogden, Utah, to assess the current temporary schedule of rates and charges.

By petitions filed on April 5, 1967, the respondents requested authority to modify, as soon as possible, the current temporary schedule of rates and charges as indicated below:

SECTION II—SELLING COMMISSIONS

	Rate per head	
	Proposed	Present
A. Cattle	$1.75	$1.45
B. Calves	1.15	.95
C. Dairy cows (sold for milking purposes)	5.00	(1)
D. Dairy bulls (sold for breeding purposes)	5.00	(1)
E. Registered cows	5.00	(1)
F. Registered bulls	5.00	(1)
G. Registered or dairy yearlings	2.50	(1)
H. Hogs (present rates—contained in par. C)	.65	
Consignments of one head only		.65
Consignments of more than one head:		
First 10 head in each consignment		.50
Next 15 head in each consignment		.45
Each head over 25 in each consignment		.40
I. Sheep (presently par. D):		
Consignments of 179 head or less:		
First 20 head in each consignment	.60	.55
Next 30 head in each consignment	.44	.39
Next 129 head in each consignment	.22	.17
Consignments of 180 head and over a flat rate of 30 cents (presently 25 cents) per head will be assessed on the entire consignment.		
J. Horses and mules (presently par. E—no other change).		
K. Sale condition (presently par. G—no other change).		

[1] New.

SECTION III—BUYING CHARGES

PRESENT

The rates for buying livestock shall be the same as selling like species except as follows:

When livestock received for sale on a commission basis is used to fill, in whole or part of an order received from a buyer, the agency will be presumed to be acting solely as an agent of the consignor and shall collect the regular selling charges from the consignor. Collection shall also be made from the buyer to cover expenses incurred of an amount equal to one-half the regular buying charge on cattle, calves, and hogs at a flat rate of twelve and one-half (12½) cents per head on sheep.

PROPOSED

The rates for buying livestock shall be the same as selling like species except as follows:

When livestock received for sale on a commission basis is used to fill, in whole or part of an order received from the buyer, the agency will be presumed to be acting solely as an agent of the consignor and shall collect the regular selling charges from the consignor. Collection shall also be made from the buyer to cover expenses incurred in the amount equal to one-half of the regular buying charge on cattle, calves, hogs, and sheep.

SECTION V—SPECIAL SALES

PRESENT

When livestock are sold at Special Sales at a time other than that of the regular Auction, the following selling charges will be assessed.

	Per head
Dairy cows (sold for milking purpose)	$5.00
Dairy bulls (for breeding purpose)	5.00
Registered cows	5.00
Registered bulls	5.00
Registered or dairy yearlings	2.50
Horses: [1]	
(a) Sold by weight or by head (other than special sales for breed associations)	3.80
(b) Horses sold by weight or by head with registration papers or which are eligible for registration (other than special sales for breed associations)	8.80
(c) Special horse sales held for breed associations which require cataloging, special advertising and other special arrangements will be charged for at rates mutually agreed upon with such breed associations prior to the sale.	

PROPOSED

When livestock are sold at Special Sales at a time other than that of the regular Auction, charges for selling such livestock will be at rates mutually agreed upon by consignor and the market agency.

	Per head
Horses: [1]	
(a) Sold by weight or by head (other than special sales for breed associations)	$3.80
(b) Horses sold by weight or by head with registration papers or which are eligible for registration (other than special sales for breed associations)	8.80
(c) Special horse sales held for breed associations which require cataloging, special advertising and other special arrangements will be charged for at rates mutually agreed upon with such breed associations prior to the sale.	

[1] Applies only to the Ogden Sales Company.

The modifications, if authorized, will produce additional revenue for the respondents and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petitions and their contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, within 10 days after the publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of April, 1967.

GLENN G. BIERMAN,
Acting Director, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 67-4847; Filed, May 1, 1967; 8:47 a.m.]

[Marketing Agreement No. 146]

PEANUTS

1967 Crop; Quality and Indemnification

Pursuant to the provisions of sections 31, 32, 34, and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 F.R. 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information it is hereby found that the appended "Incoming Quality Regulation—1967 Crop Peanuts", "Outgoing Quality Regulation—1967 Crop Peanuts" and the "Terms and Conditions of Indemnification—1967 Crop Peanuts", which modify or are in addition to the provisions of sections 31, 32, and 36 of said agreement will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement and should be issued.

The Peanut Administrative Committee has recommended that the appended "Incoming Quality Regulation—1967 Crop Peanuts", "Outgoing Quality Regulation—1967 Crop Peanuts" and the "Terms and Conditions of Indemnification—1967 Crop Peanuts" be issued so as to implement and effectuate the provisions of the aforementioned sections of the marketing agreement. The 1967 peanut crop year begins July 1 and procedures and regulations for operations under the agreement should be established thereby affording handlers maximum time to plan their operations accordingly. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing the issuance hereof, they are represented on the Committee which has prepared and recommended these quality regulations and terms and conditions of indemnification for approval.

Upon consideration of the Committee recommendation and other available information the appended "Incoming Quality Regulation—1967 Crop Peanuts", "Outgoing Quality Regulation—1967 Crop Peanuts" and the "Terms and Conditions of Indemnification—1967 Crop Peanuts" are hereby approved this 27th day of April 1967.

Dated: April 27, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division.

INCOMING QUALITY REGULATION—1967 CROP PEANUTS

The following modify or are in addition to the peanut marketing agreement restrictions of section 31 on handler receipts or acquisitions of 1967 crop peanuts:

(a) *Moisture.* No handler shall receive or acquire peanuts containing more than

10 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10 percent moisture prior to storing or milling. On farmers stock, such moisture determinations shall be rounded to the nearest whole number; on shelled peanuts, the determinations shall be carried to the hundredths place and shall not be rounded to the nearest whole number.

(b) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(c) *Loose shelled kernels.* Handlers may separate from the loose shelled kernels received with farmers stock peanuts, those sizes of whole kernels which ride screens with the following slot openings: Runner—$^{15}/_{64}$ x $^{3}/_{4}$-inch; Spanish and Valencia—$^{15}/_{64}$ x $^{3}/_{4}$-inch; Virginia—$^{15}/_{64}$ x 1-inch. If so separated, those loose shelled kernels which do not ride such screens, shall be held separate and apart from other peanuts and disposed of as oil stock or by otherwise removing them from human consumption outlets. If the whole kernels are not separated, the entire amount of loose shelled kernels shall be so held and so delivered or disposed of. The whole kernels which ride the screens may be included with shelled peanuts prepared by the handler. For the purpose of this regulation, the term "loose shelled kernels" means peanut kernels or portions of kernels completely free of their hulls and found in deliveries of farmers stock peanuts.

(d) *Seed peanuts.* Peanuts residual from those shelled and disposed of for seed purposes may be acquired by handlers if the seed sheller has signed the marketing agreement. If such peanuts have been shelled by a producer or seed sheller who has not signed the marketing agreement, the peanuts may be acquired only upon the condition that they are held and milled separate and apart from other receipts or acquisitions of the handler until inspected and certified without having been washed, blanched or cleaned with plastic pellets as meeting the requirements of U.S. No. 1 peanuts of the U.S. standards for grades of shelled peanuts and if they fail shall be disposed of by sale to the Commodity Credit Corporation, by sale for oil stock, by crushing, or by otherwise removing them from human consumption outlets.

(e) *Oil Stock.* Handlers who are crushers may acquire as oil stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. The provision of section 31 of the marketing agreement restricting such acquisitions to handlers who are crushers is hereby modified to authorize all handlers to act as accumulators and acquire Segregation 3 farmers stock peanuts for the sole purpose of delivery to crushers: *Provided*, That all such acquisitions shall be held separate and apart from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts and shall be disposed of only by crushing or by delivery to crushers and the consequent production of oil and meal.

Outgoing Quality Regulation—1967 Crop Peanuts

The following modify or are in addition to the peanut marketing agreement restrictions of section 32 on handler disposition of peanuts for human consumption:

(a) *Shelled peanuts.* No handler shall ship or otherwise dispose of shelled peanuts for human consumption with respect to which appropriate samples for pretesting have not been drawn in accordance with subparagraph (c) of this regulation or which contain more than (1) 1.25 percent damaged kernels, other than minor defects; (2) 2 percent damage and minor defects combined; (3) 9 percent moisture in the Southeastern and Southwestern areas, or 10 percent moisture in the Virginia-Carolina area; or (4) 0.10 percent foreign material in peanuts of U.S. grade, other than U.S. splits, or 0.20 percent foreign material in U.S. splits and edible quality peanuts not of U.S. grade. Fall through in such peanuts shall not exceed 4 percent except that fall through consisting of either split and broken kernels or whole kernels shall not exceed 3 percent and fall through of whole kernels in Runners, Spanish or Virgina "with splits" shall not exceed 2 percent. The term "fall through" as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Screens used for determining fall through in peanuts covered by this subparagraph (a) shall be as follows:

Grade and type	Screen openings	
	Split and broken kernels	Whole kernels
Virginia	$^{13}/_{64}$ inch round	$^{14}/_{64}$ x 1 inch slot.
Runners	$^{17}/_{64}$ inch round	$^{14}/_{64}$ x $^{3}/_{4}$ inch slot.
Spanish and Valencia	$^{19}/_{64}$ inch round	$^{13}/_{64}$ x $^{3}/_{4}$ inch slot.

(Runners, Spanish, or Virginia "with splits" means shelled peanuts which do not contain more than (a) 15 percent splits, (b) for Runners or Spanish 2 percent whole kernels which will pass through a $^{13}/_{64}$ slot screen and for Virginias a $^{13}/_{64}$ x 1 slot screen, and (c) otherwise meet the specifications of U.S. No. 1 grade).

(b) *Cleaned inshell peanuts.* No handler shall ship or otherwise dispose of cleaned inshell peanuts for human consumption: (1) with more than 1 percent kernels with mold present unless a sample of such peanuts, drawn by an inspector of the Federal or Federal-State Inspection Service, was analyzed chemically by a Consumer and Marketing Service laboratory (hereinafter referred to as "C&MS laboratory") and found to be wholesome relative to aflatoxin; (2) with more than 2 percent peanuts with damaged kernels; (3) with more than 10 percent moisture; or (4) with more than 0.50 percent foreign material.

(c) *Pretesting shelled peanuts.* Each handler shall cause an appropriate sample of each lot of shelled peanuts to be drawn by an inspector of the Federal or Federal-State Inspector Service and sent by the Service for aflatoxin assay to a C&MS laboratory or a laboratory listed on the most recent Committee list of approved laboratories to conduct such aflatoxin assay. Each such sample shall be accompanied by a notice of sampling, signed by the inspector, containing, at least, identifying information as to the handlder (shipper), the buyer (receiver) if known, and the positive lot identification of the shelled peanuts. A copy of such notice on each lot shall be sent to the Committee office. Any costs of drawing such samples and postage for mailing the samples shall be borne by the handler. Cost of the assay shall be for the account of the buyer of the lot. If the handler elects to pay for the assay, he shall charge the buyer when he invoices the peanuts and, if more than one buyer, on a pro rata basis. The results of each assay shall be reported to the buyer listed in the notice of sampling and, if the handler desires, to the handler. If the buyer is not listed in the notice, the results of the assay shall be reported to the handler who shall promptly give notice, or cause notice to be given, to the buyer of the contents thereof.

(d) *Identification.* Each lot of shelled or cleaned inshell peanuts shipped or otherwise disposed of for human consumption shall be identified by positive lot identification procedures. For the purpose of this regulation, "positive lot identification" of a lot of shelled or inshell peanuts is a means of relating the inspection certificate to the lot covered so that there can be no doubt that the peanuts delivered are the same ones described on the inspection certificate. Such procedure on bagged peanuts shall consist of attaching a lot numbered tag bearing the official stamp of the Federal or Federal-State Inspection Service to each filled bag in the lot. The tag shall be sewed (machine sewed if shelled peanuts) into the closure of the bag except that in plastic bags the tag shall be inserted prior to sealing so that the official stamp is visible. Any peanuts moved in bulk shall have their lot identity maintained by sealing the conveyance or by other means acceptable to the Federal or Federal-State inspectors and to the Committee. All such lots of shelled or cleaned inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures.

(e) *Reinspection.* Whenever the Committee has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Committee may reject the then effective inspection certificate and may require the owner of the peanuts to have a reinspection to establish whether or not such peanuts may be disposed of for human consumption.

(f) *Interplant transfer.* Until such time as procedures permitting interplant or cold storage movement are established by the Committee, no handler shall so move, beyond the surveillance of the on-premises Federal - State inspector, cleaned inshell or shelled peanuts which have been bagged and tagged for handling under positive lot identification,

unless such peanuts have been inspected and certified as meeting the outgoing quality regulation. However, any handler may transfer peanuts not so prepared from one plant owned by him to another of his plants or to commercial storage, without having such peanuts inspected and certified as meeting quality requirements, but such transfer shall be only to points within the same production area and ownership shall have been retained by the handler. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts.

(g) *Loose shelled kernels, sheller oil stock and pickouts.* (1) No handler may dispose of loose shelled kernels (other than the whole kernels separated from them pursuant to paragraph (c) of the Incoming Quality Regulation applicable to 1967 crop peanuts), sheller oil stock, and pickouts (residue) from milled peanuts except by sale to the Commodity Credit Corporation of those qualities acceptable to it, by sale for oil stock, by crushing, or by otherwise removing them from human consumption outlets and feed outlets. For the purpose of this regulation: the term "peanuts of nonedible quality described in paragraph (g)(1)" means loose shelled kernels, sheller oil stock, and pickouts; the term "loose shelled kernels" means peanut kernels or portions of kernels completely free of their hulls, either as found in deliveries of farmers stock peanuts or those which fail to ride the screens in removing whole kernels; the term "sheller oil stock" means accumulations of peanut kernels or portions of kernels, other than loose shelled kernels or pickouts, which are not eligible for shipment as edible peanuts or sale to the Commodity Credit Corporation and the inshell peanuts removed from farmers stock peanuts by such devices as gravity separators and such other peanut material commonly referred to as oil stock; and the term "pickouts" means those peanuts removed at the picking table, by electronic equipment, or otherwise during the milling process.

(2) All loose shelled kernels, sheller oil stock, and pickouts shall be kept separate and apart from other milled peanuts that are to be shipped into edible channels or delivered to the Commodity Credit Corporation. Each such category of peanuts shall be bagged separately in suitable new or clean, sound used bags or placed in bulk containers acceptable to the Committee. Such peanuts shall be inspected by Federal or Federal-State inspectors in lots of not more than 100,000 pounds and a certification made as to moisture and foreign material content.

(3) All peanuts of nonedible quality described in paragraph (g)(1) shall be identified by positive lot identification procedures set forth in paragraph (d) but using a red tag. Such peanuts may be disposed of only by crushing into oil and meal or destroyed, unless other disposition is authorized by the Committee and all dispositions shall be reported to the Committee on such forms and at such times as it prescribes. Such peanuts shall be deemed to be "restricted" peanuts and the meal produced therefrom shall be used or disposed of as fertilizer or other nonfeed use. To prevent use of restricted meal for feed, handlers shall either denature it or restrict its sale to licensed or registered U.S. fertilizer manufacturers or firms engaged in exporting who will export such meal for nonfeed use or sell it to the aforesaid fertilizer manufacturers. However, peanuts other than pickouts and meal from peanuts other than pickouts in specifically identified lots of not more than 50 tons each, may be sampled by Federal or Federal-State inspectors, or by the area association if authorized by the Committee, and tested for aflatoxin by laboratories approved or operated by Consumer and Marketing Service, at handler's or crusher's expense, and if such meet Committee standards, the meal may be dipsosed of for feed use.

(4) Notwithstanding any other provision of this regulation or of the Incoming Quality Regulation applicable to 1967 crop peanuts, a handler may transfer such "restricted" peanuts to another plant within his own organization or transfer or sell such peanuts to another handler or crusher for crushing. Sales or transfer of restricted peanuts to persons not handlers under the agreement shall be made only on the condition that they agree to comply with the terms of this paragraph (g) including the reporting requirements.

TERMS AND CONDITIONS OF INDEMNIFICATION—1967 CROP PEANUTS

For the purpose of paying indemnities on a uniform basis pursuant to section 36 of the peanut marketing agreement effective July 12, 1965, each handler shall promptly notify, or arrange for the buyer to notify, the Manager, Peanut Administrative Committee of any lot of cleaned inshell or shelled peanuts, milled to the outgoing quality requirements and into one of the categories listed in the final paragraph of these terms and conditions, on which the handler has withheld shipment or storage or the buyer, including user division of a handler, has withheld usage due to a finding as to aflatoxin content as shown by the results of an aflatoxin assay. If such a lot of peanuts has been inspected and certified as meeting the quality requirements of the agreement, and all other applicable regulations issued pursuant thereto, including the pretesting requirements in (a) and (c) of the "Outgoing Quality Regulation—1967 Crop Peanuts", and the lot identification has been maintained, the Committee, if it chooses, may request another aflatoxin assay on such a lot which shall be performed by a C&MS laboratory. If the Committee concludes that the lot is so high in aflatoxin that it should be eligible for indemnification and such is concurred in by the Consumer and Marketing Service, the lot shall be eligible for indemnification; and, if the peanuts are covered by a sales contract, such lot may be rejected to the handler.

In an effort to make such eligible peanuts suitable for human consumption, and to minimize indemnification costs, the Committee and the Consumer and Marketing Service shall, prior to disposition for crushing, determine if the lot is suitable for remilling.

If the Committee and the Consumer and Marketing Service conclude that such lot is not suitable for remilling, the lot shall be declared for indemnification and shall be disposed of by delivery to the Committee at such point as it may designate. The indemnification payment for peanuts not suitable for remilling shall be the indemnification value of the peanuts, as hereinafter provided, plus actual costs of any necessary temporary storage and of transportation (excluding demurrage) from the handler's plant or storage to the point within the Continental United States where the rejection occurred and from such point to a delivery point specified by the Committee. Payment shall be made to the handler as soon as practicable after delivery of the peanuts to the Committee. The salvage value for peanuts declared for indemnification shall be paid to, and retained by, the Committee to offset indemnification expenses.

If it is concluded that the lot should be remilled, expenses shall be paid by the Committee on those lots which, on the basis of the inspection occurring prior to shipment, contained not more than 1 percent damaged kernels other than minor defects. Lots with damage in excess of 1 percent shall be remilled without reimbursement, for milling, freight, or other costs, from the Committee.

The indemnification value of peanuts delivered to the Committee for indemnification shall be the sales contract (including transfer) price established to the satisfaction of, and acceptable to, the Committee or if the lot is unsold the applicable market price determined by the Committee based on quotations in the most recent "Peanut Market News" report published by C&MS.

The indemnification payment on peanuts declared for remilling, and which contain not more than 1 percent damaged kernels other than minor defects, shall be the indemnification value referable to the weight of peanuts removed in the remilling process and not cleared for human consumption, plus temporary storage and transportation costs, as aforesaid, and an allowance for remilling of 1 cent per pound on the original weight. Payment shall be made to the handler claiming indemnification or receiving the rejected lot as soon as practicable after receipt by the Committee of such evidence of remilling and clearance of the lot for human consumption as the Committee may require, and the delivery of the peanuts not cleared for human consumption to the delivery point designated by the Committee. If a suitable reduction in the aflatoxin content is not achieved on any remilled lot, the Committee shall declare the entire lot for indemnification.

Remilling may occur on the premises of any handler signatory to the marketing agreement or at such other plant as the Committee may determine.

Claims for indemnification on peanuts of the 1967 crop shall be filed with the Committee at least 30 days prior to December 31, 1968.

Each handler shall include, directly or by reference, in his sales contract the following provisions:

Should buyer find peanuts subject to indemnification under this contract to be so high in aflatoxin as to provide possible cause for rejection, he shall promptly notify the seller and the Manager, Peanut Administrative Committee, Atlanta, Ga. Upon a determination of the Peanut Administrative Committee, confirmed by the Consumer and Marketing Service, authorizing rejection, such peanuts, and title thereto, if passed to the buyer, shall be returned to the seller. Seller shall not be precluded from replacing such peanuts if he so elects.

Seller shall, prior to shipment of a lot of shelled peanuts covered by this sales contract, cause an appropriate sample to be drawn by the Federal or Federal-State Inspection Service from such lot, shall cause the sample to be sent to a C&MS laboratory or if designated by the buyer, a laboratory listed on the most recent Committee list of approved laboratories to conduct such assay, for an aflatoxin assay and cause the laboratory, if other than the buyer's, to send one copy of the results of the assay to the buyer. The laboratory costs shall be for the account of the buyer and buyer agrees to pay them when invoiced by the laboratory, or in the event the seller has paid them, by the seller.

Any handler who fails to include such provisions in his sales contract shall be ineligible for indemnification payments with respect to any claim filed with the Committee on 1967 crop peanuts covered by the sales contract.

In addition, should any handler enter into any sales contract which fixes the level of aflatoxin at which rejection may be made and hence conflicts with these terms and conditions, the handler doing so will not be eligible for indemnification payments with respect to any claim filed with the Committee on 1967 crop peanuts on or after the filing date of a claim under such contract, except upon the Committee's finding that acceptance of such contract was inadvertent; and for purposes of this provision a claim shall be deemed to be filed when notice of possible rejection is first given to the Committee.

Categories eligible for indemnification are the following:

Cleaned in-shell peanuts:
(1) U.S. Jumbos.
(2) U.S. Fancy Handpicks.
(3) Valencia—Roasting Stock.[1]

U.S. Grade shelled peanuts:
(1) U.S. No. 1.
(2) U.S. Splits.
(3) U.S. Virginia Extra-Large.
(4) U.S. Virginia Medium.

Shelled peanuts "with splits":
(1) Runners with splits meeting outgoing quality requirements.
(2) Spanish with splits meeting outgoing quality requirements.
(3) Virginias with splits meeting outgoing quality requirements.

[F.R. Doc. 67-4892; Filed, May 1, 1967; 8:50 a.m.]

[1] Inshell peanuts with not more than 25 percent having shells damaged by discoloration, which are cracked or broken, or both.

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23(65)-59]

CLAUS HUTH

Order Denying Export Privileges for an Indefinite Period

In the matter of Claus Huth, Georgsplatz 1a 2 Hamburg 1, Federal Republic of Germany, Respondent, File No. 23(65)-59.

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above-named respondent all export privileges for an indefinite period because the said respondent, without good cause being shown, failed to furnish answers to interrogatories, failed to furnish certain records specifically requested, and failed to make available for inspection certain specific commodities exported to him from the United States. This application was made pursuant to § 382.15 of the Export Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an indefinite denial order was reviewed by the Compliance Commissioner, Bureau of International Commerce, who after consideration of the evidence has recommended that the application be granted. The report of the Compliance Commissioner and the evidence in support of the application have been considered.

The evidence presented shows that the respondent Claus Huth conducts business under his own name in Hamburg, Federal Republic of Germany; that he deals in chemicals, including importing and exporting such commodities; that in the period from March 1963 through July 1965 the respondent received from a supplier in the United States 14 shipments of chemicals; that authorization from the Office of Export Control was required to reexport the commodities in said shipments to certain other countries; that respondent did not request such authorization with regard to any of such commodities. The aforesaid Investigations Division is conducting an investigation into the disposition by said respondent of said commodities. It is impracticable to subpoena the respondent, and relevant and material interrogatories relating to his disposition of said commodities were served on him pursuant to § 382.15 of the Export Regulations. The respondent also, pursuant to said section, was requested to furnish certain specific documents relating to the disposition of said commodities and, if said commodities were still in his possession, to make them available for inspection. Said respondent has failed to furnish answers to said interrogatories, to furnish the documents requested, or to make said commodities available for inspection as required by said section, and he has not shown good cause for such failure. I find that an order denying export privileges to said respondent for an indefinite period may properly be entered under section 382.15 of the Export Regulations and that such an order is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Control Act of 1949, as amended.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent appears or participates in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondent, his representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to his agents, employees, representatives, and partners and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall remain in effect until the respondent provides responsive answers, written information and documents in response to the interrogatories heretofore served upon him and makes available for inspection the commodities specified, or gives adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the Export Regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party,

or whereby the respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondent.

VII. In accordance with the provisions of section 382.15 of the Export Regulations, the respondent may move at any time to vacate or modify this indefinite denial order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested shall be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

Dated: April 24, 1967.

This order shall become effective on April 29, 1967.

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

[F.R. Doc. 67-4834; Filed, May 1, 1967; 8:46 a.m.]

[File No. 22-69]

PAUL AEBERSOLD

Order Temporarily Revoking General License Privileges

In the matter of Paul Aebersold, Fronwaldstrasse 21, Zurich, Switzerland, Respondent, File No. 22-69.

This action is taken pursuant to the Export Control Act of 1949 (50 U.S.C. App., secs. 2021-2032) and the Export Regulations issued thereunder (Title 15 CFR 368 et seq.) particularly sections 370-2(c) and 371.5.

The Director of the Investigations Division, Office of Export Control has presented a petition for an order against the above named respondent revoking general license privileges. The matter was referred to the Compliance Commissioner, Bureau of International Commerce, for a recommendation as to the action to be taken on said petition. The Compliance Commissioner reviewed the petition and the documentary evidence which was submitted in support thereof and he has submitted a report and recommendation to the undersigned. On the evidence submitted the Compliance Commissioner has found that there is reasonable basis to believe that the respondent over a period of years has been abusing the general license privileges of the Export Regulations in the following manner: (1) The respondent on numerous occasions has ordered from U.S. suppliers and has caused the forwarding to him of commodities under General License GLV, and there is reasonable basis to believe that his conduct and method of operations have been designed as a device to cause the evasion of the requirements of validated export licenses (see Export Regulations, §§ 371.10(c), 381.2, and 381.4); (2) the respondent on numerous occasions has ordered from suppliers in the United States electronic equipment, some of a strategic nature, which commodities on respondent's instructions have been exported under General License to him in the Free Zone, Zurich, Switzerland; some of said commodities may not be exported directly from the United States to certain third countries under General License and require authorization from the Office of Export Control for reexportation from Switzerland to such third countries; such authorizations to reexport said commodities have not been requested and there is reasonable basis to believe that the respondent has reexported said commodities to unauthorized destinations (see Export Regulations, §§ 381.6 and 371.4). The Compliance Commissioner has also found that there is reasonable basis to believe that the respondent's conduct and activities have resulted in the improper exportation to him of substantial quantities of strategic items under General License without the safeguards to the public interest and national security of the United States which would be afforded if such commodities had been exported under validated licenses. The Compliance Commissioner has further found that there is reasonable basis to believe that the respondent will continue to abuse the general license privileges as above set forth if steps are not taken to prevent such conduct.

I have reviewed the evidence submitted in support of the petition and hereby adopt the findings of the Compliance Commissioner. I also accept his recommendation concerning the issuance of an order.

I hereby find that an order temporarily revoking respondent's general license privileges is reasonably necessary to carry out the purposes of the Export Control Act of 1949 and the regulations issued thereunder. Such an order is hereby entered to be effective for 45 days from the effective date hereof during which time the respondent has the opportunity to show cause why such order should not be extended. Under this order the respondent is prohibited from participating in any general license transactions, and where he is a party to any export transaction (including those which could, according to the provisions of the Export Regulations, ordinarily be made under General License) it shall be necessary for all participants in said transaction to follow the procedures set forth in the Export Regulations relating to the filing of application for and obtaining validated export license.

Accordingly, it is hereby ordered:

I. The respondent's general license privileges are hereby revoked and he is hereby denied all privileges of participating, directly or indirectly, in any manner or capacity in any transaction involving commodities or technical data which, under the provisions of the U.S. Export Regulations, are exportable under a General License, including General License GLV. In any export transaction involving such commodities or technical data in which the respondent is a participant it shall be necessary for the participants in said transaction to follow the procedures set forth in the Export Regulations relating to the filing of application for and obtaining a validated export license. This order does not prohibit respondent from participating in transactions for which validated export licenses may be issued. Nothing herein contained shall relieve the respondent or any participant in any export transaction with him from complying with the requirements of the Export Regulations regarding commodities or technical data for which a validated export license is required.

II. This order temporarily revoking General License privileges shall extend not only to the respondent but also to his assigns, representatives, agents, and employees and to any person, firm, corporation, or business organization with which he now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

III. This order shall take effect on the date it is published in the FEDERAL REGISTER and shall remain in effect for a period of 45 days unless it is hereafter extended, modified, or vacated by a subsequent order.

IV. (a) The respondent, during the 45-day period while this order is in effect, may move to vacate or modify the same and he is hereby given the opportunity during said 45-day period to show cause why this order should not be extended or made effective for the duration of export controls. Any such motion or representation purporting to show good cause shall contain or be accompanied by evidence which shall include information and facts to demonstrate that respondent has not abused the general license privileges of the Export Regulations as above set forth.

(b) Any such motion to vacate or modify, or representation purporting to show good cause, shall be filed with the Compliance Commissioner, Bureau of International Commerce, Department of Commerce, Washington, D.C. 20230. The respondent may request an oral hearing and if such request is made such hearing shall be held before the Compliance Commissioner in Washington, D.C., at the earliest convenient date after due notice of the time and place of the hearing has been given to the interested parties. The Compliance Commissioner shall consider the evidence presented,

whether in writing or at the oral hearing, and shall submit his report and recommendation thereon to the undersigned. The undersigned will issue such order as is deemed appropriate and a copy will be sent promptly to the respondent or his attorney.

(c) If the respondent does not file a motion to vacate or modify this order, or if such motion is filed and substantial evidence is not presented in support of the granting thereof, or if respondent does not show good cause why this order should not be extended, this order may be extended or a new order entered to be effective for such length of time as the undersigned may consider appropriate, including effectiveness for the duration of export controls.

(d) If the respondent files a motion to vacate or modify this order, pursuant to subsections (a) and (b) of this part, and an order is subsequently issued which adversely affects him, he may appeal to the Appeals Board, Department of Commerce from such order upon the ground that the order is arbitrary, capricious, or an abuse of discretion. An appeal will not be entertained unless the respondent has moved for relief as provided in subsections (a) and (b) of this part, and has presented evidence in support of said motion.

V. While this order is in effect no person, firm, corporation, partnership or other business organization in the United States, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall make any exportation to the respondent, or participate in any way in making or effecting an exportation to respondent, of any commodity or technical data unless a validated export license shall have been issued by the Office of Export Control authorizing such exportation.

VI. A copy of this order shall be served on respondent.

Dated: April 24, 1967.

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

[F.R. Doc. 67-4855; Filed, May 1, 1967; 8:48 a.m.]

National Bureau of Standards

[SPR 16-53]

AMERICAN LUMBER STANDARD FOR SOFTWOOD LUMBER

Decision Regarding Proposed Revision of Simplified Practice Recommendation

Careful consideration has been given to the report of the Bureau of Census on its statistical survey of the lumber industry regarding acceptance of the proposed revision of the softwood lumber standard. The results obtained in that survey are reported in a document available, for $1, from the National Bureau of Standards, Washington, D.C. 20234.

Consideration has also been given to the direct responses submitted to the National Bureau of Standards on acceptance or rejection of the proposed standard. There has also been taken into account the legal advice of the General Counsel of the Department of Commerce.

Based on the legal advice received, the proposed revision of the standard recommended by the American Lumber Standards Committee will not be published but will be returned to the Committee.

The proposed withdrawal of the present standard, SPR 16-53, is postponed pending further action.

Dated: April 28, 1967.

A. V. ASTIN,
Director,
National Bureau of Standards.

[F.R. Doc. 67-4980; Filed, May 1, 1967; 11:28 a.m.]

Office of the Secretary

[Dept. Order 83; Amdt. 2]

OFFICE OF THE SECRETARY

Organization and Functions

The following amendment to the order was issued by the Acting Secretary of Commerce effective April 1, 1967. This material further amends the material appearing at 31 F.R. 3471 of March 5, 1966, and 31 F.R. 7766, of June 1, 1966.

This material supersedes the material appearing at:

31 F.R. 13952 of November 1, 1966;
31 F.R. 15099-15101 of December 1, 1966;
31 F.R. 15101-15102 of December 1, 1966;
31 F.R. 273 of January 8, 1966;
29 F.R. 24-25 of January 1, 1964;
31 F.R. 4169 of March 9, 1966;
31 F.R. 542-543 of January 15, 1966;
30 F.R. 3461 of March 16, 1965;
29 F.R. 13542 of October 1, 1964;
29 F.R. 25-27 of January 1, 1964;
31 F.R. 15331 of December 7, 1966;
30 F.R. 15042-15044 of December 4, 1965;
27 F.R. 11562 of November 24, 1962;
31 F.R. 8928-8929 of June 28, 1966; and
29 F.R. 11386-11387 of August 6, 1964.

Department Order 83 of February 15, 1966, as amended, is hereby further amended as follows:

1. SEC. 3. *Organization Structure of the Department.* Subparagraph .01a. is amended to read:

a. The Office of the Secretary consists of the Secretary and Secretarial Officers, their immediate staffs, and a number of Departmental staff offices. The Secretarial Officers of the Department are:

Under Secretary.
Assistant Secretary for Domestic and International Business.
Assistant Secretary for Economic Affairs.
Assistant Secretary for Science and Technology.
Assistant Secretary for Economic Development.
Assistant Secretary for Administration.
General Counsel.

2. SEC. 4. *Officers designated to act for the Secretary.* This section is amended to read:

By law (5 U.S.C. 591b) the Under Secretary acts as Secretary of Commerce in case of absence or sickness of the Secretary, or vacancy in the office. In the case of a vacancy, temporary or otherwise, in the Office of Secretary or Under Secretary, Executive Order 10148 provides that other Secretarial Officers, in the order of listing below, shall act as Secretary of Commerce:

The Assistant Secretaries of Commerce in the order of precedence as determined by the dates of their commissions; and

The General Counsel.

Revocation:

The following Department Orders are hereby revoked:

DO 128, Under Secretary of Commerce for Transportation, of November 22, 1965, as amended;
DO 10-A, Traffic and Highway Safety, of October 20, 1966;
DO 10-B, National Highway Safety Agency, of November 9, 1966;
DO 10-C, National Traffic Safety Agency, of November 9, 1966;
DO 109, Bureau of Public Roads, of December 13, 1963, as amended;
DO 109 OFS, Bureau of Public Roads, of December 12, 1963, as amended;
DO 169, Great Lakes Pilotage Administration, of November 13, 1962;
DO 185, Saint Lawrence Seaway Development Corporation, of June 16, 1966; and
DO 185 OFS, Saint Lawrence Seaway Development Corporation, of July 16, 1964.

Effective date: April 1, 1967.

DAVID R. BALDWIN,
Assistant Secretary
for Administration.

[F.R. Doc. 67-4818; Filed, May 1, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CANNED MUSHROOMS DEVIATING FROM IDENTITY STANDARD

Notice of Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity promulgated under authority of section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Oxford Royal Mushroom Products, Inc., Kelton, Pa. 19346. This permit covers interstate marketing tests of canned mushrooms, in the button and whole forms, with added calcium disodium EDTA, an ingredient not provided for by the standard of identity for this canned vegetable (21 CFR 51.990). The subject food will contain calcium disodium EDTA in a quantity not to exceed 200 parts per million complying with the provisions of § 121.1017 (21 CFR 121.1017) of the food additive regulations. Labels on the food are to name the added ingredient by the statement "Calcium disodium EDTA added to protect color."

This permit expires April 24, 1968.

Dated: April 24, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-4879; Filed, May 1, 1967; 8:49 a.m.]

CHEVRON CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 7F0594) has been filed by Chevron Chemical Co., Richmond, Calif. 94801, proposing the establishment of a tolerance of 0.05 part per million for negligible residues of the herbicide diquat (1,1'-ethylene-2,2'-bipyridylium), derived from application of the dibromide salt and calculated as the cation, in or on the raw agricultural commodity sugarcane.

The analytical method proposed in the petition for determining residues of the herbicide is a colorimetric procedure in which the sample is passed through a cation exchange resin that absorbs the diquat. The diquat is then eluted with saturated ammonium chloride solution and reduced by sodium dithionite to an unstable free radical having an intense green color and strong absorption peak at 377 millimicrons.

Dated: April 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-4880; Filed, May 1, 1967; 8:49 a.m.]

PILLSBURY CO.

Notice of Withdrawal of Petition for Food Additive Glucan Polysaccharide

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), The Pillsbury Co., 608 Second Avenue South, Minneapolis, Minn. 55402, has withdrawn its petition (FAP 7A2098), notice of which was published in the FEDERAL REGISTER of October 25, 1966 (31 F.R. 13732), proposing the issuance of a regulation to provide for the safe use of a glucan polysaccharide, produced by fermentation of carbohydrate substrates by the fungus *Sclerotium rolfsii* and related species, as a suspending and emulsifying agent in food.

Dated: April 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-4881; Filed, May 1, 1967; 8:49 a.m.]

THOMPSON CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 7F0589) has been filed by Thompson Chemical Corp., 23529 South Figueroa Street, Wilmington, Calif. 90744, proposing the establishment of a tolerance of 2 parts per million for residues of the growth regulator dimethylamine salt of 2,4-dichlorophenoxyacetic acid in or on the raw agricultural commodity apricots.

The analytical method proposed in the petition for determining residues of the growth regulator is a microcoulometric-gas chromatographic technique.

Dated: April 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-4882; Filed, May 1, 1967; 8:50 a.m.]

Office of the Secretary

PATENT ACTIVITIES

Statement of Organization and Delegations of Authority

The Statement of Organization and Delegations of Authority of the Department, 20 F.R. 1996 as amended, is further amended to include under Part 1, "Organization of the Department," Chapter 1-901 as follows:

CHAPTER 1-901

DEPARTMENT PATENT ACTIVITIES

1-901-00 Purpose.
1-901-10 Responsibilities.

1-901-00 *Purpose.*

This chapter describes the organization for patent activities within the Department.

1-901-10 *Responsibilities.*

A. *Office of the Secretary—1. Assistant Secretary (Health and Scientific Affairs).*

a. Administers the patent program of the Department.

b. Advises the Secretary, members of his staff, and the operating agencies on all matters relating to patents.

c. Evaluates current patent policy and develops policy to meet changing needs.

d. Issues patent administration procedures and recommends regulations for issuance by the Secretary.

e. Coordinates Department patent activities.

f. Receives reports of inventions by employees and holders of Department grants, fellowships and contracts.

g. Makes determinations of rights in inventions and patents in which the Department has an interest.

h. Issues licenses to applicants under patent applications and patents owned by the Government as represented by the Department and accepts licenses issued to the Government as represented by the Department.

i. Maintains records and documents incident to patent administration.

j. Maintains liaison with Congress and other Federal departments and agencies on matters involving patent policy and programs.

2. *Office of General Counsel.* The General Counsel will designate a Department Patent Counsel who will be responsible for:

a. Rendering legal interpretations with respect to all patent matters within the Department.

b. Performing legal review of all patent determinations.

c. Providing legal advice on patent matters to the Assistant Secretary (Health and Scientific Affairs).

d. Furnishing legal counsel to the Department Patent Board.

e. Providing other legal services, such as conducting patent searches, filing and prosecuting patent applications, and drafting legal documents such as assignments and licenses incident to patent administration for which the Department has responsibility.

f. Maintaining liaison with the Patent Office, Department of Commerce, on legal matters in the administration of the Department's patent responsibilities.

3. *Department Patent Board.* The Department Patent Board shall be composed of the Deputy Under Secretary, as Chairman, and representatives from the following staff officers and operating agencies:

Assistant Secretary (Health and Scientific Affairs).
Assistant Secretary for Administration.
Department Patent Counsel.
Public Health Service.
Office of Education.
Food and Drug Administration.
Vocational Rehabilitation Administration.
Welfare Administration.

The Department Patent Board shall upon the request of the Assistant Secretary (Health and Scientific Affairs):

a. Advise the Assistant Secretary (Health an Scientific Affairs) on patent policy matters.

b. Provide the Assistant Secretary (Health and Scientific Affairs) a medium through which to evaluate the effectiveness of Department patent policy and the administration of such policy.

c. Assist in the development of patent policy and administrative procedure.

d. Provide a forum for discussion of all matters pertaining to inventions and patents.

e. Review proposed changes in regulations.

B. *Operating agencies.* The head of each operating agency is responsible, in accordance with Department policy, for:

1. Including patent clauses in grants, contracts, and fellowships as appropriate to implement the Department patent regulations and policies.

2. Educating employees, contractors, and grantees as to the need for reporting inventions.

3. Appraising the effectiveness of reporting.

4. Evaluating the impact of patent policy on agency operations.

5. Assisting, as requested, in the development of patent determinations.

6. Providing such advice as the Assistant Secretary (Health and Scientific Affairs) may require on the most effective means of relating patent policy and procedure to program objectives.

7. Providing such other information or reports as the Assistant Secretary may request.

Dated: April 25, 1967.

WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 67-4883; Filed, May 1, 1967; 8:50 a.m.]

OFFICE OF THE GENERAL COUNSEL

Organization and Delegations of Authority

The Statement of Organization and Delegations of Authority of the Department (22 F.R. 1045 as amended) and other Delegations of Authority published in the FEDERAL REGISTER are hereby amended so that the title "Associate General Counsel" shall read "Deputy General Counsel" wherever it appears, and for other purposes, as follows:

1. Secs. 2-310.10, 2-310.20, 2-310.30, and 2-310.40 of the Statement or Organization and Delegation of Authority are amended to read as follows:

CHAPTER 2-310

IMMEDIATE OFFICE OF THE GENERAL COUNSEL

2-310-10 Organization.
2-310-20 General Counsel.
2-310-30 Deputy General Counsel.
2-310-40 Special Assistant to the General Counsel.

2-310-10 *Organization.*

The Immediate Office of the General Counsel shall consist of:

General Counsel.
Deputy General Counsel.
Special Assistant to the General Counsel.

2-310-20 *General Counsel.*

A. The General Counsel:

1. Serves as Special Advisor to the Secretary on legal matters in connection with the administration of the Department.

2. Exercises general direction and supervision over all legal activities carried on by the Department.

2-310-30 *Deputy General Counsel.*

The Deputy General Counsel assists the General Counsel in the carrying out of his responsibilities and performs such duties as the General Counsel prescribes.

2-310-40 *Special Assistant to the General Counsel.*

The Special Assistant to the General Counsel assists the General Counsel and the Deputy General Counsel in carrying out their professional and managerial responsibilities.

2. Section 1 of the notice entitled "Designation of Authority to Certify Copies of Documents" published in 30 F.R. 13908 is hereby amended so that the title "Associate General Counsel" shall read "Deputy General Counsel" and the title "Secretary to the Associate General Counsel" shall read "Secretary to the Deputy General Counsel".

Dated: April 26, 1967.

JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-4884; Filed, May 1, 1967; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 67-24]

SAN FRANCISCO BAY

Notice of Closure to Navigation During Launching of USS "Gurnard"

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4 (32 F.R. 5606) and Executive Order 10173, as amended by Executive Orders 10277, 10352, and 11249, I hereby affirm for publication in the FEDERAL REGISTER the order of T. J. Fabik, Rear Admiral, U.S. Coast Guard, Commander, 12th Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

SPECIAL NOTICE SAN FRANCISCO BAY

Pursuant to request of Commander, San Francisco Bay Naval Shipyard, U.S. Navy, and acting under authority of the Act of June 15, 1917 (40 Stat. 220) as amended, and the regulations in Part 6, Chapter I, Title 33, Code of Federal Regulations, I hereby order that the waters of Mare Island Strait, Napa River, Calif., between the Mare Island Causeway (38°06'44" N., 122°16'14.5" W. to 38°-06'36" N., 122°16'32" W.) and a line extending in the direction 245 degrees true from the end of the former Naval Reserve Pier, Vallejo, Calif. (38°05'36.5" N., 122°15'22" W.) to the opposite shore of the Napa River (38°-05'32" N., 122°15'35" W.) be closed to all persons and vessels on Saturday, May 20, 1967, from 10:45 a.m., P.d.s.t., until after the USS "Gurnard" takes the water and is alongside the seawall at San Francisco Bay Naval Shipyard, after the launching of said vessel. The southern line of demarcation is otherwise described as a line extending between the end of the former Naval Reserve Pier, Vallejo, and the southernmost smokestack in the area of Mare Island generally opposite said pier. Limits of this area will be clearly posted by signs and by Coast Guard Patrol Boats.

All persons and vessels are directed to remain outside of the closed area. This order will be enforced by the Captain of the Port, San Francisco, Calif., and by U.S. Coast Guard vessels under his command. Personnel, facilities, and equipment of other Federal, State, and municipal agencies may be utilized to assist in the enforcement of this order.

Penalties for violation of the above order: Section 2, Title II of the Act of June 15, 1917, as amended, 50 U.S.C. 192, provides as follows: "If any owner, agent, master, officer or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this Title, or obstructs or interferes with the exercise of any power conferred by this Title or if any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this Title, or knowingly obstructs or interferes with the exercise of any power conferred by this Title, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000."

[SEAL] P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 67-4839; Filed, May 1, 1967; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-283]

GENERAL ELECTRIC TECHNICAL SERVICES CO., INC.

Notice of Application for and Proposed Issuance of Facility Export License

Please take notice that General Electric Technical Services Co., Inc., a wholly owned subsidiary of the General Electric Co., 1331 H Street NW., Washington, D.C. 20005, has submitted an application dated April 5, 1967, for a license to authorize the export of a 306,660 kilowatt electrical, boiling water nuclear power reactor to the Japan Atomic Power Co., Toyko, Japan.

Upon finding that the proposed export of the reactor is within the scope of the Agreement for Cooperation between the Governments of the United States of America and Japan and, unless within 15 days after the publication of this notice in the FEDERAL REGISTER, a request for a hearing is filed with the U.S. Atomic Energy Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of Regulation will cause to be issued to General Electric Technical Services Co., Inc., a facility export license containing the authority set forth in the text below and cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Secretary will issue a notice of hearing or an appropriate order.

Pursuant to the Atomic Energy Act of 1954, as amended, and Title 10, Chapter I, Code of Federal Regulations, the Commission has found that:

(a) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the facility to be exported.

A copy of the application, dated April 5, 1967, is on file in the Atomic Energy Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 19th day of April 1967.

For the Atomic Energy Commission.

ESER R. PRICE,
Director, Division of
State and Licensee Relations.

PROPOSED EXPORT LICENSE

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations of the U.S. Atomic Energy Commission issued pursuant

thereto, and in reliance on statements and representations heretofore made, General Electric Technical Services Co., Inc., a wholly owned subsidiary of the General Electric Co., is authorized to export a 306,660 kilowatt electrical, boiling water power reactor to the Japan Atomic Power Co., Tokyo, Japan, subject to the terms and provisions herein. The license to export extends to the licensee's duly authorized shipping agent.

Neither this license or any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954.

This license is subject to the right of recapture or control reserved by section 108 of the Atomic Energy Act of 1954, and to all other provisions of said Act, now or hereafter in effect and to all valid rules and regulations of the U.S. Atomic Energy Commission. This license is effective as of the date of issuance and shall expire on April 30, 1973.

For the Atomic Energy Commission.

[F.R. Doc. 67-4817; Filed, May 1, 1967; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 16678, 16831; FCC 67M-683]

BAY BROADCASTING CO. AND REPORTER BROADCASTING CO.

Order Continuing Prehearing Conference

In re applications of Bay Broadcasting Co., San Francisco, Calif., Docket No. 16678, File No. BPCT-3621; Reporter Broadcasting Co., San Francisco, Calif., Docket No. 16831, File No. BPCT-3562; for construction permit for new television broadcast station:

It is ordered, By the Hearing Examiner on his own motion, that the further prehearing conference in this matter now scheduled for April 27, 1967 is hereby rescheduled to commence at 11 a.m., May 3, 1967, in Room 6509, New Post Office Building, Washington, D.C.

Issued: April 25, 1967.

Released: April 26, 1967.

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

[F.R. Doc. 67-4886; Filed, May 1, 1967; 8:50 a.m.]

[Docket No. 17378; FCC 67-480]

CABLE VISION, INC., ET AL.

Memorandum Opinion and Order Instituting Hearing

In re petitions by Cable Vision, Inc., Lewiston and Auburn, Maine, Docket No. 17378, File No. CATV 100-20; Fletcher's TV Service, Inc., Rumford, Maine, File Nos. CATV 100-20, CATV 100-130; for authority pursuant to § 74.1107 of the rules to operate CATV systems in the Portland-Poland Spring television market; and in re applications of Racom, Inc., File Nos. 6743/6744-C1-P-65; for construction permits for new point-to-point microwave radio stations.

1. The Commission has before it for consideration the following proposals in the Portland-Poland Spring television market, currently ranked 60th in the American Research Bureau's 1966 "Television Market Analysis": (a) Petition for waiver of evidentiary hearing requirement of § 74.1107, filed by Racom, Inc., Fletcher's TV Service, Inc., and Cable Vision, Inc. (CATV 100-20), to permit the importation of distant signals of a Boston independent station (Channel 38) and of the Sherbrooke, Canada, network affiliate (CBC—Channel 7) and of the Montreal, Canada, independent station (Channel 10) on operating Rumford and Lewiston CATV systems and on the proposed Auburn system;[1] (b) Petition by Fletcher's (CATV 100-130) to permit the importation on the Rumford system of additional distant signals of the Bangor, Maine, NBC, CBS, and independent stations (Channels 2, 5, and 7) and of the Burlington, Vt., CBS affiliate (Channel 3). All of the systems carry or will carry the predicted Grade B or better signals of Channels 6 (NBC) and 13 (CBS) from Portland; 8 (ABC) from Poland Spring; and *10 (ETV) from Augusta. The licensee of Channel 6, Portland, opposes the joint petition; the licensee of Channel 13, Portland, requests that it be made a party to any designated hearing. No oppositions are on file with respect to the separate request of Fletcher's TV Service, Inc. (File No. CATV 100-130, filed Nov. 10, 1966).

2. The Portland-Poland Spring television market has a total net weekly circulation of 307,300, Portland, a city of 72,566 in Cumberland County (population 182,751), has Channels 6 (NBC), 13 (CBS), 26 (idle), and *59 (idle) assigned to it. Lewiston (Poland Spring) has been assigned Channels 8 and 35; Channel 8 is operating as an ABC affiliate and Channel 35 is vacant.[2] Located within the predicted Grade A contours of the market's stations are Augusta with Channel *10 (ETV-licensed); Fryeburg with Channel *18 (idle); Kittery with Channel *34 (idle); and Rumford with Channel *43 (idle).

3. Cable Vision has been operating its Lewiston system (population 40,804) since January 1966, and proposes to operate a new system in the adjacent city of Auburn (population 24,449), both of which are located in Androscoggin County (population 86,312). Franchises were awarded for both systems in February 1963. These communities are approximately 30 miles north of Portland and are the principal cities of the Lewiston-Auburn Census Areas (Standard Metropolitan Statistical Area and Urbanized Area) which include Poland Spring. Both Androscoggin County and Cumberland County (Portland's home county) are included within the Metro Area of the Portland-Poland Spring market by the American Research Bureau. Fletcher's has been operating a CATV system in Rumford (population 10,005) since 1954. Rumford is located in Oxford County (population 44,345), about 30 miles northwest of Lewiston and 60 miles northwest of Portland, and is not within either the Portland or Lewiston-Auburn census areas.

4. The Lewiston and Rumford systems now carry, and the proposed Auburn system will carry, the two operating Portland stations (Channels 6 and 13), the operating Lewiston (Poland Spring) Channel (8), and the educational Channel (*10) from Augusta, all of which provide predicted Grade B or better service to the communities. The systems seek waiver of the § 74.1107 hearing requirement to permit the extension of distant signals from Boston (Channel 38—independent), Sherbrooke (Channel 7—CBC), and Montreal (Channel 10—independent). Both distant signals from Canada are French language outlets. As noted previously, these signals are to be supplied to petitioners' CATV systems, via microwave, by Racom, Inc. In support of their joint request (File No. CATV 100-20), petitioners urge that substantial segments of the populations in the CATV communities are of Catholic French-Canadian heritage; that carriage of the Boston station would not only afford a first independent signal to the communities but would also satisfy a particular interest by providing in-school educational programing geared to the Catholic parochial school system;[3] that said populations seek to retain the native French tongue and that the Canadian stations, as French language outlets, would aid in this attempt; and that neither the use of the French language nor the religious-oriented programing is available on the local channels. With respect to its separate request (File No. CATV 100-130) for additional distant signals from three Bangor stations and one Burlington, Vt., station, Fletcher's

[1] Racom, Inc., proposes to provide these CATV systems, via microwave, with the distant signals from Boston, Sherbrooke, and Montreal. Presently pending before the Commission are applications by Racom (File Nos. 6743/6744-C1-P-65) for new point-to-point microwave stations to implement this proposed service. Maine Radio & Television Co., the licensee of Channel 6, Portland, has filed a petition to deny these applications or, alternatively, to withhold action thereon pending proceedings in regard to the § 74.1107 waiver requests. Since the licensee's opposition is effectively disposed of by our action here, the petition to deny will be denied. The disposition of the microwave applications will follow later and will be consistent with our resolution of the § 74.1107 waiver requests here.

[2] Lewiston-Auburn Broadcasting Corp. received a construction permit to operate Station WLAM-TV on Channel 17 in Lewiston on July 8, 1953, and, subsequently, was issued a license to cover the commercial operation on Feb. 14, 1955. However, the licensee voluntarily terminated the UHF operation on Mar. 25, 1955. Subsequent revisions of the Table of Assignments resulted in the present allocation of Channel 35 to Lewiston.

[3] Subsequent to the filing of the joint waiver petition, control of Channel 38, Boston, was transferred from Boston Catholic Television Center, Inc., to Storer Broadcasting Co. although the licensee continued to be New Boston Television, Inc.

notes that these additional signals (including Channel 7 from Sherbrooke) are presently being carried on a competitive system in the Rumford community. Fletcher's also alleges that the competitive system delivers these distant signals by virtue of a lease-back arrangement with the local telephone company and that, if the telephone company had not delayed in its grant of a pole attachment agreement to Fletcher's, it would have been delivering the requested distant signals to its customers long before the adoption of the CATV rules.

5. The arguments advanced on behalf of Cable Vision's proposal for its Lewiston and Auburn systems are insufficient to support a conclusion that the effect upon UHF development by CATV operations in these communities would be minimal. The adjacent cities of Lewiston and Auburn, with a combined population of 65,253, account for a major portion of the total population of Androscoggin County and constitute the heart of the Poland Spring portion of the market, the area to which new UHF stations must turn initially for economic support; both Portland and Lewiston have assigned but idle UHF allocations. Although Cable Vision does operate a system in Lewiston at present, that system does not distribute distant signals. Therefore, on the basis of the facts now before us, we cannot determine what effect the importation of these distant independent and network (Canadian) signals would have upon the potential for UHF service in the market. Accordingly, an evidentiary hearing on Cable Vision's proposal appears warranted in order to develop additional information. The CATV systems in Lewiston and Auburn can, of course, now carry the four (three network and one educational) stations which place predicted Grade B or better signals over the communities.

6. Rumford, on the other hand, is a smaller community (10,005) and is located in Oxford County, approximately 30 miles from Lewiston and 60 miles from Portland. It is not within either the Portland or the Lewiston-Auburn census areas. Furthermore, a competitive system in Rumford is presently supplying to its subscribers the distant signals of the Bangor and Sherbrooke stations and we note that other systems in Oxford County, located closer to the principal cities of the market, are carrying the Burlington, Vt., signal. In view of Rumford's separation from the principal cities of the market; its size when compared to the total net weekly circultation of the market (307,300); and since most of the distant signals requested are already being carried on CATV systems in Rumford and Oxford County, it seems reasonable to conclude that the proposal of Fletcher's would have little or no added impact upon the future development of UHF operations in the market and that waiver of § 74.1107 of the rules, in regard to the Rumford system, is appropriate.

Accordingly, it is ordered, This 19th day of April 1967, that the provisions of § 74.1107 of the rules are waived in order to permit Fletcher's TV Service, Inc., to carry, as proposed, the distant signals from Boston, Sherbrooke, Montreal, Bangor, and Burlington on its CATV system at Rumford, Maine.

It is further ordered, That the petition to deny, filed May 27, 1966, by Maine Radio and Television Co., licensee of Station WCSH-TV, Portland, in regard to the microwave applications of Racom, Inc. (File Nos. 6743/6744-C1-P-65) is denied to the extent indicated.

It is further ordered, Pursuant to sections 4(i), 303, 307(b), and 309 of the Communcations Act and § 74.1107 of the Commission's rules, that, with respect to the request of Cable Vision, Inc., to carry distant signals from Boston, Sherbrooke, and Montreal on its CATV systems at Lewiston and Auburn, Maine, the joint petition for waiver is denied and hearing is ordered on the following issues:

1. To determine the present and proposed penetration and extent of CATV service in the Portland-Poland Spring television market.

2. To determine the effects of current and proposed CATV service in the Portland-Poland Spring television market upon existing, proposed, and potential television broadcast stations in the market.

3. To determine (1) the present policy and proposed future plans of petitioner with respect to the furnishing of any service other than the relay of the signals of broadcast stations; (2) the potential for such services; and (3) the impact of such services upon television broadcast stations in the market.

4. To determine whether the CATV proposal is consistent with the public interest.[4]

Cable Vision, Inc., Maine Radio and Television Co., licensee of Station WCSH-TV, Portland, Maine, and Racom, Inc., and Guy Gannett Broadcasting Services, licensee of Station WGAN-TV, Lewiston, Maine, are made parties to this proceeding and, to participate, must comply with the applicable provisions of § 1.221 of the Commission's rules. The burden of proof is upon the petitioner. A time and place for the hearing will be specified in another order.

Released: April 26, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-4888; Filed, May 1, 1967; 8:50 a.m.]

[Docket No. 17378; FCC 67M-693]

CABLE VISION, INC.

Order Scheduling Hearing

In re petition by Cable Vision, Inc., Lewiston and Auburn, Maine, Docket No. 17378, File No. CATV 100-20; for authority pursuant to § 74.1107 of the rules to operate CATV systems in the Portland-Poland Spring television market:

It is ordered, That Thomas H. Donahue shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on June 19, 1967, at 10 a.m.; and that a prehearing conference shall be held on May 18, 1967, commencing at 9 a.m.: *And, it is further ordered,* That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: April 25, 1967.

Released: April 26, 1967.

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

[F.R. Doc. 67-4887; Filed, May 1, 1967; 8:50 a.m.]

[Docket No. 16928, etc.; FCC 67M-686]

CALIFORNIA WATER AND TELEPHONE CO. ET AL.

Order Continuing 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; in the matter of The Associated Bell System Companies, Docket No. 16943, tariffs for channel service for use by community antenna television systems; and in the matter of The General Telephone System, and United Utilities, Inc. Companies, Docket No. 17098, tariffs for channel service for use by community antenna television systems;

It is ordered, By the Hearing Examiner on his own motion, that the hearing now scheduled in this matter for May 31, 1967 is continued without date because

[4] On Feb. 13, 1967, Racom, Inc., Fletcher's TV Service, Inc., and Cable Vision, Inc., by their counsel, jointly filed a "Statement of Support of Petition for Waiver of Evidentiary Hearing." This statement of support was filed 9½ months after the filing of the original waiver request and no attempt was made to secure Commission approval for leave to file such an additional pleading. Accordingly, the Commission has not considered the matters alleged in this pleading in the disposition of these requests.

[5] Chairman Hyde absent; statement in which Commissioner Bartley concurs in part and dissents in part filed as part of original document; Commissioner Loevinger concurring in the result.

of the precedence to be accorded the hearing in Docket No. 17333.

Issued: April 25, 1967.

Released: April 26, 1967.

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

[F.R. Doc. 67-4889; Filed, May 1, 1967; 8:50 a.m.]

[Docket No. 17333; FCC 67M-689]

CALIFORNIA WATER AND TELEPHONE CO. ET AL.

Order Rescheduling Hearing

In the matter of California Water and Telephone Co.; The Associated Bell Systems Companies; The General Telephone System; and United Utilities, Inc., Companies; Docket No. 17333; applicability of section 214 of the Communications Act with regard to tariffs for channel service for use by community antenna television systems.

By agreement reached on the record of a prehearing conference held April 24, 1967, in the above matter: *It is ordered*, That the hearing now scheduled for May 8, 1967, is hereby rescheduled to commence at 10 a.m., May 31, 1967, in the Commission's offices in Washington, D.C.

Issued: April 25, 1967.

Released: April 26, 1967.

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

[F.R. Doc. 67-4890; Filed, May 1, 1967; 8:50 a.m.]

[Docket Nos. 16813, 16814; FCC 67M-685]

1400 CORP. (KBMI) AND JOSEPH JULIAN MARANDOLA

Order Continuing Prehearing Conference

In re applications of 1400 Corp. (KBMI), Henderson, Nev., Docket No. 16813, File No. BR-2937, for renewal of license of Station KBMI; Joseph Julian Marandola, Henderson, Nev., Docket No. 16814, File No. BP-16411, for construction permit:

It is ordered, That a further session of the prehearing conference will be held in the above-styled proceeding on May 16, 1967, at 9 a.m.

Issued: April 25, 1967.

Released: April 26, 1967.

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

[F.R. Doc. 67-4891; Filed, May 1, 1967; 8:50 a.m.]

[Canadian Change List 224]

CANADIAN BROADCAST STATIONS

List of Changes, Proposed Changes, and Corrections in Assignments

APRIL 7, 1967.

Notification under the provision of Part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignment of Canadian Broadcast Stations modifying Appendix containing Assignments of Canadian Stations (Mimeograph No. 47214-3) attached to the Recommendation of the North American Regional Broadcasting Agreement Engineering Meeting.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
		1280 kilocycles				
CHSC (now in operation with pattern notified in List No. 212).	St. Catharines, Ontario.	1 kwD/0.5 kwN.	DA-1	U	II	
		1280 kilocycles				
CHQB (now in operation).	Powell River, British Columbia.	1 kw	DA-1	U	III	
		1290 kilocycles				
CJOE (now in operation).	London, Ontario	10 kw	DA-1	U	III	
		1310 kilocycles				
CFGM (PO: 10 kwD/2.5 kwN 1310 kc DA-1).	Richmond Hill, Ontario.	*50 kw*	*DA-2*	U	III	E.I.O. 4-1-68.
		1510 kilocycles				
CJRS (assignment of call letters).	Sherbrooke, Province of Quebec.	10 kw	DA-2	U	II	

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

[F.R. Doc. 67-4816; Filed, May 1, 1967; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4482]

GEORGIA POWER CO.

Notice of Proposed Issue and Sale of Short-Term Notes

APRIL 25, 1967.

Notice is hereby given that Georgia Power Co. ("Georgia"), 270 Peachtree Street NW., Atlanta, Ga. 30303, a public-utility subsidiary company of The Southern Co., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 thereof as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Georgia requests authorization to issue, from time to time prior to October 1, 1967, its unsecured promissory notes to banks in an aggregate principal amount not to exceed $60 million, including in such amount up to an aggregate of approximately $37,159,000 principal amount of promissory notes to be issued pursuant to the exemption afforded by the first sentence of section 6(b) of the Act. Each note proposed to be issued by Georgia will bear interest at the prime rate in effect at the Chemical Bank New York Trust Co. in New York (presently 5½ percent per annum) on the date of issuance, will mature not more than 9 months after the date of issue and will be prepayable, in whole or in part, without penalty or premium.

The initial $57,323,000 of Georgia's notes are to be issued to the following banks in the aggregate amounts listed below:

Bank and location	*Amount*
First State Bank & Trust Co., Albany, Ga.	$100,000
Alma Exchange Bank, Alma, Ga.	20,000
Bank of Commerce, Americus, Ga.	75,000
Citizens Bank, Americus, Ga.	60,000
First American Bank & Trust Co., Athens, Ga.	40,000
National Bank of Athens, Athens, Ga.	85,000
The Citizens & Southern National Bank, Atlanta, Ga.	5,000,000
Citizens Trust Co., Atlanta, Ga.	100,000
The First National Bank of Atlanta, Atlanta, Ga.	5,000,000
The Fulton National Bank of Atlanta, Atlanta, Ga.	1,625,000

Bank and Location	Amount
The National Bank of Georgia, Atlanta, Ga	500,000
Trust Company of Georgia, Atlanta, Ga	3,500,000
First National Bank & Trust Co., Augusta, Ga	125,000
Georgia Railroad Bank & Trust Co., Augusta, Ga	750,000
Austell Bank, Austell, Ga	60,000
The Citizens & Southern DeKalb Bank, Avondale Estates, Ga	50,000
The Citizens Bank & Trust Co., Bainbridge, Ga	40,000
Baxley State Bank, Baxley, Ga	25,000
Peoples State Bank, Baxley, Ga	17,000
American National Bank, Brunswick, Ga	120,000
First National Bank of Brunswick, Brunswick, Ga	125,000
Calhoun National Bank, Calhoun, Ga	105,000
Bank of Canton, Canton, Ga	60,000
Etowah Bank, Canton, Ga	45,000
Peoples Bank, Carrollton, Ga	40,000
West Georgia National Bank, Carrollton, Ga	25,000
Commercial National Bank, Cedartown, Ga	89,000
Liberty National Bank, Cedartown, Ga	39,000
Chamblee National Bank, Chamblee, Ga	65,000
Habersham Bank, Clarkesville, Ga	50,000
Bank of Clayton, Clayton, Ga	25,000
State Bank of Cochran, Cochran, Ga	23,000
Columbus Bank & Trust Co., Columbus, Ga	500,000
First National Bank, Columbus, Ga	400,000
Fourth National Bank, Columbus, Ga	200,000
Bank of Rockdale, Conyers, Ga	50,000
Cornelia Bank, Cornelia, Ga	40,000
First National Bank, Cornelia, Ga	50,000
Bank of Dahlonega, Dahlonega, Ga	35,000
First National Bank of Dalton, Dalton, Ga	160,000
Hardwick Bank & Trust Co., Dalton, Ga	105,000
Bank of Dawson, Dawson, Ga	40,000
The Citizens & Southern Belvedere Bank, Decatur, Ga	35,000
The Citizens & Southern Emory Bank, Decatur, Ga	70,000
Glenwood National Bank, Decatur, Ga	60,000
Citizens & Southern Bank of Dublin, Dublin, Ga	60,000
Farmers & Merchants Bank, Dublin, Ga	35,000
The Morris State Bank, Dublin, Ga	35,000
Farmers & Merchants Bank, Eatonton, Ga	22,000
The Peoples Bank, Eatonton, Ga	15,000
The Citizens Bank of Clayton County, Forest Park, Ga	40,000
Citizens Bank, Gainesville, Ga	55,000
First National Bank, Gainesville, Ga	150,000
Gainesville National Bank, Gainesville, Ga	75,000
Bank of Greensboro, Greensboro, Ga	25,000
Bank of Hartwell, Hartwell, Ga	25,000
Citizens Banking Co., Hartwell, Ga	20,000
Citizens Bank of Hapeville, Hapeville, Ga	100,000
Bank of Hazlehurst, Hazlehurst, Ga	20,000
Jeff Davis Bank, Hazlehurst, Ga	20,000
Wilkinson County Bank, Irwinton, Ga	15,000
Bank of Jonesboro, Jonesboro, Ga	50,000
State Bank of Kingsland, Kingsland, Ga	15,000
Brand Banking Co., Lawrenceville, Ga	40,000
First National Bank, Louisville, Ga	40,000
Peoples Bank, Lyons, Ga	30,000
First National Bank & Trust Co., Macon, Ga	500,000
Georgia Bank & Trust Co., Macon, Ga	150,000
Bank of Madison, Madison, Ga	25,000
Bank of Manchester, Manchester, Ga	30,000
Farmers & Merchants Bank, Manchester, Ga	15,000
Metter Banking Co., Metter, Ga	25,000
Pineland State Bank, Metter, Ga	25,000
Exchange Bank, Milledgeville, Ga	78,000
Merchants & Farmers Bank, Milledgeville, Ga	45,000
Milledgeville Banking Co., Milledgeville, Ga	40,000
Moultrie Banking Co., Moultrie, Ga	100,000
Mount Vernon Bank, Mount Vernon, Ga	15,000
Merchants & Citizens Bank, McRae, Ga	20,000
Chemical Bank New York Trust Co., New York, N.Y	18,650,000
First National City Bank, New York, N.Y	7,900,000
Irving Trust Co., New York, N.Y	3,000,000
Morgan Guaranty Trust Co. of New York, New York, N.Y	4,800,000
First National Bank of Perry, Perry, Ga	30,000
Perry Loan & Savings Bank, Perry, Ga	30,000
First National Bank, Rome, Ga	200,000
National City Bank, Rome, Ga	125,000
Rome Bank & Trust Co., Rome, Ga	55,000
Citizens National Bank of Sandy Springs, Sandy Springs, Ga	40,000
Bank of Hancock County, Sparta, Ga	35,000
Bullock County Bank, Statesboro, Ga	50,000
Sea Island Bank, Statesboro, Ga	25,000
The Citizens & Southern Bank of Stone Mountain, Stone Mountain, Ga	15,000
Farmers & Merchants Bank, Summerville, Ga	75,000
Central Bank, Swainsboro, Ga	30,000
First National Bank, Thomson, Ga	40,000
Bank of Tifton, Tifton, Ga	50,000
Bank of Toccoa, Toccoa, Ga	40,000
Citizens Bank, Toccoa, Ga	47,000
The Citizens & Southern Bank, Tucker, Ga	36,000
Bank of Union Point, Union Point, Ga	10,000
First National Bank, Valdosta, Ga	80,000
First State Bank, Valdosta, Ga	45,000
Bank of Warner Robins, Warner Robins, Ga	20,000
Commercial Bank, Waycross, Ga	40,000
First National Bank in Waycross, Waycross, Ga	75,000
Southern Bank, Waycross, Ga	47,000
Bank of Waynesboro, Waynesboro, Ga	45,000
First National Bank, Waynesboro, Ga	35,000
Bank of Wrightsville, Wrightsville, Ga	20,000
Total	57,323,000

Georgia proposes to use the proceeds from the notes listed above, together with its cash on hand and the proceeds from a contemplated sale of common stock, preferred stock, and first mortgage bonds later in 1967 to finance its 1967 construction program, estimated at $123,190,000, to pay its short-term banks loans incurred for such purposes, and for other corporate needs. The net proceeds from such sale of the first mortgage bonds and preferred stock will be applied in total payment of all notes issued pursuant to this declaration and, thereupon, any authorization which may be granted under this declaration will cease to be effective.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $700, including legal fees of $500.

It is 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 May 22, 1967, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. 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 declarant at the above-stated address, and proof of service thereof (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be 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. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-4836; Filed, May 1, 1967; 8:46 a.m.]

[70-4480]

GULF POWER CO.

Notice of Proposed Issue and Sale of Short-Term Notes

APRIL 25, 1967.

Notice is hereby given that Gulf Power Co. ("Gulf"), 75 North Pace Boulevard,

Pensacola, Fla. 32501, a public-utility subsidiary company of The Southern Co., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 thereof as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Gulf requests authorization to issue, from time to time prior to July 1, 1968, its unsecured promissory notes to banks in an aggregate principal amount not to exceed $8 million, including in such amount up to an aggregate of $5,786,945 principal amount of promissory notes to be issued pursuant to the exemption afforded by the first sentence of section 6(b) of the Act. Each note proposed to be issued by Gulf will bear interest at the prime rate in effect at The Chase Manhattan Bank in New York (presently 5½ percent per annum) on the date of issuance, except that the notes to Irving Trust Co., New York, will bear the prime rate in effect at the latter bank (presently 5½ percent per annum). All notes will mature not more than 9 months after the date of issue and will be prepayable, in whole or in part, without penalty or premium.

The initial $6,986,000 of Gulf's notes are to be issued to the following banks in the aggregate amounts as listed:

Names and addresses of banks	*Amount*
The Chase Manhattan Bank (National Association), New York, N.Y	$2,900,000
Irving Trust Co., New York, N.Y.	2,550,000
The Florida First National Bank at Pensacola, Pensacola, Fla	340,000
The First Bank & Trust Co. of Pensacola, Pensacola, Fla	200,000
The Citizens & Peoples National Bank of Pensacola, Florida, Pensacola, Fla	120,000
The West Pensacola Bank, Pensacola, Fla	85,000
The Commercial National Bank of Pensacola, Pensacola, Fla	65,000
Bank of Gulf Breeze, Gulf Breeze, Fla	22,500
Commercial Bank in Panama City, Panama City, Fla	100,000
The Bay National Bank & Trust Co., Panama City, Fla	150,000
Beach State Bank, Panama City Beach, Fla	43,000
Springfield Commercial Bank, Springfield, Fla	24,000
Bank of Fort Walton, Fort Walton Beach, Fla	40,000
First National Bank of Fort Walton Beach, Fort Walton Beach, Fla	45,000
Florida Bank at Chipley, Chipley, Fla	60,000
First National Bank in Milton, Milton, Fla	70,000
Santa Rosa State Bank, Milton, Fla	42,000
First National Bank of Crestview, Crestview, Fla	27,000
The First National Bank, DeFuniak Springs, Fla	20,000
Cawthon State Bank, DeFuniak Springs, Fla	20,000
The Bank of Bonifay, Bonifay, Fla	22,000
Escambia County Bank, Flomaton, Ala	40,000
Total	6,986,000

Gulf proposes to use the proceeds from the notes listed above, together with its cash on hand and the proceeds from a contemplated sale of first mortgage bonds during the first half of 1968 to finance its 1967 and 1968 construction programs, estimated at $27,702,000, to pay its short-term banks loans incurred for such purposes, and for other corporate needs. The net proceeds from such sale of bonds will be applied in total payment of all notes issued pursuant to this declaration and, thereupon, any authorization which may be granted under this declaration will cease to be effective.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $700, including legal fees of $500.

It is stated that the Florida Public Service Commission has jurisdiction over the proposed issuance of these notes; it is further stated that no other 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 May 22, 1967, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. 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 declarant at the above-stated address, and proof of service thereof (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be 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. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 67-4837; Filed, May 1, 1967; 8:46 a.m.]

[811-756]

TRI-CONTINENTAL FINANCIAL CORP.

Notice of Application for Order Declaring That Company Has Ceased To Be an Investment Company

APRIL 26, 1967.

Notice is hereby given that an application has been filed pursuant to section 8(f) of the Investment Company Act of 1940 ("Act") for an order of the Commission declaring that Tri-Continental Financial Corp. ("Financial"), 65 Broadway, New York, N.Y., a Maryland corporation and a management closed-end nondiversified investment company registered under the Act, has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations which are summarized below.

It is stated in the application that on March 16, 1967, Financial was merged into Tri-Continental Corp. pursuant to authorization of the Board of Directors of each corporation and pursuant to the laws of the State of Maryland. In lieu of a stockholders meeting of Financial, Tri-Continental, as the sole shareholder of Financial, executed a consent to the merger pursuant to the laws of the State of Maryland and Financial has ceased to be an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 10, 1967, 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 reasons for such request, and the issues of fact or law proposed to be controverted or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Financial at the address stated 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 application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing

or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-4838; Filed, May 1, 1967; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-6043 etc.]

MONSANTO CO. ET AL.

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

APRIL 20, 1967.

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

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 11, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

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

JOSEPH H. GUTRIDE,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-6043 4-12-67 [2]	Monsanto Co., 1300 Main St., Houston, Tex. 77002.	Texas Eastern Transmission Corp., Bryceland Field, Bienville Parish, La.	[3] [5] 16.7756	15.025
G-6619 4-12-67 [4]	Sun Oil Co.[4] (Southwest Division), 1608 Walnut St., Philadelphia, Pa. 19103.	El Paso Natural Gas Co., Levelland Field, Hockley County, Tex.	14.21	14.65
G-10143 C 4-12-67	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., West Delta Area, Offshore, Plaquemines Parish, La.	19.5	15.025
G-10146 C 4-10-67	Tidewater Oil Co., Post Office Box 1404, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., West Delta Blocks 95 and 96, Offshore, Jefferson and Plaquemines Parishes, La.	19.0	15.025
G-10239 E 4-7-67	R. H. Carnes & Frank Gandee (successor to H. H. Osborne), Box 486, Glendenin, W. Va. 25045.	Pennzoil Co., Big Sandy District, Kanawha County, W. Va.	15.0	15.325
G-12236 D 4-6-67	J. M. Huber Corp., 2401 East 2d Ave., Denver, Colo. 80206.	Cities Service Gas Co., acreage in Alfalfa County, Okla.	Assigned	.....
G-19719 C 4-10-67	Tidewater Oil Co.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., South Timbalier NE¼ Block 27, Offshore, Jefferson and Lafourche Parishes, La.	19.0	15.025
G-20929 C 4-12-67	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Grand Isle Area, Offshore, Lafourche Parish, La.	19.5	15.025
CI61-1445 C 4-6-67	Harry L. Bigbee and Hari D. Byrd, Post Office Box 669, Santa Fe, N. Mex. 87501.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	12.0	15.025
CI63-647 C 4-10-67	Cities Service Oil Co., Cities Service Bldg., Bartlesville, Okla. 74003.	Michigan Wisconsin Pipe Line Co., Woodward Area, Woods County, Okla.	[5] 15.0	14.65
CI64-1338 C 4-10-67	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Crane Field, Dewey and Custer Counties, Okla.	15.0	14.65
CI65-426 E 4-7-67	Pecos Co. (successor to John H. Hill), El Paso Natural Gas Bldg., El Paso, Tex. 79999.	Cities Service Gas Co., South Bishop Field, Ellis County, Oklahoma and Hemphill County, Tex.	17.0	14.65
CI65-506 D 3-13-67 [7]	Hassie Hunt Trust, 1401 Elm St., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Block 198 Field, Eugene Island Area, Offshore Louisiana.	(7)	.....
CI65-507 D 3-13-67 [7]	Hunt Oil Co., 1401 Elm St., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Block 77 Field, Eugene Island Area, Offshore, Louisiana.	(7)	.....
CI65-508 D 3-13-67 [7]	Placid Oil Co., 2500 First National Bank Bldg., Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., Eugene Island Area, Offshore Louisiana.	(7)	.....
CI66-176 C 4-6-67	Skelly Oil Co. (Operator) et al., Post Office Box 1650, Tulsa, Okla. 74102.	Arkansas Louisiana Gas Co., Arkoma Basin, Pittsburg, Latimer, and La Flore Counties, Okla.	15.0	14.65
CI66-239 C 4-10-67	Joseph F. Fritz (Operator) et al., 507 Brookwood Dr., Clinton, Miss. 39056.	United Gas Pipe Line Co., Maxie-Pistol Ridge Field, Forrest and Pearl River Counties, Miss.	20.0	15.025
CI66-338 E 4-7-67	Pecos Co. (successor to John H. Hill et al.).	Cities Service Gas Co., South Bishop Field, Roger Mills County, Okla.	15.0	14.65
CI66-1234 C 4-6-67	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., South Bishop Field, Ellis County, Okla.	[6] [8] 18.156	14.65
CI67-205 C 4-10-67	Dalco Oil Co., 1210 Mercantile Bank Bldg., Dallas, Tex. 75201.	Panhandle Eastern Pipe Line Co., South Peek Field, Ellis County, Okla.	[5] 17.0	14.65
CI67-1352 B 3-29-67	Terry A. Hornaday (Operator) et al., 1207 National Bank of Commerce Bldg., San Antonio, Tex. 78205.	Lone Star Gathering Co., South Weesatche and South Marshall Field Area, Goliad County, Tex.	(9)	.....
CI67-1394 A 4-6-67	Sun Oil Co. (Southwest Division).	Phillips Petroleum Co., Panhandle Field, Wheeler County, Tex.	[10] 6.0	14.65
CI67-1395 A 4-7-67	Arnold Petroleum Co. (Operator) et al., 700 United Founders Tower, Oklahoma City, Okla. 73102.	Northern Natural Gas Co., Mocane-Laverne Field, Beaver County, Okla.	[6] 17.0	14.65
CI67-1396 A 3-27-67	Duquesne Natural Gas Co., 225 Washington Trust Bldg., Washington, Pa. 15301.	The Manufacturers Light & Heat Co., Morris Township, Greene County, and East Finley Township, Washington County, Pa.	21.5	15.325
CI67-1397 A 3-24-67	George Finnegan, Rural Delivery No. 1, Wind Ridge, Pa. 15380.	The Manufacturers Light & Heat Co., Richhill Township, Greene County, Pa.	21.5	15.325
CI67-1398 A 3-27-67	Thomas M. Tharp, agent et al., Wind Ridge, Pa. 15380.	The Manufacturers Light & Heat Co., Aleppo Township, Greene County, Pa.	21.5	15.325
CI67-1399 A 4-3-67	Raymond R. Ward, agent, 6548 Edgerton Rd., North Royalton, Ohio 44133.	Cumberland & Allegheny Gas Co., acreage in Upshur County, W. Va.	20.0	15.325

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
CI67-1400..... A 4-7-67	Bowser Gas & Oil Co., 1231 20th St., Parkersburg, W. Va. 26101.	Consolidated Gas Supply Corp., Center District, Calhoun County, W. Va.	25.0	15.325
CI67-1401..... A 4-6-67	Russell G. Beall et al., c/o Winnie Fae Morris, agent, 429 Penn Ave., Harrisville, W. Va. 78332.	Consolidated Gas Supply Corp., Troy District, Gilmer County, W. Va.	25.0	15.325
CI67-1402..... A 4-10-67	George W. Miller et al., Box 2, Glenville, W. Va. 26351.	Consolidated Gas Supply Corp., Dekalb District, Gilmer County, W. Va.	25.0	15.325
CI67-1403..... B 4-10-67	Rhodes & Hicks Drilling Corp. et al., Post Office Drawer 1579, Alice, Tex. 78332.	Coastal States Gas Producing Co., Hollow Tree Field, Jim Wells County, Tex.	Depleted	.....
CI67-1404..... A 4-7-67	J. A. Pierce, Box AA, Aztec, N. Mex. 87410.	El Paso Natural Gas Co., acreage in San Juan County, N. Mex.	[2] 12.0	15.025
CI67-1405..... A 4-10-67	A.I.K., Ltd., No. 2, 706 Bank of the Southwest Bldg., Amarillo, Tex. 79109.	Michigan Wisconsin Pipe Line Co., Mocane-Laverne Field, Harper County, Okla.	[3] 17.0	14.65
CI67-1406..... (G-11122) F 4-10-67	A.I.K., Ltd., No. 2 (successor to Sunray DX Oil Co.).	Colorado Interstate Gas Co., Mocane-Laverne Field, Harper County, Okla.	[3] 15.0	14.65
CI67-1407..... B 4-10-67	Robert Mosbacher, 602 Bank of Commerce Bldg., Houston, Tex. 77002.	United Fuel Gas Co., Valentine Field, Lafourche Parish, La.	[12]	.....
CI67-1408..... A 4-10-67	Bowser Gas & Oil Co.....	Consolidated Gas Supply Corp., Center District, Calhoun County, W. Va.	25.0	15.325
CI67-1409..... A 4-10-67	Kewanee Oil Co. (Operator) et al., Post Office Box 2289, Tulsa, Okla. 74101.	Gas Gathering Corp., Bayou Boullion Field, St. Martin Parish, La.	19.5	15.025
CI67-1410..... B 4-7-67	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001.	Lone Star Gathering Co., Roeder Field, De Witt County, Tex.	[1]	.....
CI67-1411..... B 4-7-67	.....do.....	Lone Star Gathering Co., Kawitt Field, Karnes and De Witt Counties, Tex.	[1]	.....
CI67-1412..... B 4-7-67	.....do.....	Lone Star Gathering Co., Speary, Kawitt, and Yorktown Fields, Karnes and De Witt Counties, Tex.	[1]	.....
CI67-1413..... A 4-7-67	J & J Enterprises, Inc., 519 Allegheny Ave., Avonmore, Pa. 15618.	Consolidated Gas Supply Corp., Union District, Barbour County, W. Va.	25.0	15.325
CI67-1414..... A 4-11-67	A. & A. Drilling Co., c/o Austin Nelson, Operator, 703 Park Ave., Decorah, Iowa 52101.	Consolidated Gas Supply Corp., Grant District, Ritchie County, W. Va.	25.0	15.325
CI67-1415..... B 4-10-67	C. S. Sentell, M. D., c/o John M. Shuey, attorney, Johnson Bldg., Shreveport, La. 71102.	Arkansas Louisiana Gas Co., Darley Field, Claiborne Parish, La.	Depleted	.....
CI67-1417..... A 4-11-67	Industries Americana, Inc., c/o Adena Petroleum, Inc., agent, 1814 7th St., Parkersburg, W. Va. 26102.	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	25.0	15.325
CI67-1418..... A 4-12-67	Lock 3 Oil, Coal & Dock Co. et al., 415 Porter Bldg., Pittsburgh, Pa. 15219.	Cumberland & Allegheny Gas Co., Union District, Upshur County, W. Va.	25.0	15.325
CI67-1419..... A 4-12-67	.....do.....	Cumberland & Allegheny Gas Co., Union District, Barbour County, W. Va.	25.0	15.325
CI67-1420..... A 4-11-67	W. H. Hunt, 1401 Elm St., Dallas, Tex. 75202.	South Texas Natural Gas Gathering Co., El Benadito Area, Starr County, Tex.	15.5	14.65
CI67-1421..... A 4-12-67	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Southwest Lovedale Field, Harper County, Okla.	[3] 17.0	14.65
CI67-1422..... A 4-12-67	Sun Oil Co. (Southwest Division).	The Shamrock Oil & Gas Corp., Crest (Des Moines) Field, Ochiltree County, Tex.	13.0	14.65
CI67-1423..... B 4-12-67	.....do.....	Lone Star Gathering Co., Speary Field, Karnes County, Tex.	[1]	.....
CI67-1424..... A 4-12-67	MBF Co., c/o Raymond N. Beirn, attorney and partner, 810 Midland Bank Bldg., Minneapolis, Minn. 55401.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	25.0	15.325

[1] Amendment to certificate filed to secure authorization to sell gas in behalf of nonoperator, Texaco, Inc.
[2] Includes 1.75 cent Mcf tax reimbursement.
[3] In accordance with the terms and provisions of the Commission's settlement order issued Dec. 30, 1966, in Docket Nos. G-18200 et al.
[4] Amendment to certificate filed to increase daily contract quantity.
[5] Applicant states its willingness to accept authorization containing conditions similar to those imposed by Opinion No. 468.
[6] Subject to upward and downward B.t.u. adjustment.
[7] Deletes authorization to transport the subject gas from the producing properties to the purchaser's pipeline. The transportation facilities have been assigned to the purchaser.
[8] Includes 1.156 cents upward B.t.u. adjustment.
[9] Gas will no longer be transported and/or sold in interstate commerce.
[10] 0.5 cent deducted if sour gas is delivered.
[11] Includes 1.0 cent per Mcf minimum guarantee for liquids.
[12] The wells covered by subject contract stopped producing gas in January 1967.

[F.R. Doc. 67-4682; Filed, May 1, 1967; 8:45 a.m.]

[Docket No. CP67-299]

IROQUOIS GAS CORP.

Notice of Application

APRIL 25, 1967.

Take notice that on April 18, 1967, Iroquois Gas Corp. (Applicant), 10 Lafayette Square, Buffalo, N.Y. 14203, filed in Docket No. CP67-299 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate approximately 22 miles of 24-inch transmission pipeline north and east of Buffalo, in Erie and Niagara Counties, N.Y. Applicant states that the increased capacity provided by the proposed pipeline is required for the substantial increases in its market in the State of New York, particularly in the Buffalo-Niagara Falls distribution area and the surrounding suburbs.

Applicant estimates the total cost of the proposed construction at approximately $2,545,863, said cost to be financed through the use of available company funds and through the issuance of promissory notes and/or stock to its parent company, National Fuel Gas Co.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before May 22, 1967.

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

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

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-4820; Filed, May 1, 1967; 8:45 a.m.]

[Project No. 980]

FOREST SERVICE

Order Vacating Land Withdrawals

APRIL 24, 1967.

Application has been filed by the U.S. Forest Service for vacation of the power withdrawals under the provisions of section 24 of the Federal Power Act pertaining to the following described lands of the United States:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 46 N., R. 12 E.,
Sec. 5: S½SW¼ (portions of, containing 0.98 acre).

The lands lie within the San Isabel National Forest and are located on Lake Creek near the town of Hillside in Custer County, Colo.

The lands were withdrawn pursuant to the filings on April 11, 1929, and June 22, 1939, of an application for license and amendment thereof for Project No. 980, having an installed capacity of about 20

hp. The Commission gave notice of such withdrawals by letters of April 30, 1929, and August 3, 1939, to the General Land Office, now Bureau of Land Management.

By order issued May 3, 1950 (9 FPC 710), the Commission rescinded a prior order dated November 1, 1949, which authorized the issuance of a new license for minor Project No. 980, which had been operated under two earlier 10-year term licenses. In rescinding the November 1, 1949 order, the Commission noted that the summer resort using the energy generated by the project was to be sold or dismantled. We are now informed that the resort is presently supplied electrically by an REA cooperative serving the area.

The Commission finds: Inasmuch as the subject land no longer has power value, and the power withdrawal of the land serves no useful purpose, it should be vacated.

The Commission orders: The power withdrawals pertaining to the subject land pursuant to the applications for Project No. 980 are hereby vacated.

By the Commission.

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

[F.R. Doc. 67-4821; Filed, May 1, 1967; 8:45 a.m.]

[Project No. 1919]

FOREST SERVICE

Order Vacating Land Withdrawal

APRIL 25, 1967.

Application has been filed by the U.S. Forest Service (Applicant) for vacation of the power withdrawal under the provisions of section 24 of the Federal Power Act pertaining to the following described land of the United States comprising approximately 0.12 acre:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 8 S., R. 84 W.,
Sec. 18: E½SW¼NW¼.
all portions of the above subdivision lying within 10 feet of the centerline of the dam, pipeline, powerhouse, and transmission line location as shown on a map designated "Exhibit K" and entitled "Map of the Nora E. Jackman Pipe and Transmission Line, Holy Cross National Forest," and filed in the office of the Federal Power Commission on August 2, 1944.

The subject land is located on Rocky Fork Creek about 100 yards upstream from its confluence with the Fryingpan River, in Pitkin County, Colo., and is within the White River National Forest.

The land is withdrawn pursuant to the filing on August 2, 1944 of an application for license for Project No. 1919. Commission notice of the withdrawal was given to the General Land Office (now the Bureau of Land Management) by letter dated January 19, 1945. The hydroelectric facilities comprising Project No. 1919, with a powerhouse containing a turbine connected to a 1½ kilowatt generator, served an isolated mountain cabin and outbuilding operated by the licensee. The license for the project expired on March 22, 1955, and the Forest Service has advised the Commission that the project land within the White River National Forest has been restored to a condition satisfactory to the Service.

The land is also withdrawn by Public Land Order 3500, dated December 2, 1964, for use in connection with the Ruedi Dam and Reservoir, units of the Bureau of Reclamation's Fryingpan—Arkansas Project. The latter project involves diversion of water from the Fryingpan River in the upper Colorado drainage system through the Continental Divide to the Arkansas River Basin. Construction of the Ruedi Dam and Reservoir on the Fryingpan River, about ¼-mile upstream from its confluence with Rocky Fork Creek, was initiated in fiscal year 1965. Bureau of Reclamation studies indicated that the feasibility of power in connection with its Ruedi Dam and Reservoir would be marginal even under the most favorable circumstances.

The Commission finds: Inasmuch as the subject land no longer has significant power value, and the power withdrawal of the land serves no useful purpose, it should be vacated.

The Commission orders: The power withdrawal of the subject land pursuant to the application for Project No. 1919 is hereby vacated.

By the Commission.

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

[F.R. Doc. 67-4822; Filed, May 1, 1967; 8:45 a.m.]

[Docket Nos. CS67-28 etc.]

LESH CO. ET AL.

Findings and Order After Statutory Hearing; Correction

APRIL 6, 1967.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, accepting FPC gas rate schedule for filing, terminating and severing proceeding, substituting respondent, redesignating proceeding, making rate effective subject to refund, and accepting agreement and undertaking for filing, issued March 13, 1967 and published in the FEDERAL REGISTER March 18, 1967 (F.R. Doc. 67-2982, 32 F.R. 4292-4294), in column two, line 10 counting from bottom of page, change Docket No. "CI61-54" to read Docket No. "CI61-541"; also correct same Docket No. in paragraph (B) subparagraph (a) under "The Commission orders".

Correct Docket No. "CI67-783" to read Docket No. "CI66-783" in footnote 6.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 67-4823; Filed, May 1, 1967; 8:45 a.m.]

[Docket No. CP67-298]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

APRIL 25, 1967.

Take notice that on April 18, 1967, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP67-298 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to construct and operate a 4,000 horsepower compressor station on its Permian Basin pipeline located near Lovington, N. Mex., which will enable it to transport the peak day quantity of approximately 221,000 Mcf of natural gas now available from its presently committed reserves in the Permian Basin Area. Applicant states that this is necessary due to the delay in construction occasioned by consolidation of its application in the consolidated proceedings in Docket No. CP65-1 et al., and that it now needs the capacity originally anticipated for the second year of operation.

Applicant estimates the total cost of the proposed facilities at approximately $1,950,000, said cost to be financed from funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before May 22, 1967.

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

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

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 67-4824; Filed, May 1, 1967; 8:45 a.m.]

[Docket No. E-7348]

ORANGE AND ROCKLAND UTILITIES, INC.

Notice of Application

APRIL 24, 1967.

Take notice that on April 11, 1967, Orange and Rockland Utilities, Inc. (Applicant), filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $35 million in short-term unsecured promissory notes.

Applicant is incorporated under the laws of the State of New York with its principal business office at Nyack, N.Y., and is engaged in the electric utility business in three counties in the State of New York.

The notes are to be issued from time to time to commercial banks or similar institutions and will mature within one year from their dates of issuance and in any event not later than June 30, 1968.

The proceeds from the issuance of the notes will be used to finance the Applicant's 1967–68 construction program. The principal item in this program, the construction of a 195 mw fifth unit at the Lovett Steam Plant, will require expenditures of approximately $18.6 million during 1967 and the first-half of 1968.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 5, 1967, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-4825; Filed, May 1, 1967; 8:45 a.m.]

[Docket No. G-4533 etc.]

SELLS PETROLEUM INC., ET AL.

Findings and Order After Statutory Hearing; Correction

APRIL 12, 1967.

In the findings and orders after statutory hearing issuing certificates of public convenience and necessity, canceling docket number, amending certificates, permitting and approving abandonment of service, terminating certificates, making successors co-respondents, redesignating proceedings, making rate changes effective, accepting agreement and undertaking for filing, requiring filing of surety bonds, and accepting related rate schedules and supplements for filing, issued April 6, 1967 and published in the FEDERAL REGISTER April 13, 1967 (F.R. Doc. 67-4090, 32 F.R. 6065-6070), in the second line of paragraph 4 change Docket Nos. "CI67-791 and CI67-792" to read Docket Nos. "CI67-971 and CI67-972".

In the chart after Docket No. CI63-760 add "CI67-972 A 2-1-67."

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-4826; Filed, May 1, 1967; 8:45 a.m.]

[Docket No. RI65-35]

SOUTHERN NEW MEXICO OIL CORP. AND TREBOL DRILLING CO.

Order Accepting Offer of Settlement, Requiring Refunds, Terminating Proceeding in Part, Naming Substitute Respondent, and Accepting Surety Bond

APRIL 25, 1967.

On March 6, 1967, Southern New Mexico Oil Corp. (Southern New Mexico) submitted an offer of settlement, pursuant to § 1.18(e) of the Commission's rules of practice and procedure, involving a sale of natural gas to El Paso Natural Gas Co. (El Paso) under Southern New Mexico's FPC Gas Rate Schedule No. 1 in the Lusk Deep Unit area in Lea and Eddy Counties, N. Mex. On August 2, 1964, Southern New Mexico began charging and collecting from El Paso an increased rate of 15.5 cents per Mcf of natural gas at 14.65 p.s.i.a., subject to refund, which had been suspended for the statutory period by order of the Commission in Docket No. RI65-35.

Southern New Mexico was included in the show cause order issued by the Commission on August 5, 1965, in Docket No. AR61-1 et al., which directed the producers named to show cause why its Opinion No. 468 and 468A issued in such proceeding, 34 FPC 159, 424, should not apply to them. Under the Commission's opinion and order, Southern New Mexico would have qualified as a small producer and the applicable area base rate would be 14.45339 cents per Mcf of natural gas at 14.65 p.s.i.a.

On August 1, 1966, Southern New Mexico sold and conveyed to Trebol Drilling Co. (Trebol) all of the leasehold rights and properties dedicated to its sale of natural gas under its FPC Gas Rate Schedule No. 1. Thereafter, Trebol filed its application for a certificate of public convenience and necessity to make the subject sale to El Paso, and a motion to be substituted as respondent in the above-docketed proceeding. On January 17, 1967, the Commission issued an order substituting Trebol as the producer seller of natural gas to El Paso in lieu of Southern New Mexico. However, since said order did not make Trebol respondent in the instant proceeding, we shall do so herein, and shall also accept its surety bond for the increased rate, charged, and collected subject to refund herein subsequent to August 1, 1966. Southern New Mexico's proposed settlement does not cover Trebol.

Southern New Mexico proposes a settlement rate of 14.45339 cents, the applicable area base ceiling under Opinion No. 468 and agrees to make refunds of all amounts collected in excess thereof in Docket No. RI65-35. Southern New Mexico estimates that it will refund El Paso approximately $57,024.56 in principal, plus $4,513.36 in interest, which it computes to March 31, 1967. However, we shall require Southern New Mexico to compute the applicable interest on the refund monies to the date of the issuance of this order.

Southern New Mexico makes no other sales of natural gas subject to the jurisdiction of this Commission, and we find approval of its offer of settlement to be in the public interest.

The Commission orders:

(A) The offer of settlement filed by Southern New Mexico on March 6, 1967, as conditioned herein, is approved.

(B) Southern New Mexico shall compute the difference between 15.5 cents per Mcf and 14.4559337 cents per Mcf of natural gas at 14.65 p.s.i.a. for the period August 2, 1964, through July 31, 1966, with applicable interest to the date of issuance of this order, and shall refund said monies collected subject to refund in Docket No. RI65-35 to El Paso within 30 days of the date of issuance of this order, and 10 days thereafter shall file with the Commission a report showing the amount of refunds (showing separately the principal and applicable interest) and the basis used for such determination, and a release from El Paso acknowledging the receipt of the refunds and agreeing to the correctness of such amounts.

(C) The proceeding in Docket No. RI65-35, insofar as it pertains to Southern New Mexico, will be terminated upon its compliance with the terms and conditions of this order without further action of the Commission.

(D) Trebol is hereby substituted for Southern New Mexico as respondent in the proceeding in Docket No. RI65-35, as of August 1, 1966, and its surety bond applicable to monies charged and collected, subject to refund, from El Paso for sales of natural gas under its FPC Gas Rate Schedule No. 1 since August 1, 1966, is accepted.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-4827; Filed, May 1, 1967; 8:46 a.m.]

[Docket No. CP67-302]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

APRIL 26, 1967.

Take notice that on April 20, 1967, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP67-302 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of volumes of natural gas and the operation of certain existing natural gas facilities, all as more fully set forth in the applica-

tion which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to sell and deliver to Valley Pipe Lines, Inc. (Valley), up to 500 Mcf of natural gas per day to be used to meet the full requirements of Valley's customer, American Canal Co. (American), for use in its pump stations located on its canal system.

Applicant also seeks authorization to operate an existing meter station and appurtenant facilities located at milepost 293.25 on its 30-inch main line in Fort Bend County, Tex. Applicant proposes to use this meter station to render the above-described service.

Applicant states that no additional facilities will be required to render the proposed service.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before May 15, 1967.

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

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

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 67-4828; Filed, May 1, 1967; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

CHARTER NEW YORK CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956, by Charter New York Corp., which is a bank holding company located in New York, N.Y., for the prior approval of the Board of the acquisition by Applicant of all of the voting shares of Endicott Trust Co., Endicott, N.Y.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that in every case, the Board shall take into consideration, the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Dated at Washington, D.C., this 25th day of April 1967.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-4829; Filed, May 1, 1967; 8:46 a.m.]

GENEVA SHAREHOLDERS, INC.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Geneva Shareholders, Inc., Warsaw, N.Y., for approval of action to become a bank holding company through the acquisition of the voting shares of Wyoming County Bank and Trust Co., Warsaw, N.Y.

There has come before the Board of Governors, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), and § 222.4(a) of Federal Reserve Regulation Y (12 CFR 222.4(a)), an application by Geneva Shareholders, Inc., Warsaw, N.Y., for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 80 percent or more of the outstanding voting shares of Wyoming County Bank and Trust Co., Warsaw, N.Y.

As required by section 3(b) of the Act, notice of receipt of the application was given to, and views and recommendation requested of, the Superintendent of Banks of the State of New York. The Superintendent made no recommendation on the application. However, as discussed in the Statement accompanying this Order, the New York State Banking Board advised this Board that, following a favorable recommendation of the Superintendent, the Banking Board had approved an application filed by Geneva Shareholders, Inc., pursuant to the New York Banking Law involving the same proposal submitted to this Board.

Notice of receipt of the application was published in the FEDERAL REGISTER on November 30, 1966 (31 F.R. 15040), which provided an opportunity for interested persons to submit comments and views with respect to the proposed acquisition. A copy of the application was forwarded to the Department of Justice for its consideration. Time for filing such comments and views has expired and all those received have been considered by the Board.

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 the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of the order.

Dated at Washington, D.C., this 25th day of April 1967.

By order of the Board of Governors.[2]

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 67-4830; Filed, May 1, 1967; 8:46 a.m.]

TARIFF COMMISSION

[TC Publication 205; APTA-W-11]

CERTAIN WORKERS OF CHRYSLER CORPORATION'S JEFFERSON PLANT

Report to Automotive Agreement Adjustment Assistance Board in Adjustment Assistance Case

APRIL 27, 1967.

The Tariff Commission today reported to the Automotive Agreement Adjustment Assistance Board the results of its investigation No. APTA-W-11, conducted under section 302(e) of the Automotive Products Trade Act of 1965. The Commission's report contains factual information for use by the Board, which determines the eligibility of the workers concerned to apply for adjustment assistance. The workers in this case were employed in the Jefferson (Detroit, Mich.) plant of the Chrysler Corp.

Only certain sections of the Commission's report can be made public since much of the information it contains was received in confidence. Publication of such information would result in the disclosure of certain operations of individual firms. The sections of the report that can be made public are reproduced on the following pages.

Introduction. In accordance with section 302(e) of the Automotive Products

[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 New York.

[2] Voting for this action: Chairman Martin, and Governors Robertson, Shepardson, Mitchell, Daane, Maisel, and Brimmer.

Trade Act of 1965 (79 Stat. 1016), the U.S. Tariff Commission has conducted an investigation (APTA–W–11) concerning the possible dislocation of certain workers engaged in the assembly of automobiles at the Jefferson plant (Detroit, Mich.) of the Chrysler Corp. The Commission instituted the investigation on March 9, 1967, upon receipt of a request for investigation on the same day from the Automotive Assistance Committee of the Automotive Agreement Adjustment Assistance Board. Public notice of the investigation was given in the FEDERAL REGISTER (32 F.R. 4038) on March 14, 1967. The results of the investigation herein reported are intended to provide a factual record in order to assist the Automotive Agreement Adjustment Assistance Board in making the determinations required by section 302 of the Act.

The Automotive Assistance Committee's request for the investigation resulted from a petition for determination of eligibility to apply for adjustment assistance filed with the Assistance Board on March 2, 1967, by the International Union, United Automobile Aerospace & Agricultural Implement Workers of America (UAW), and its Local 7, of Detroit, Mich., on behalf of a group of workers at Chrysler's Jefferson assembly plant.

The petition stated that the assemblies of Dodge Polara and Dodge Monaco automobiles were discontinued at the Jefferson plant beginning with model year 1967 which resulted in the Windsor, Ontario, plant obtaining a much larger share of the total production of Polara and Monaco automobiles. The petition further alleged that the United States-Canadian Trade Agreement was the cause of the rescheduling of production from the Jefferson plant to the Windsor plant which subsequently led to 1,038 layoffs at the Jefferson plant on January 23, 1967.

The information reported herein was obtained from the Chrysler Corp., the other major motor-vehicle manufacturers in the United States, the International Union, UAW and Local Union 7, UAW, the Commission's files, and by fieldwork by members of the Commission's staff. Since no parties requested a hearing, none was held.

The automotive products involved—passenger cars. The Jefferson plant at which the petitioning workers were employed assembles passengers cars, but not trucks or buses. The petition specifically refers to Dodge Polara and Monaco passenger cars.

Polaras and Monacos are full-sized automobiles representing the top of the Dodge carlines. They are identical in length, width, and height and have the same body shell and wheel base. They are essentially the same except for inside and outside trim and interior furnishings. Both Polaras and Monacos are available in 4-door sedans, 2- and 4-door hardtops, and 6- and 9-passenger station wagons. A convertible is offered in the Polara series only.

Polaras are powered by 8-cylinder, 318- or 383-cubic-inch engines whereas all Monacos are driven by 8-cylinder, 383-cubic-inch engines.

Imported passenger cars are dutiable at the rate of 6.5 percent ad valorem under the provisions of TSUS item 692.10 except when imported from Canada in which event they are entered duty-free under item 692.11. Since Polaras and Monacos are manufactured only in the United States and Canada, these automobiles when imported are free of duty under item 692.11.

Chrysler Corp.'s automobiles and assembly plants. The Chrysler Corp., which maintains its corporate headquarters at Detroit, Mich., is the world's third largest producer of motor vehicles. In North America, the corporation assembles passenger cars at eight plants, seven in the United States and one at Windsor, Canada. The Jefferson, Hamtramck, and Lynch Road plants are located in the vicinity of Detroit, Mich. Plants are also located at St. Louis, Mo., Los Angeles, Calif., Newark, Del., and Belvidere, Ill. All of the plants have been in operation for many years except for the one at Belvidere, which was constructed about 3 years ago and was fully operational at the start of the 1966 model year.

Within each of its three "divisions" (Plymouth, Dodge, and Chrysler) the corporation produces a variety of carlines. Polara/Monaco, Coronet, Charger, and Dart are carlines within the Dodge division. The Plymouth division consists of Fury, Belvedere, Barracuda, and Valiant, and the Chrysler division includes the Chrysler Newport, Chrysler 300, New Yorker, and Imperial. All of the passenger cars manufactured by Chrysler are either "A," "B," or "C" body types. The "A" type bodies are used on the smaller-compact cars, namely the Barracuda, Dart, Charger, and Valiant. "B" bodies are used on the Coronet and Belvedere, intermediate-size automobiles. Full-sized automobiles, which include Fury, Polara/Monaco and all carlines within the Chrysler division, utilize the "C" body type. * * *

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Production patterns. Certain production patterns exist in both the domestic and Canadian automobile industries. Each assembly plant is shut down from 2 to 4 weeks during the annual model changeover which usually occurs in late July and early August. For several weeks prior to the changeover, industrywide output declines. However, under the combined stimuli of a strong market demand for new models and the need to build up inventories, production increases sharply after the changeover. The fall season, therefore, is typically firm.

As certain carlines sell faster or slower during the model year than was forecast, the automobile companies must often make adjustments in production scheduling. If output needs to be increased or decreased, the normal practice is to vary the assembly line speed. Line speed is a measure of output per day and may or may not involve the addition or elimination of a shift. Line speed or output can be increased by scheduling extra days and/or by lengthening shifts. Reductions may be made by temporary shutdowns or indefinite layoffs.

United States and Canadian automobile production and trade. While the domestic automobile industry increased annual production in 4 of the last 5 model years, Canadian output rose in every year. In 1966 domestic output declined to 8.6 million units from 8.8 million units in 1965 while Canadian production rose from 585,000 units to 673,000 units. In 1966 U.S. production was about 20 percent more than that recorded in 1963 or about 10 percent more than that in 1964, whereas Canadian output in 1966 was almost 45 percent more than that in 1963 or about 20 percent more than that in 1964. For the first 7 months of model year 1967, production in both the United States and Canada was almost 10 percent less than for the corresponding months of model year 1966.

Prior to the 1965 model year there were no automobiles imported from Canada by the four major U.S. producers. Since then an increasing number have been imported—2,000 in 1965, 94,000 in 1966 and 138,000 in the first 7 months of the 1967 model year. U.S. exports of automobiles to Canada increased annually from 11,000 units in the 1964 model year to 59,000 units in 1966, and to 120,000 units in the first 7 months of the 1967 model year. As a result of these changes in this trade, in 1966 (the first complete model year after the United States-Canadian automotive agreement), Canada not only became an exporter of automobiles to the United States, but attained a net export balance of 35,000 units. During the first 7 months of the 1967 model year Canada was a net exporter to the United States of 18,000 automobiles.

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By direction of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 67-4856; Filed, May 1, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 27, 1967.

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. 41003—*Clay, kaolin, or pyrophyllite from Aberdeen and Amory, Miss.* Filed by O. W. South, Jr., agent (No. A5026), for interested rail carriers. Rates on clay, kaolin, or pyrophyllite, in carloads, from Aberdeen and Amory, Miss., to specified points in official territory.

Grounds for relief—Market competition.

Tariff—Supplement 259 to Southern Freight Association, agent, tariff ICC S-40.

FSA No. 41004—*Class and commodity rates from and to News, S.C.* Filed by O. W. South, Jr., agent (No. A5027), for interested rail carriers. Rates on property moving on class and commodity rates, between News, S.C., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New station and grouping.

By the Commission.

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

[F.R. Doc. 67-4894; Filed, May 1, 1967; 8:51 a.m.]

[Notice 375]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 27, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representatives, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 263 (Sub-No. 176 TA), filed April 24, 1967. Applicant: GARRETT FREIGHTLINES, INC., Post Office Box 4048, Pocatello, Idaho 83201. Applicant's representative: Maurice H. Greene, First Security Bank Building, Boise, Idaho 83702. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), serving Bloomington and Plymouth, Minn., as off-route points in connection with applicant's regular route operations between Billings, Mont., and St. Paul, Minn., for 150 days. Supporting shippers: (1) Abbott Laboratories, North Chicago-Minnesota Branch, 12855 State Highway 55, Minneapolis, Minn.; (2) Control Data Corp., 8100 34th Avenue, South Minneapolis, Minn. 55440; (3) Groves-Kelco, Inc., 7900 Chicago Avenue, Minneapolis, Minn.; (4) Thermo King Corp., 314 West 90th Street, Minneapolis, Minn., 55420; (5) Van Dusen Aircraft Supplies, 2801 East 78th Street, Minneapolis, Minn. 55420; (6) S. C. Johnson & Son, Inc., Racine, Wis.; and (7) John Deere Co., 2001 West 94th Street, Bloomington, Minn. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, 203 Eastman Building, Boise, Idaho 83702.

No. MC 115180 (Sub-No. 40 TA), filed April 24, 1967. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 408 West 14 Street, New York, N.Y. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses, as described in appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Oscar Mayer & Co., located at Beardstown, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and District of Columbia, restricted to traffic originating at the described plantsite and destined to points in the States named above, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., Madison, Wis. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 116273 (Sub-No. 91 TA), filed April 21, 1967. Applicant: D&L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: Robert G. Paluch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oil*, in bulk, in tank vehicles, from Chicago, Ill., to Shreveport, La., for 150 days. Supporting shipper: E. F. Houghton & Co., 6600 South Nashville Avenue, Chicago, Ill. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, 219 South Dearborn Street., Chicago, Ill. 60604.

No. MC 118452 (Sub-No. 3 TA), filed April 24, 1967. Applicant: ARTIC MOTOR FREIGHT, INC., Post Office Box Annex 6243, Arctic Spur Road, Anchorage, Alaska 99502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk commodities* (other than liquid), between points in Alaska, except points east of an imaginary line constituting a southward extension of the United States (Alaska)-Canada (Yukon Territory) boundary line, other than Haines, Alaska, for 180 days. Supporting shippers: IMC Drilling Mud, 1901 Tidewater Road, Anchorage, Alaska, Baron Division, National Lead Co., Post Office Box 1675, Houston, Tex. 77001, and Magcobar, 329 F Street, Anchorage, Alaska 99501. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 1532, Anchorage, Alaska 99501.

No. MC 123476 (Sub-No. 7 TA), filed April 24, 1967. Applicant: CURTIS TRANSPORT, INC., Post Office Box 215, Valley Park, Mo. 63088. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials or products expanded* having a density of 6 pounds or less per cubic foot, with or without panels laminated with aluminum or wood plates, sheets, or slabs attached thereto, from the plantsite of Dow Chemical Co., Pevely, Mo., to points in Tennessee, for 180 days. Supporting shipper: The Dow Chemical Co. (Joe G. Thomason, Traffic Manager), Midland, Mich. 48640. Send protests to: J. P. Werthmann, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3248-B, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 123638 (Sub-No. 3 TA), filed April 24, 1967. Applicant: WHITE STAR BODY WORKS AND WRECKER SERVICE, INC., 4009 Hargrove Street, Charlotte, N.C. 28208. Applicant's representative: Elmer A. Hilker, 506 Johnston Building, Charlotte, N.C. 28202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New and used trailers and used trucks, tractors, buses and trailers* (except trailers designed to be drawn by passenger automobiles), from Charlotte, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maryland, Massachusetts, Mississippi, North Carolina, New Jersey, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia, and return to Charlotte, serving points in named States on return, for 180 days. NOTE: This is a secondary service on low body trailers from and to Charlotte, N.C., to points in said States and from points in said States on return to Charlotte, N.C. Supporting shippers: Akers Motor Lines, Inc., Post Office Box 579, Gastonia, N.C. 28052. Attention: Lennox O. Boyles, Interline Traffic Manager, Johnson Motor Lines, Inc., Post Office Box 10877, Charlotte, N.C. 28201. Attention: Luke A. Murray, Vice President and Secretary, Mangum Trucking Co., Inc., Post Office Box 3491, Charlotte, N.C. 28203. Attention: M. L. Mangum, President, Miller-Adley Express Co., 1807 West Independence Boulevard, Charlotte, N.C. 28205. Attention: E. A. Hill, Coordinator of Labor Relations and Safety, Overnite Transportation Co., Post Office Box 10512, Charlotte, N.C. 28201. Attention: Lonnie W. Marks, Assistant Vice President Operations, Pilot Freight Carriers, Inc., Executive Offices, Post Office Box 615, Winston-Salem, N.C. 27102. Attention: H. J. Bower, T. G. Stegall Trucking Co., 6333 Idlewild Road, Charlotte, N.C. 28212. Attention: T. G. Stegall. Send protests to: Jack K. Huff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 206, 327

North Tryon Street, Charlotte, N.C. 28202.

No. MC 124373 (Sub-No. 4 TA), filed April 21, 1967. Applicant: NELMAR TRUCKING CO., 82 Smith Street, Keasbey, N.J. 08832. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beverages, advertising materials, and displays*, from Union, N.J., to points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, Maine, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, for 150 days. Supporting shipper: Custom Canners of Baltimore, Inc., Post Office Box 1440, Columbus, Ga. 31902. Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1060 Broad Street, Newark, N.J. 07102.

No. MC 128909 (Sub-No. 2 TA), filed April 24, 1967. Applicant: COMMODORE CONTRACT CARRIERS, INC., 2410 Dodge Street, Omaha, Nebr. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes, house trailers* designed to be drawn by passenger autos, and *homes designed to be drawn by motor vehicles only* when partially disassembled, in initial and secondary movements, in towaway and truckaway service, between Hamilton, Ala., on the one hand, and, on the other, points in Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, for 180 days. Supporting shipper: The Commodore Corp., 2410 Dodge Street, Omaha, Nebr. 68131. Send protests to: Keith P. Kohrs, District Supervisor, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 129028 TA, filed April 21, 1967. Applicant: BAUCOM'S TRANSFER & STORAGE CO., INC., 2529 North Tryon Street, Charlotte, N.C. 28206. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containerized household goods*, limited to shipments having a prior or subsequent movement, between points in Alamance, Alexander, Anson, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Cumberland, Davidson, Davie, Durham, Forsyth, Gaston, Guilford, Hoke, Iredell, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Orange, Randolph, Richmond, Rowan, Rutherford, Scotland, Stanly, Union, and Wake Counties, N.C., and Cherokee, Chester, Fairfield, Greenville, Lancaster, Lexington, Richland, Spartanburg, Union, and York Counties, S.C., for 180 days. Supporting shippers: Jet Forwarding, Inc., 2945 Columbia Street., Torrance, Calif. 90503; Routed Thru-Pac, Inc., 350 Broadway, New York, N.Y. 10013; Alaska HHG Movers, Inc., 5053 East Marginal Way South, Seattle, Wash. 98134; Karavan, Inc., 419 Third Avenue West, Seattle, Wash. 98119, and Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, Wash. 98133. Send protests to: Jack K. Huf., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 206, 327 North Tryon Street, Charlotte, N.C. 28202.

By the Commission.

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

[F.R. Doc. 67-4895; Filed, May 1, 1967; 8:51 a.m.]

[Notice 1511]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 27, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69468. By order of April 21, 1967, the Transfer Board approved the transfer to Audrey Melikian, doing business as Melikian Trucking Co., Fresno, Calif., of certificate No. MC-74248 and certificate of registration No. MC-74248 (Sub-No. 2), issued October 3, 1949, and April 9, 1964, respectively to Zoven Melikian, doing business as Melikian Trucking Co., Fresno, Calif. The certificate authorized the transportation of raisins, canned goods, and wine, from Fresno, Calif., and points within 25 miles of Fresno, to San Francisco, Oakland, and Stockton, Calif., and groceries, from San Francisco, Oakland, and Stockton to Fresno; the certificate of registration evidences a right of the holder to engage in transportation in interstate or foreign commerce within the limits set forth in certificate of public convenience and necessity granted in decision No. 52136, dated October 25, 1955, as restated in decision No. 61536, dated February 21, 1961, by the Public Utilities Commission of California. Jack Kazanjian, 195 North First Street, Fresno, Calif. 93702, representative for applicants.

No. MC-FC-69529. By order of April 26, 1967, the Transfer Board approved the transfer to C. E. Reynolds Transport, Inc., Joplin, Mo., of permits in No. MC-114890, MC-114890 (Sub-No. 12), MC-114890 (Sub-No. 18), MC-114890 (Sub-No. 22), MC-114890 (Sub-No. 24), MC-114890 (Sub-No. 25), MC-114890 (Sub-No. 30), and MC-114890 (Sub-No. 31), issued April 21, 1959, April 14, 1959, March 5, 1962, October 24, 1961, July 30, 1962, July 21, 1961, October 19, 1964, and May 26, 1966, respectively, to Kenneth Childress, doing business as C. E. Reynolds Gasoline & Chemical Transport Co., Joplin, Mo., authorizing the transportation of: Sulphuric acid, phosphoric acid, petroleum products, nitric acid, nitrogen solutions, anhydrous ammonia, aqua ammonia, nitrogen fertilizer solutions, spent sulphuric acid, zinc sulphate solutions, ammonium nitrate, urea, and fertilizer solutions, in bulk, in tank vehicles; refined petroleum products, in bulk; lubricating oil, in containers; petroleum products, in truckload lots; and spent acids, from and to points as specified in Alabama, Arkansas, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming. Stanley P. Clay, 514 First National Building, Joplin, Mo. 64801, attorney for applicants.

No. MC-FC-69562. By order of April 20, 1967, the Transfer Board approved the transfer to W. J. Shannon Trucking Co., a corporation, Worcester, Mass., of certificate in No. MC-46020, issued June 17, 1960, to Hashem Bros. Trucking Co., Inc., Worcester, Mass., authorizing the transportation of: Structural steel, textile products, sheet metal, plumbing supplies, and machinery, from, to, or between, specified points in Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, and New Jersey. Francis E. Barrett, Jr., Investors Building, 536 Granite Street, Braintree, Mass. 02184, attorney for applicants.

No. MC-FC-69595. By order of April 27, 1967, the Transfer Board approved the transfer to D & M Bus Co., a corporation, of Danville, Va., of certificate of registration No. MC-57568 (Sub-No. 1), issued October 13, 1964, to C. W. Stevens, doing business as Danville-Martinsville Bus Line, Danville, Va., evidencing a right to engage in interstate or foreign commerce, with the State of Virginia. T. Ryland Dodson, 513 Masonic Temple, Danville, Va., attorney for applicants.

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

[F.R. Doc. 67-4896; Filed, May 1, 1967; 8:51 a.m.]