FEDERAL REGISTER

VOLUME 33 · NUMBER 107

Saturday, June 1, 1968 · Washington, D.C.

Pages 8193–8251

PART I

(Part II begins on page 8243)

Agencies in this issue—

Detailed list of Contents appears inside.

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15 per year, payable in advance. The charge for individual copies varies in proportion to the size of the issue (15 cents for the first 80 pages and 5 cents for each additional group of 40 pages, as actually bound). Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements are listed in the first FEDERAL REGISTER issue of each month.

Contents

(Continued on next page)

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1968, and specifies how they are affected.

5 CFR

352---------- 8197

7 CFR

51---------- 8197
905---------- 8198
910---------- 8198
1001---------- 8199
1002---------- 8201
1003---------- 8199
1004---------- 8200
1006---------- 8219
1015---------- 8200
1016---------- 8200
1064---------- 8220
1421---------- 8220
1474---------- 8221

PROPOSED RULES:

777---------- 8229
923---------- 8229
1009---------- 8230

12 CFR

545---------- 8221

16 CFR

13 (4 documents)---------- 8222–8224

19 CFR

14---------- 8244
16 (2 documents)---------- 8224, 8244
17---------- 8244
24---------- 8225
53---------- 8244

21 CFR

42---------- 8225

32 CFR

1450---------- 8226

46 CFR

31---------- 8226
61---------- 8226
91---------- 8227

47 CFR

0---------- 8227

50 CFR

PROPOSED RULES:

32---------- 8229

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

1968 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 1968. 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, 1968):

		Price
3	1967 Compilation	$1.00
4	(Rev.)	.30
5	(Rev.)	1.00
6	[Reserved]	
7	Parts:	
	0–45 (Rev.)	1.75
	46–51 (Rev.)	1.25
	52 (Rev.)	2.00
	53–209 (Rev.)	2.00
	210–699 (Rev.)	1.25
	750–899 (Rev.)	1.25
	900–944 (Rev.)	1.00
	945–980 (Rev.)	.65
	981–999 (Rev.)	.60
	1000–1029 (Rev.)	1.00
	1030–1059 (Rev.)	1.00
	1060–1089 (Rev.)	1.00
	1090–1119 (Rev.)	.70
	1120–1199 (Rev.)	.75
	1500–end (Rev.)	1.00
8	(Rev.)	.55
9	(Rev.)	1.50
10	(Rev.)	1.00
11	[Reserved]	
12	Parts:	
	1–399 (Rev.)	2.00
	400–end (Rev.)	1.00
13	(Rev.)	.70
14	Parts:	
	1–59 (Rev.)	1.75
	200–end (Rev.)	1.75
16	Parts:	
	0–149 (Rev.)	1.75
	150–end (Rev.)	1.25
17	(Rev.)	2.00
18	(Rev.)	2.50
21	Parts:	
	1–119 (Rev.)	1.00
	120–129 (Rev.)	1.00
	130–146e (Rev.)	1.75
	147–end (Rev.)	1.00
22	(Rev.)	1.25
23	(Rev.)	.30
24	(Rev.)	1.25
25	(Rev.)	1.25
26	Parts:	Price
	1 (§§ 1.0–1—1.300) (Rev.)	$2.00
	1 (§§ 1.301–1.400) (Rev.)	.65
	1 (§§ 1.401–1.500) (Rev.)	1.00
	1 (§§ 1.501–1.640) (Rev.)	.70
	1 (§§ 1.641–1.850) (Rev.)	1.00
	1 (§§ 1.851–1.1200) (Rev.)	1.50
	1 (§§ 1.1201–end) (Rev.)	2.00
	2–29 (Rev.)	.75
	30–39 (Rev.)	.70
	40–169 (Rev.)	1.75
	170–299 (Rev.)	2.25
	300–499 (Rev.)	1.00
	500–599 (Rev.)	1.00
27	(Rev.)	.30
28	(Rev.)	.55
29	Parts:	
	0–499 (Rev.)	.75
	900–end (Rev.)	.75
30	(Rev.)	1.25
31	(Rev.)	1.75
32	Parts:	
	9–39 (Rev.)	1.50
	40–399 (Rev.)	1.50
	400–589 (Rev.)	1.50
	590–699 (Supp.)	.50
	1000–1199 (Rev.)	1.00
	1600–end (Rev.)	.60
32A	(Rev.)	1.00
35	(Supp.)	.30
36	(Rev.)	.75
37	(Supp.)	.30
41	Chapters:	
	1 (Rev.)	2.00
	2–4 (Rev.)	.70
	5–5D (Rev.)	1.00
	18 (Rev.)	2.00
	19–100 (Rev.)	.55
	101–end (Rev.)	1.50
42	(Rev.)	1.00
44	(Rev.)	.35
46	Parts:	
	66–145 (Rev.)	1.75
	146–149 (Rev.)	2.50
47	Parts:	
	0–19 (Rev.)	1.00
	20–69 (Rev.)	1.50
	70–79 (Rev.)	1.00
	80–end (Rev.)	1.50
49	Parts 1000–end (Rev.)	3.25
50	(Rev.)	.70

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 352—REEMPLOYMENT RIGHTS

Consideration for Promotion

Part 352 is amended by adding a new § 352.313 to assure that an employee who transfers, or is detailed, to an international organization is considered for promotion within the agency he left, and that when such a promotion is made it is effective on the date it would have occurred if he had not left the agency.

§ 352.313 Consideration for promotion.

(a) Each agency shall consider each employee detailed or transferred to an international organization for all promotions for which he would be considered were he not absent. A promotion based on this consideration is effective on the date it would have been made if the employee were not absent.

(b) When the position of an employee absent on detail or transfer to an international organization is regraded upward during his absence, his agency shall place him in the regraded position.

(5 U.S.C. 3584, E.O. 10804; 3 CFR, 1959–1963 Comp.)

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

[F.R. Doc. 68–6547; Filed, May 31, 1968; 8:49 a.m.]

Title 7—AGRICULTURE

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

PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)[1] [2]

Subpart—Regulations

BASIS FOR CHARGES

Statement of considerations leading to amendment of regulations. The cost of maintaining the inspection service for fresh fruits and vegetables and other products in the destination markets has increased materially since the 1962 adjustment in fees. Consequently it is necessary to make a change in the schedule of fees charged for making inspections.

Currently, the fees charged for inspections on an hourly basis are computed at $6 per hour and on a carlot basis they average $14 per inspection. Recent work measurement studies indicate that an average of 2 hours is required per carlot inspection.

[1] Among such other products are the following: Raw nuts, Christmas trees and greens; flowers and flower bulbs; and onion sets.

[2] None of the requirements in the regulations of this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations in this part.

In light of the substantial increase in costs of providing inspection service since the inspection fee rates were last adjusted in 1962, an increase in the hourly fee rate charge from $6 to $7 is necessary to more nearly cover the cost of rendering the service. This increase would bring the hourly charge in close conformity with the carlot unit rate charge.

Pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et. seq., as amended; 7 U.S.C. 1621 et seq.), paragraph (c) of § 51.38 Basis for Charges of the Subpart—Regulations, governing the inspection and certification of fresh fruits, vegetables, and other products, is hereby amended to read as follows:

§ 51.38 Basis for charges.

* * * * *

(c) When inspections are made and the products inspected cannot readily be calculated in terms of carlot, or when the services rendered are such that a charge on the carlot or other unit basis would be inadequate or inequitable, charges for inspection may be based on the time consumed by the inspector in connection with such inspections, computed at the rate of $7 per hour.

* * * * *

Notice of proposed rule making, public procedure thereon, and the postponement of the effective time of this action later than July 1, 1968 (5 U.S.C. 553) are impracticable, unnecessary, and contrary to the public interest in that (1) the Agricultural Marketing Act of 1946 provides that the fees charged shall be reasonable and, as nearly as may be, cover the cost of the service rendered; (2) the increase in the hourly fee rate set forth herein is necessary to more nearly cover such cost including, but not limited to, increased salaries to Federal employees required by recent legislation; (3) it is imperative that the increase in the hourly fee rate become effective in time to cover such increased costs; and (4) additional time is not required by users of the inspection service to comply with this amendment.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624)

Dated May 24, 1968, to become effective at 12:01 a.m., July 1, 1968.

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

[F.R. Doc. 68-6482; Filed, May 31, 1968; 8:47 a.m.]

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

[Orange Reg. 60, Amdt. 6]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Temple and Murcott Honey oranges, 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 rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) 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 restrictions on the handling of oranges, except Temple and Murcott Honey oranges, grown in Florida.

Order. The provisions of § 905.505 (Orange Reg. 60; 32 F.R. 17616, 33 F.R. 2378, 4514, 4729, 5792, 6706) are hereby amended in the following respects:

The introductory text of paragraph (a)(2) and subdivisions (i) and (ii) thereof are revised to read as follows:

§ 905.505 Orange Regulation 60.

(a) * * *

(2) During the period May 31, 1968, through September 8, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, except Temple and Murcott Honey oranges, grown in Regulation Area I, which do not grade at least U.S. No. 1 Golden; or

(ii) Any oranges, except Temple and Murcott Honey oranges, grown in Regulation Area II, which do not grade at least U.S. No. 1 Golden;

* * * * *

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

Dated, May 29, 1968, to become effective May 31, 1968.

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

[F.R. Doc. 68-6559; Filed, May 31, 1968; 8:49 a.m.]

[Lemon Reg. 323]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.623 Lemon Regulation 323.

(a) *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 Market 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 section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 28, 1968.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period June 2, 1968, through June 8, 1968, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 279,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: May 29, 1968.

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

[F.R. Doc. 68-6560; Filed, May 31, 1968; 8:49 a.m.]

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

HANDLING OF MILK IN CERTAIN DESIGNATED MARKETING AREAS

Order Amending Orders

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the above-designated marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) Determinations—It is hereby determined with respect to each of the aforesaid orders that:

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

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

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the respective designated marketing areas shall be in conformity to and in compliance with the terms and conditions of the aforesaid orders, as amended and as hereby amended, as follows:

PART 1001—MILK IN MASSACHUSETTS-RHODE ISLAND-NEW HAMPSHIRE MARKETING AREA

Section 1001.61 is revised to read as follows:

§ 1001.61 Class II price.

The Class II price per hundredweight of milk containing 3.5 percent butterfat, at plants located in zone 21, shall be computed for each month as specified in this section.

(a) Adjust the average price per hundredweight for manufacturing grade milk f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month, to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. Such price shall be rounded to the nearest cent but shall not exceed a price computed as follows:

(1) Multiply by 4.2 the Chicago butter price specified in this paragraph;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

(b) Adjust the result obtained in paragraph (a) of this section by the amount shown below for the applicable month:

Month	*Amount*
January	+$0.03
February	+.02
March	−.05
April	−.09
May	−.12
June	−.11
July	+.03
August	+.10
September	+.06
October	+.06
November	+.06
December	+.06

PART 1003—MILK IN WASHINGTON, DC., MARKETING AREA

In § 1003.50 paragraph (b) is revised to read as follows:

§ 1003.50 Class prices.

* * * * *

(b) *Class II price.* The price for Class II milk shall be determined for each month as follows:

(1) Adjust the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month, to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. Such price shall be rounded to the nearest cent but shall not exceed a price computed as follows:

(i) Multiply by 4.2 the Chicago butter price specified in this subparagraph;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(iii) From the sum of the results arrived at under subdivisions (i) and (ii) of this subparagraph subtract 48 cents, and round to the nearest cent.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the

amount shown below for the applicable month:

Month	Amount
January	+$0.05
February	+.04
March	−.03
April	−.07
May	−.10
June	−.09
July	+.05
August	+.12
September	+.08
October	+.08
November	+.08
December	+.08

PART 1004—MILK IN DELAWARE VALLEY MARKETING AREA

In § 1004.50 paragraph (b) is revised to read as follows:

§ 1004.50 Class prices.

* * * * *

(b) *Class II milk.* The price per hundredweight of Class II milk shall be determined for each month as follows:

(1) Adjust the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month, to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. Such price shall be rounded to the nearest cent but shall not exceed a price computed as follows:

(i) Multiply by 4.2 the Chicago butter price specified in this subparagraph;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(iii) From the sum of the results arrived at under subdivision (i) and (ii) of this subparagraph subtract 48 cents, and round to the nearest cent.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month	Amount
January	+$0.11
February	+.10
March	+.03
April	−.01
May	−.04
June	−.03
July	+.11
August	+.18
September	+.14
October	+.14
November	+.14
December	+.14

PART 1015—MILK IN CONNECTICUT MARKETING AREA

Section 1015.61 is revised to read as follows:

§ 1015.61 Class II price.

The Class II price per hundredweight of milk containing 3.5 percent butterfat at plants located in the nearby plant zone shall be computed for each month as specified in this section.

(a) Adjust the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month, to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. Such price shall be rounded to the nearest cent but shall not exceed a price computed as follows:

(1) Multiply by 4.2 the Chicago butter price specified in this paragraph;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

(b) Adjust the result obtained in paragraph (a) of this section by the amount shown below for the applicable month:

Month	Amount
January	+$0.088
February	+.078
March	+.008
April	−.032
May	−.062
June	−.052
July	+.088
August	+.158
September	+.118
October	+.118
November	+.118
December	+.118

PART 1016—MILK IN UPPER CHESAPEAKE BAY (MARYLAND) MARKETING AREA

In § 1016.50 paragraph (b) is revised to read as follows:

§ 1016.50 Class prices.

* * * * *

(b) *Class II price.* The price for Class II milk shall be determined for each month as follows:

(1) Adjust the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month, to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of a Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. Such price shall be rounded to the nearest cent but shall not exceed a price computed as follows:

(i) Multiply by 4.2 the Chicago butter price specified in this subparagraph;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(iii) From the sum of the results arrived at under subdivisions (i) and (ii) of this subparagraph subtract 48 cents, and round to the nearest cent.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month	Amount
January	+$0.05
February	+.04
March	−.03
April	−.07
May	−.10
June	−.09
July	+.05
August	+.12
September	+.08
October	+.08
November	+.08
December	+.08

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

Effective date: July 1, 1968.

Signed at Washington, D.C., on May 28, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-6494; Filed, May 31, 1968; 8:48 a.m.]

[Milk Order 2]

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

Order Amending Orders

AUTHORITY: The provisions of this Part 1002 issued under secs. 1–19, 48 Stat. 31 as amended, 7 U.S.C. 601–674.

§ 1002.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

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

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

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

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the New York-New Jersey marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended as follows:

DEFINITIONS

§ 1002.1 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.

§ 1002.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1002.3 Marketing area.

"New York-New Jersey milk marketing area" (hereinafter called the "marketing area") means all of the territory within the boundaries of the city of New York, and the counties and parts of counties set forth below together with all piers, docks, and wharves connected therewith, and all craft moored thereat, and including territory within such boundaries which is occupied by Government (municipal, State, Federal, or international) reservations, installations, institutions, or other establishments.

NEW YORK COUNTIES

Albany.
Broome.
Cayuga (except the townships of Sterling, Victory, Conquest, and Montezuma).
Chemung.
Chenango.
Columbia.
Cortland.
Delaware.
Dutchess.
Essex (Schroon, Ticonderoga, Crown Point, and Moriah twonships only).
Fulton (except the township of Stratford).
Greene.
Herkimer (except the townships of Webb, Ohio, and Salisbury).
Madison.
Montgomery.
Nassau.
Oneida (except the townships of Ava, Boonville, Forestport, and Florence).
Onondaga.
Orange.
Oswego (except the townships of Redfield and Boylston).
Putnam.

NEW YORK COUNTIES—Continued

Rensselaer.
Rockland.
Saratoga (except the townships of Day, Edinburg, and Providence).
Schenectady.
Schoharie.
Schuyler.
Steuben (Addison, Corning, and Erwin townships only).
Suffolk (except Fisher's Island).
Sullivan.
Tioga.
Tompkins.
Ulster.
Warren (except the townships of Johnsburg, Thurman, and Stony Creek).
Washington.
Westchester.
Yates (except the townships of Italy, Middlesex, and Potter).

NEW JERSEY COUNTIES

Bergen.
Essex.
Hudson.
Hunterdon.
Middlesex.
Monmouth.
Morris.
Ocean (except the boroughs of Barnegat Light, Beach Haven, Harvey Cedars, Ship Bottom, Surf City, Tuckerton, and the townships of Eagleswood, Lacey, Little Egg Harbor, Long Beach, Ocean, Stafford, and Union).
Passaic.
Somerset.
Sussex.
Union.
Warren.

§ 1002.4 Person.

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

§ 1002.5 Dairy farmer.

"Dairy farmer" means any person who produces milk.

§ 1002.6 Producer.

"Producer" means any dairy farmer who delivers pool milk as specified in § 1002.14 to a pool plant, a pool unit, a plant specified in § 1002.28(f)(2) which is a partial pool plant, or a partial pool unit whose pool designation was canceled for failure to meet the requirements specified in § 1002.26(a), except that it shall not include any such dairy farmer delivering to such partial pool plant or partial pool unit unless at least 50 percent of his milk delivered to such plant or unit is pool milk pursuant to § 1002.14. Each dairy farmer delivering milk to a partial pool plant or a partial pool unit shall be considered to have delivered pool milk for his proportionate share of total milk delivered by dairy farmers to such plant or unit.

§ 1002.7 Handler.

"Handler" means:

(a) Any person who engages in the handling of skim milk or butterfat, which was received at a pool plant, a partial pool plant, a pool unit or a partial pool unit or at a plant approved by any health authority as a source of skim milk or butterfat for disposition as fluid milk products in the marketing area;

(b) Any person who engages in the handling of fluid milk products, all or a portion of which is shipped to, or received in, the marketing area; or

(c) Any cooperative association with respect to milk which it causes to be delivered from producers to any other handler for the account of such association and for which such association receives payment.

§ 1002.8 Plant.

(a) "Plant" means the land, buildings, surroundings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment for the receiving, handling, or procesing of milk or milk products as determined by the market administrator.

(b) "Pool plant" means any plant which is designated as a pool plant pursuant to § 1002.24 to § 1002.28 and any plant, except an other order plant, which receives no milk from dairy farmers or units and from which 50 percent or more of the gross receipts of skim milk and butterfat in the form of fluid milk products is disposed of in consumer packages or dispenser inserts in the marketing area by direct distribution or is moved either in packaged form or bulk to other plants in the marketing area.

(c) "Partial pool plant" means a plant which is so designated pursuant to § 1002.29.

(d) "Other order plant" means a plant which is fully subject to the pricing and payment provisions of an other order.

§ 1002.9 Unit.

(a) "Pool unit" means a bulk tank unit established pursuant to § 1002.25 and which meets the requirements of a pool unit pursuant to such section.

(b) "Partial pool unit" means a bulk tank unit so designated pursuant to § 1002.25(k).

§ 1002.10 Farm.

"Farm" means the production facilities and resources supplying milk to a milk house of a dairy farmer. The location of the farm shall be deemed to be the same as the location of the milk house, and in the event of a change in the location of the dairy farmer's milk house, any question as to whether milk received from the new milk house is from the same or a different farm shall be determined by the market administrator.

§ 1002.11 Own farm milk.

(a) "Own farm milk" means milk received at a plant from a farm operated by the person who is the operator of such plant.

(b) The market administrator shall publicly announce the name of any handler operating a pool plant receiving own farm milk and the location of the plant operated by such handler. This public announcement shall not include the name of:

(1) Any person meeting the definition of producer-handler as set forth in § 1002.12;

(2) Any person receiving no milk from other dairy farmers and selling no more than 100 quarts per day of Class I–A milk to persons in the marketing area other than to other plants; or

(3) A charitable, religious, educational, or governmental institution which is not engaged in the practice of receiving bulk milk from other sources for processing or packaging and is not engaged in the practice of selling packaged milk to persons not associated with such institution.

§ 1002.12 Producer-handler.

"Producer-handler" means a handler who, following the filing of an application pursuant to paragraph (a) of this section, has been so designated by the market administrator upon determination that the requirements of paragraph (b) of this section have been met. Such designation shall be effective on the first of the month after receipt by the market administrator of an application containing complete information on the basis of which the market administrator determines that the requirements of paragraph (b) are being met. The effective date of designation shall be governed by the date of filing new applications in instances where applications previously filed have been denied. All designations shall remain in effect until cancelled pursuant to paragraph (c) of this section.

(a) *Application.* Any handler claiming to meet the requirements of paragraph (b) of this section may file with the market administrator, on forms prescribed by the market administrator, an application for designation as a producer-handler. The application shall contain the following information:

(1) A listing and description of all resources and facilities used for the production of milk which are owned or directly or indirectly operated or controlled by the applicant.

(2) A listing and description of all resources and facilities used for the processing or distribution of milk or milk products which are owned, or directly or indirectly operated or controlled by the applicant.

(3) A description of any other resources and facilities used in the production, handling, or processing of milk or milk products in which the applicant in any way has an interest, including any contractual arrangement, and the names of any other persons having or exercising any degree of ownership, management, or control in, or with whom there exists any contractual arrangement with respect to, the applicant's operation either in his capacity as a handler or in his capacity as a dairy farmer.

(4) A listing and description of the resources and facilities used in the production, processing, and distribution of milk or milk products which the applicant desires to be determined as his milk production, processing, and distribution unit in connection with his designation as a producer-handler: *Provided,* That all milk production resources and facilities owned, operated, or controlled by the applicant either directly or indirectly shall be considered as constituting

a part of the applicant's milk production unit in the absence of proof satisfactory to the market administrator that some portion of such facilities or resources do not constitute an actual or potential source of milk supply for the applicant's operation as a producer-handler.

(5) Such other information as may be required by the market administrator.

(b) *Requirements.* (1) The handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles milk received from production facilities and resources (milking herd, buildings housing such herd, and the land on which such buildings are located) the operation and management of which also are under the complete and exclusive control of the handler (in his capacity as a dairy farmer), all of which facilities and resources for the production, processing, and distribution of milk and milk products constitute an integrated operation over which the handler (in his capacity as a producer-handler) has and exercises complete and exclusive control.

(2) The handler, in his capacity as a handler, handles no fluid milk products other than those derived from the milk production facilities and resources designated as constituting the applicant's operation as a producer-handler.

(3) The handler is not, either directly or indirectly, associated with control or management of the operation of another plant or another handler, nor is another handler so associated with his operation.

(4) The handler sells more than an average of 100 quarts per day of Class I–A milk to persons in the marketing area other than to other plants.

(5) In case the plant of the applicant was operated by a handler whose designation as a producer-handler previously had been cancelled pursuant to paragraph (c) of this section, the quantity of fluid milk products handled during the 12 months preceding the application which was derived from sources other than the designated milk production facilities and resources constituting the applicant's operation as a producer-handler is less than the volume set forth for cancellation pursuant to subparagraphs (3) or (4) of paragraph (c) of this section.

(c) *Cancellation.* The designation as a producer-handler shall be cancelled under conditions set forth in subparagraphs (1) and (2) of this paragraph or, except as specified in subparagraphs (3) and (4) of this paragraph, upon determination by the market administrator that any of the requirements of paragraph (b) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met.

(1) Milk from the designated production facilities and resources of the producer-handler is delivered in the name of another person as pool milk to another handler or except in the months of June through November with prior notice to the market administrator, a dairy herd, cattle barn, or milking parlor is transferred to another person who uses such facilities or resources for producing milk which is delivered as pool milk to another handler. This provision, however, shall not be deemed to preclude the occasional sale of individual cows from the herd.

(2) A dairy herd, cattle barn, or milking parlor, previously used for the production of milk delivered as pool milk to another handler, is added to the designated milk production facilities and resources of the producer-handler, except in the months of December through May, with prior notice to the market administrator, or if such facilities and resources were a part of the designated production facilities and resources during any of the preceding 12 months. This provision, however, shall not be deemed to preclude the occasional purchase of individual cows for the herd.

(3) If the producer-handler handles an average of more than 150 product pounds per day of fluid milk products which are derived from sources other than the designated milk production facilities and resources, the cancellation of designation shall be effective the first of the month in which he handled such fluid milk products.

(4) If the producer-handler handles fluid milk products derived from sources other than the designated milk production facilities and resources in a volume less than specified in subparagraph (3) of this paragraph, the designation shall be cancelled effective on the first of the month following the third month in any six-month period in which the producer-handler handled such fluid milk products: *Provided,* That the receipt of up to an average of ten pounds per day of packaged fluid milk products in the form of fluid skim milk or cream, or of any volume of other packaged fluid milk products (except milk) from pool plants, shall not be counted for purposes of this subparagraph.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant, and farm location of persons designated as producer-handlers, and those whose designations have been canceled. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from such producer-handler on and after the first of the month following the date of such announcement.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler (and upon the applicant for such designation) to establish through records required pursuant to § 1002.33 that the requirements set forth in paragraph (b) of this section have been and are continuing to be met and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 1002.13 Other order.

"Other order" means an order issued by the Secretary pursuant to the Act, which order regulates the handling of milk in a marketing area other than that defined in this part.

§ 1002.14 Pool milk.

"Pool milk" means all skim milk and butterfat contained in milk except as set forth in paragraphs (a) through (k) of this section which is pumped at the farm into a tank mounted on a truck or trailer for a handler who has included such milk in a pool unit, or a partial pool unit or which is delivered direct from a farm to a pool plant or a partial pool plant but is not put into a tank truck prior to such delivery. This definition shall include any milk so delivered by a person defined in § 1002.11(b)(2), by an institution defined in § 1002.11(b)(3), or by a producer-handler designated pursuant to § 1002.12 which milk is produced in accordance with methods and standards of the American Association of Medical Milk Commissions for the production of certified milk and which is delivered in bulk to another handler but for marketing as other than certified milk.

(a) Milk first received at a pool plant which otherwise would be considered producer milk under an other order if all of such milk is assigned to Class II pursuant to § 1002.45(a)(10) and the corresponding step of § 1002.45(b).

(b) Milk received at a pool plant as diverted producer milk under Part 1015 of this chapter.

(c) Milk delivered by a pool unit direct to a plant other than a pool plant or a partial pool plant if such milk is pooled as producer milk under an other order.

(d) Milk which is pumped into a tank truck at the farm for delivery to a handler during any of the months of December through June if any milk from such farm was delivered to such handler as producer milk under an other order during any of the preceding months of July through November unless such farm becomes part of a partial pool unit.

(e) Milk delivered to a partial pool plant set forth in § 1002.29(a) and milk of a partial pool unit pursuant to § 1002.25(k)(1) in excess of the quantity of such milk classified as Class I–A and Class I–B.

(f) Milk delivered to a partial pool plant set forth in § 1002.29(b) and milk of a partial pool unit pursuant to § 1002.25(k)(2) in excess of the quantity of such milk classified as Class I–A in the marketing area or at a pool plant, except that if milk is shipped from a partial pool plant in the 401 miles and over freight zone to a plant from which 50 percent or more of the gross receipts of skim milk and butterfat in the form of fluid milk products is disposed of in consumer packages and dispenser inserts in the marketing area either by direct distribution or to other plants, all of the milk so shipped shall be considered to be pool milk except as set forth in paragraph (g) of this section.

(g) Milk delivered to a partial pool plant or a partial pool unit if in either

case there is a monetary obligation on such milk under an other order.

(h) Milk received from farms in Nassau and Suffolk Counties in New York, which farms are not approved for sale of milk in New York City, and milk received from farms in New York City.

(i) Own farm milk of a handler listed pursuant to § 1002.11(b) not in excess of an average of 800 pounds per day if the handler is not a producer-handler designated pursuant to § 1002.12, and if the volume of skim milk and butterfat in milk handled, other than that derived from own farm milk, does not exceed an average of 1,600 pounds per day.

(j) Own farm milk of an institution as defined pursuant to § 1002.11(b)(3) if such milk is not delivered to a pool plant, a partial pool plant, a pool unit or a partial pool unit.

(k) All skim milk and butterfat handled by:

(1) A producer-handler designated pursuant to § 1002.12 which is derived from such producer-handler's production resources and facilities except as provided in the preamble of this section; or

(2) A producer-handler pursuant to an other order.

§ 1002.15 Fluid milk product.

"Fluid milk product" means all skim milk and butterfat in the form of milk, fluid skim milk, cultured or flavored milk drinks (except eggnog, and yogurt), concentrated fluid milk disposed of in consumer packages, cream (except storage, plastic or sour), half and half (except sour) and any other mixture of cream, milk or skim milk containing less than 18 percent butterfat (other than frozen desserts, frozen dessert mixes, whipped topping mixtures, evaporated milk, plain or sweetened condensed milk or skim milk and sterilized milk or milk products in hermetically sealed containers): *Provided*, That when any fluid milk product is fortified with nonfat milk solids the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1002.16 Other source milk.

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

(a) Receipts in the form of fluid milk products from any source other than receipts of pool milk from dairy farmers, receipts from other pool plants and pool units, and receipts of pool milk from partial pool plants and partial pool units;

(b) Receipts in a form other than as a fluid milk product (including those produced at the plant during a prior month) which are reprocessed, converted or combined with another product during the month; and

(c) Receipts in a form other than a fluid milk product for which the handler fails to establish a disposition.

MARKET ADMINISTRATOR

§ 1002.20 Designation.

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

§ 1002.21 Powers.

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

§ 1002.22 Duties.

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

(a) Within 45 days following the date on which he enters upon his duties, execute and deliver to the Secretary a bond, effective as of the day 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 its terms and provisions;

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

(d) Pay out of the funds received pursuant to § 1002.90:

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

(2) His own compensation, and

(3) All other expenses necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly disclose, after reasonable notice, the name of any person who has not made reports pursuant to §§ 1002.30, 1002.31, and 1002.32 or made payments required pursuant to §§ 1002.80, 1002.81, 1002.82, 1002.85, 1002.88, and 1002.90;

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

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

(i) Maintain a main office and such branch offices as may be necessary;

(j) Promptly notify a handler, upon receipt of the handler's written request therefor, of his determination; as to whether one or more plants exist at a specified location, as to whether any specified item constitutes a part of the handler's plant, or as to which plant a specified item is a part in the event that the particular premises in question constitutes more than one plant: *Provided*, That if the request of the handler is for revision or affirmation of a previous determination, there is set forth in the request a statement of what the handler believes to be the changed conditions which made a new determination necessary. If a handler has been notified in writing of a determination with respect to an establishment operated by him, any revision of such determination shall not be effective prior to the date on which such handler is notified of the revised determination;

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

(l) Place the sums deducted under § 1002.71(c) and retained pursuant to § 1002.83 in an interest-bearing account or accounts in a bank or banks duly approved as a Federal depository for such sums, or invest them in short-term U.S. Government securities.

(m) On or before the date specified, or the next succeeding work day in any month in which such date is a Sunday or holiday, publicly announce the following:

(1) The 25th day of each month:

(i) The monthly wholesale price index for all commodities in the preceding month as reported by the Bureau of Labor Statistics, U.S. Department of Labor, and the resulting index determined pursuant to § 1002.50(a)(1) multiplied by 100;

(ii) The utilization adjustment percentage computed pursuant to § 1002.50 (a) for the following month;

(iii) The preliminary Class I–A price computed pursuant to § 1002.50(a) for the following month;

(iv) The index of the cost of production computed by the New York State College of Agriculture at Cornell University (1910–14 base) converted to a 1955 base;

(v) The index computed by dividing the Class I–A formula price for the following month by $5.20;

(vi) The utilization percentage for the month 1 year earlier than the succeeding month;

(vii) Other statistics relating to economic conditions affecting the market supply and demand for milk.

(2) The fifth day of each month:

(i) The minimum Class prices for the preceding month applicable both at the

201–210-mile zone and at the 1–10-mile zone pursuant to §§ 1002.50 and 1002.51.

(ii) The butterfat differential pursuant to § 1002.81;

(iii) The simple average of the daily wholesale selling price per pound (using the midpoint of any price range as one price) reported by the U.S. Department of Agriculture for Grade A or 92-score bulk creamery butter in New York City for the period between the 16th day of the second preceding month and the 15th day, inclusive of the preceding month;

(iv) The average of prices paid in the preceding month by midwestern condenseries as reported by the U.S. Department of Agriculture;

(v) The average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the preceding month.

(vi) The simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the U.S. Department of Agriculture for the preceding month.

(vii) The weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the U.S. Department of Agriculture for the period from the 26th day of the second preceding month through the 25th day of the preceding month.

(3) The 15th day of each month, the uniform price for the preceding month pursuant to § 1002.71 applicable at the 201–210-mile zone and at the 1–10-mile zone pursuant to § 1002.82.

POOL PLANTS AND BULK TANK UNITS

§ 1002.24 Regular pool plants.

A plant may be designated a regular pool plant pursuant to either paragraph (a) or paragraph (b) of this section. Designation shall be applicable to the plant as such and subject to cancellation only pursuant to § 1002.27, regardless of change in the person owning or operating the plant. The market administrator shall be notified by the handlers involved of any transfer from one person to another of ownership or operation of a pool plant.

(a) Any plant shall be designated a pool plant upon determination by the Secretary that the provisions of subparagraphs (1) through (4) of this paragraph have been met. Not later than the end of the month following the month in which an application is received by the Secretary pursuant to subparagraph (1) of this section, the Secretary shall either determine that the provisions of subparagraphs (1) through (4) of this paragraph either have been met or have not been met, or notify the applicant that additional information is needed prior to making a determination. Such designation shall be effective the first of the month following the date of designation and shall continue until such designation is canceled pursuant to § 1002.27: *Provided,* That notwithstanding the provisions of subparagraphs (1) through (4) of this paragraph, any plant which for the month immediately preceding the effective date of this section, had a designation pursuant to § 1002.24 as then in effect, is hereby designated a regular pool plant from the effective date of this section until such designation is canceled pursuant to § 1002.27.

(1) An application by the operator of the plant for such determination has been addressed to the Secretary and filed at the office of the market administrator: *Provided,* That if 50 percent or more of the dairy farmers delivering milk at such plant deliver such milk for the account of a cooperative association which does not operate the plant but for which milk such association receives payment, an application must be filed by such cooperative association as well as the person operating the plant.

(2) The plant is located in New York, New Jersey, or Pennsylvania.

(3) The plant was a pool plant pursuant to paragraphs (a) or (b) of § 1002.28 for each of the 12 months immediately preceding the month during which an application is filed.

(4) The operating requirements of § 1002.26 are being met.

(b) A plant may be designated at any time as a regular pool plant upon application made by the person operating the plant to the Secretary showing that the plant is a replacement for one or more pool plants, designated pursuant to this section, which are operated by him and that substantially all of the dairy farmers delivering milk at the plant previously delivered milk to the pool plant or plants replaced.

§ 1002.25 Bulk tank units.

Any handler receiving milk from farms in a tank truck shall establish such farms in one or more bulk tank units (hereinafter called "units") each consisting of one or more farms, in accordance with provisions of this section. The milk of any farm included in a unit shall be considered for pricing purposes as having been received by the handler in the unit at the nearest point of the township (as determined pursuant to § 1002.51(b)) in which such farm is located. Any handler who receives milk at a pool plant or a plant distributing Class I–A milk in the marketing area which is delivered from a farm to such plant in a tank truck shall be deemed to have received such milk from a unit, pool, partial pool, or nonpool, and any handler who receives bulk milk from a farm in a tank truck containing pool milk shall be deemed to have received such milk from a farm of a unit either pool, partial pool, or nonpool.

(a) Handlers who may establish, maintain, and be responsible for pool units are as follows:

(1) A handler who operates a pool plant or a handler who operates a plant from which Class I–A milk is distributed in the marketing area other than to another plant: *Provided,* That a handler who is affiliated with or is a subsidiary of a handler operating a pool plant may also operate pool units if both handlers notify the market administrator in writing of such relationship: *Provided further,* That such handler who operates a distributing plant but not a pool plant, to be eligible to maintain a pool unit for any month, must have combined receipts of skim milk and butterfat from such unit for such month classified as Class I–A and I–B in a percentage at least as great as the market percentage of pool milk in Classes I–A and I–B for the same month of the preceding year.

(2) A cooperative handler who does not operate a plant but who receives milk from farms in a tank truck and delivers such milk to plants of other handlers if such cooperative for 12 months has been qualified as a basis for payments pursuant to § 1002.89 or if such cooperative has operated a pool unit for 12 consecutive months: *Provided,* That such cooperative must meet the definition of a cooperative set forth in § 1002.89(a)(1).

(3) Any other cooperative handler who does not operate a plant if such cooperative meets the definition of a cooperative set forth in § 1002.89(a)(1) subject to the conditions of this section.

(4) For the months specified in subdivision (i) or (ii) of this subparagraph, any other handler operating a unit in any of the months of April, May, or June which unit had for such month any skim milk or butterfat classified as Class I–A milk in the marketing area (on some basis other than failure to account for such milk) and had a total Class I–A and Class I–B classification in a percentage at least as great as the market percentage of pool milk in Classes I–A and I–B for the same month in the preceding year.

(i) Such month.

(ii) Each of the months through March following such month except for any month when the Class I–B or combined Class I–A and Class I–B of such unit is less than 60 percent.

(b) The handler may establish the units in any manner chosen by him, subject to the following limitations:

(1) Each unit shall have a headquarters where the basic record of receipts and butterfat tests of milk from each farm are maintained and where there is maintained the basic record of each receipt and each delivery of milk by each tank truck receiving milk from farms of the unit and related details with respect to the movement of such milk.

(2) Each unit shall be given a name indicating the general geographic area in which farms comprising such unit are located.

(3) The handler shall declare whether each unit is to be operated as a pool unit. Farms from which the milk is to be

pooled shall be established in a separate unit from those which are not to be pooled.

(4) Farms in the area specified in paragraph (e) of this section shall be in units separate from farms in the area specified in paragraph (f) of this section.

(c) Except as set forth in subparagraphs (1) through (5) of this paragraph, a handler may declare that a unit is to be operated as a pool unit and at any time may add a farm to a pool unit: *Provided*, That the milk of such unit or farm is delivered to a pool plant or a plant from which Class I–A milk is distributed in the marketing area on one day of the first month in which it is to be pooled and is under full approval for fluid use by the health authority or authorities approving such plant: *Provided further*, That a handler pursuant to paragraph (a) (4) of this section may not add farms to a pool unit during the months of July through March unless his Class I–A skim milk or butterfat utilization exceeds the total receipts of skim milk or butterfat, respectively, in milk from the pool unit, and in the latter case he may add only the smallest number of farms necessary to provide sufficient milk to cover such Class I–A utilization.

(1) If the unit is a declared nonpool unit or if the farm is a part of a declared nonpool unit of such handler, the unit or farm may be changed to a pool status only beginning the first day of a month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month except as specified in subparagraph (5) of this paragraph.

(2) In the period of December through June, no new pool unit may be established, no nonpool or partial pool unit may be declared to be a pool unit, and no farm may be added to a pool unit if the handler caused, as specified in paragraph (d) of this section, any pool unit or any farm of a pool unit to become nonpool in the period of July through November immediately preceding: *Provided*, That this limitation shall not prevent the handler from including in a pool unit a farm which for the first time has converted from can delivery to bulk tank delivery and from which the handler received as pool milk all milk delivered by such farm in cans for a period of 30 days immediately preceding: *Provided further*, That, except in the case set forth in paragraph (d) (3) of this section, this subparagraph shall not be applicable if the farm which is caused to become nonpool thereby becomes a producer farm under another order with a provision for marketwide equalization.

(3) No farm which was caused to become nonpool may be made a part of a pool unit by a handler set forth in subdivisions (i) through (iv) of this subparagraph until after the passage of a complete April-May-June period following the time such farm was caused to become nonpool:

(i) The handler who caused the farm to become nonpool.

(ii) The handler or other person who received the milk as nonpool milk.

(iii) A handler who is substantially under the same management control, or ownership as the handler or other person set forth in subdivisions (i) or (ii) of this subparagraph.

(iv) A handler who receives the milk through arrangement with the handler or other person set forth in subdivisions (i), (ii), or (iii) of this subparagraph.

(4) A handler may transfer a farm from one pool unit to another of his pool units on the first day of any month upon notice to the market administrator by not later than the 10th day of such month.

(5) A farm shall automatically be added to a pool unit or a nonpool unit shall automatically become a pool unit effective the first day of any month in which any of the skim milk or butterfat in milk of such farm or unit is assigned pursuant to § 1002.45 to Class I–A milk unless the handler is precluded from doing so pursuant to subparagraphs (2) or (3) of this paragraph or unless such milk is considered producer milk under an other order with a provision for marketwide equalization. If some but not all skim milk or butterfat in milk received from such farms previously a part of a nonpool unit is assigned to Class I–A milk the handler operating such unit has until the time of filing the report required pursuant to § 1002.30 to specify which farms are to be added to a pool unit and if upon verification by audit the market administrator finds that other skim milk or butterfat in milk of a declared nonpool unit is assigned to Class I–A milk, the handler operating such unit has until ten days after notification by the market administrator to specify which farms are to be added to a pool unit. In absence of such specification, all eligible farms shall be added to the pool unit.

(d) A handler may cause a pool unit or a farm which is a part of a pool unit to become nonpool by the methods set forth in subparagraphs (1) through (4) of this paragraph: *Provided*, That the failure of a unit to meet the pool requirements set forth in paragraph (f) of this section shall not be considered for purposes of this paragraph to be a change of pool status caused by the handler: *Provided further*, That a handler pursuant to paragraph (a) (4) of this section must continue in a pool unit any farm which was a part of such handler's pool unit in any of the months of April, May, or June preceding from which he receives milk or from which any other handler receives milk through arrangement with him: *Provided further*, That if a unit operated by a handler is reported by another handler which is a cooperative, the actions specified in subparagraphs (1), (2), and (4) of this paragraph must be concurred in by such cooperative handler.

(1) The handler may change the status of a declared pool unit to a declared nonpool unit effective the first day of any month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month.

(2) The handler may transfer a farm from a pool unit to a nonpool unit effective the first day of any month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month.

(3) The handler may so operate a unit located in the area specified in paragraph (e) of this section that its pool status is cancelled pursuant to § 1002.27.

(4) The handler may arrange for the milk of a farm in his pool unit to be delivered to another person as nonpool milk. Any delivery of milk by a farm in a handler's pool unit to another person as nonpool milk shall be considered to have been arranged by such handler unless such handler can establish that such other person is not substantially under the same management, control, or ownership as such handler and that such handler was in no way a party to such nonpool delivery.

(e) A declared pool unit must be operated to meet the requirements set forth in § 1002.26 if the farms of such unit are located in the following area: New York, New Jersey, the counties of Addison, Rutland, and Bennington in Vermont, the county of Berkshire in Massachusetts, or in Pennsylvania. Failure to meet such requirements shall make such declared pool unit subject to suspension and cancellation pursuant to the procedure set forth in § 1002.27. This paragraph shall not be applicable to a cooperative handler specified in paragraph (a) (3) of this section.

(f) A declared pool unit made up of farms located outside the area specified in paragraph (e) of this section or a declared pool unit made up of farms specified in paragraph (e) of this section and operated by a cooperative handler specified in paragraph (a) (3) of this section shall be a pool unit in the months of July through March if at least 25 percent of the milk in such unit is delivered in such month to pool plants, and shall be a pool unit in the months of April through June only if 60 percent of the milk of such unit was received at pool plants during the period of October through December immediately preceding or if such handler received no milk of such unit or from farms of such unit in the preceding October through December.

(g) Any unit declared to be a pool unit shall be designated a pool unit in any month (1) if the handler is qualified in such month pursuant to paragraph (a) of this section, (2) if such unit meets all the requirements of this section applicable to it to be a pool unit, or (3) if the designation of such unit has not been cancelled pursuant to § 1002.27.

(h) Each handler shall report to the market administrator, not later than the 20th day of the month in which this paragraph becomes effective, the name and headquarters of each unit established by him, the identification of the farms included in each unit, and his declared status (pool or nonpool) of each unit. Thereafter, each handler shall report by not later than the 10th day of the month any changes in units during the preceding month and as of the first day of such month.

(i) Whenever the market administrator finds that a handler has received bulk tank milk from a farm required to be included in an established unit but which has not been so included, he shall tentatively assign such farm to a unit and promptly notify the handler of such action. Unless otherwise requested by the handler within 10 days of such notice, the tentative assignment by the market administrator will become final.

(j) Whenever the market administrator finds that a handler has caused milk to become nonpool pursuant to paragraph (d)(4) of this section he shall promptly notify the handler of such finding. Within 10 days of such notice the handler may, except as to any such milk pooled under an other order, (1) make a written claim that the failure to include the milk involved as pool milk was an error and, in such event, the market administrator shall pool such milk and rescind his finding, or (2) make a written offer to submit proof that he had not caused such milk to become nonpool. In the latter event, the market administrator shall examine such proof and shall either rescind his original finding or confirm it. Failure to respond to the market administrator's notice shall be deemed to confirm the finding.

(k) Units other than those which are pool units pursuant to paragraph (g) of this section shall be designated partial pool units if they meet the provisions set forth in subparagraphs (1) and (2) of this paragraph.

(1) Any nonpool unit which would have been automatically made a pool unit pursuant to paragraph (c)(5) of this section except that the handler is precluded from adding farms thereof to a pool unit pursuant to paragraphs (c)(2) or (c)(3) of this section. If a unit of a handler becomes a partial pool unit pursuant to this subparagraph, all of the handler's pool units and partial pool units shall be combined and the skim milk and butterfat in milk of the partial pool units assigned to Class II of such combined total prior to any skim milk and butterfat in the partial pool unit milk being assigned to Class I–A.

(2) Any unit the milk of which fails to meet the pooling requirements of paragraph (f) of this section, or any unit operated by a handler not specified in paragraph (a) of this section, as being eligible to establish and maintain pool units, or any unit made up of farms located in the 401 miles and over freight zone unless the handlers operating such unit is eligible to establish a pool unit and has specifically requested such unit to be so designated.

(l) The market administrator shall publicly announce the names of handlers establishing pool units and the names and headquarters of such units. He shall also publicly announce any change in the pool status of such units, and the names of handlers who are ineligible to add farms to a pool unit under the terms set forth in paragraph (c)(3) of this section.

§ 1002.26 Operating requirements.

The person operating a pool plant designated pursuant to § 1002.24 or a declared pool unit consisting of farms in the area specified in § 1002.25(e) shall stipulate to each of the following requirements:

(a) Be willing to dispose of as Class I–A milk in the marketing area milk received at the plant or on the unit from dairy farmers and agree that if a plant designation is canceled for failure to meet this requirement, the Class I–A and Class I–B milk of such plant through the partial pool plant provision shall be priced and equalized from the effective date of cancellation through the following June 30.

(b) Keep such control over the sanitary conditions under which milk received at the plant or on the unit is produced and handled that the milk can meet the requirements of a source of milk for the marketing area: *Provided*, That approval by a health authority of the plant as a source of milk for the marketing area shall constitute sufficient evidence that this requirement is being met even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk or skim milk at the plant or for shipment of approved skim milk from such plant; and

(c) Have no commitments for disposition of milk that prevent him from utilizing milk as set forth in §1002.27(g).

§ 1002.27 Suspension and cancellation of designation.

The designation of a pool plant pursuant to § 1002.24 or of a declared pool unit consisting of farms in the area specified in § 1002.25(e) may be suspended or canceled under any of the following provisions:

(a) The designation shall be canceled effective on the first of the month following the filing with the market administrator, and on a form prescribed by him, of an application by the handler operating the plant: *Provided*, That a plant whose designation is so canceled on the first of any of the months of August through November shall be a pool plant if it meets the provisions of paragraph (e) of § 1002.28, and shall not be a pool plant pursuant to any other provision of this order prior to December 1 following such cancellation: *Provided further*, That such application for cancellation shall be accompanied by proof that the handler, if not a cooperative association qualified pursuant to § 1002.89 has notified any qualified cooperative association which has any members who deliver milk to such plant, and has notified individually all producers delivering to such plant who are not members of such qualified cooperative association, of his intention to make such application: *Provided further*, That if 50 percent or more of the producers delivering milk at such plant deliver such milk for the account of a cooperative association which does not operate the plant but for which milk such association receives payment, an application must be made by such cooperative association as well as by the handler operating the plant: *Provided further*, That if a handler applies for a replacement designation pursuant to § 1002.24(b), the designation of the plant or plants replaced shall be canceled automatically at the time the replacement designation becomes effective.

(b) The designation of any plant which on June 15 of any year is not approved by a health authority as a source of milk for the marketing area shall be automatically suspended effective on August 1 of such year unless the absence of such approval is a temporary condition covering a period of not more than 15 days: *Provided*, That the designation of a plant approved by a health authority as a source of milk for the marketing area, even though such approval is restricted to prohibit shipment to the marketing area of milk for specified periods during which permission is given by such health authority for receiving unapproved milk or skim milk at the plant or for shipment of approved skim milk from such plant, shall not be suspended pursuant to this provision.

(c) The designation of any plant or unit shall be suspended, effective no sooner than 10 days nor later than 20 days after the date of mailing of notice, by registered letter, to the handler, whenever the market administrator, subject to the limitations set forth in paragraphs (g) and (i) of this section, finds on the basis of available information that the handler operating the plant or unit is not meeting the requirements set forth in § 1002.26: *Provided*, That, if the handler operating the plant or unit is not a cooperative association qualified pursuant to § 1002.89, the market administrator shall notify any qualified cooperative association which has any members who deliver milk to such plant or unit, and shall also notify individually all producers delivering to such plant or unit who are not members of such qualified cooperative association, of such suspension of designation.

(d) In the case of suspension pursuant to this section of the designation of one or more plants or units for failure to meet the requirements of § 1002.26 (a) or (c) the handler operating such plant or unit may select, prior to the effective date of such suspension, one or more other pool plants or pool units consist-

ing of farms in the area specified in § 1002.25(e) for suspension in lieu thereof if, during the preceding month, the quantity of pool milk received from producers at such substituted plants or units was not less than the quantity of pool milk received from producers at the plants or units named for suspension. The handler may also select the order in which plant or unit designations are to be canceled in the event of a later determination by the Secretary canceling the designation of some but not all of the plants or units suspended.

(e) Not later than 10 days after the effective date of suspension of designation pursuant to this section, the handler operating the plant or unit may apply to the Secretary for a review. If the handler fails to so apply for such review, the designation shall be canceled as of the effective date of the suspension. If the handler does so apply, the Secretary shall, after review, either determine that the requirements set forth in § 1002.26 have been met and order the suspension revoked, or determine that such requirements have not been met and order the designation canceled as of the effective date of the suspension: *Provided*, That, if the Secretary has made no determination within two months after the end of the month in which the suspension was made effective, but later orders the designation canceled, such cancellation shall be effective as of the first of the month following the date of such determination.

(f) Beginning with the effective date of a suspension pursuant to this section, and until the Secretary has either ordered the designation canceled or ordered the suspension revoked, the plant or unit shall be treated as a pool plant or pool unit: *Provided*, That all payments into or out of the producer settlement fund (except such payments on the basis of operations during a month in which the plant meets the requirements of § 1002.28 or the unit meets the requirements of § 1002.25(g)) shall be held in reserve by the market administrator until an order is issued by the Secretary, but not longer than 2 months after the end of the month in which the suspension was made effective.

(g) No pool plant or pool unit designation shall be suspended for failure to meet the requirements of § 1002.26(a) except under the following conditions:

(1) A meeting has been held no sooner than three days after notice by the market administrator to all handlers operating pool plants designated pursuant to § 1002.24 or pool units consisting of farms in the area specified in § 1002.25(e) for consideration of the desirable utilization of milk received from producers during a period ending not later than the end of the second month after the month during which such meeting is held.

(2) There has been issued by the market administrator, following such meeting, and mailed to all handlers operating pool plants designated pursuant to § 1002.24 or pool units consisting of farms in the area specified in § 1002.25(e) the market administrator's determination of the desirable utilization of milk received from producers each month during all or a part of the period set forth in subparagraph (1) of this paragraph. Such determination shall include a schedule setting forth, by months, the desired minimum percentage of pool milk received from producers to be utilized in specified classes. Such specified classes shall include Class I–A in the marketing area, and may include all or a part of other Class I–A and Class I–B.

(3) The market administrator finds on the basis of available information that the handler operating a plant or unit or the cooperative reporting a plant or unit is not utilizing milk received from producers in accordance with the minimum percentage set forth in the determination of the market administrator previously announced pursuant to subparagraph (2) of this paragraph: *Provided*, That the suspension of the designation of a plant or unit may be made effective during the months of November and December if the market administrator finds that the handler is utilizing any milk received from producers in classes other than those set forth in the determination of the market administrator announced pursuant to subparagraph (2) of this paragraph.

(h) The cancellation of pool plant or pool unit designation for failure to meet the requirements of § 1002.26(a) shall be subject to the following conditions:

(1) No pool plant or pool unit designation shall be canceled if the handler operating the plant or unit utilized the milk received by him from producers during the month in which the suspension is made effective in accordance with the minimum percentage set forth in the determination of the market administrator announced pursuant to paragraph (g)(2) of this section.

(2) No pool plant or pool unit designation shall be canceled if the handler operating the plant or unit utilized in the specified classes set forth in the determination of the market administrator announced pursuant to paragraph (g)(2) of this section a percentage of the total milk received by him from producers during the month in which the suspension is made effective which is not less than the percentage of the total pool milk reported by all handlers for such month to have been used in the specified classes.

(3) In the event that all milk received from producers at a plant or unit is reported to the market administrator by a cooperative association qualified pursuant to § 1002.89 and such association pays the producer for such milk, the pool plant or pool unit designation shall not be canceled if a percentage of all milk reported by such cooperative association is utilized in accordance with the minimum percentage set forth in the determination of the market administrator announced pursuant to paragraph (g)(2) of this section, or in accordance with the percentage set forth in subparagraph (2) of this paragraph.

(4) Cancellation of designations shall be limited to those plants or units necessary to result in a utilization of milk received at the remaining pool plants and pool units operated by the handler, or reported by the cooperative, as the case may be, in accordance with the minimum percentage set forth in the determination of the market administrator announced pursuant to paragraph (g)(2) of this section.

(i) Loss of approval by health authorities of a plant as a source of milk for the marketing area may in itself consititute adequate reason for the market administrator to suspend the designation of the plant for failure to meet the requirements of § 1002.26(b) only if the absence of such approval continues for more than 15 days.

(j) The designation shall be canceled effective on the first of the month following three consecutive months if in the absence of this designation milk received from dairy farmers and units at the plant would have been classified and priced under an other order with a provision for marketwide equalization and if in each of such months the percentage of milk received from dairy farmers and units at the plant which is classified as Class I–A and disposed of in the marketing area defined in such other order is greater than the percentage of such milk so classified and disposed of in this marketing area.

§ 1002.28 Temporary pool plants.

Except for plants which, pursuant to paragraph (f) of this section, are not eligible for designation, any plant not designated pursuant to § 1002.24 shall automatically be designated a pool plant in accordance with provisions of paragraphs (a) through (e) of this section: *Provided*, That no plant shall be a pool plant pursuant to this section if, in the absence of this provision, milk received from dairy farmers and units at the plant would be classified and priced under an other order with a provision for marketwide equalization, and if the percentage of the milk received from dairy farmers and units at the plant which is classified in Class I–A and disposed of in the marketing area defined in such other order is greater than the percentage of such milk so classified and disposed of in this marketing area.

(a) For any of the months of January through March and July through December, any plant at which 25 percent or more of the combined receipts of skim milk and butterfat in milk from dairy farmers and units is classified as Class I–A in the marketing area or as Class I–A on the basis of a transfer to a pool plant on some basis other than the failure to account for such milk shall automatically be designated a pool plant for such month: *Provided*, That at the option of the handler the plant shall not be a pool plant if less than 25 percent of such combined receipts of skim milk and butterfat in milk from other than

pool units is classified in such Class I–A.

(b) For any of the months of April, May, or June, any plant at which during the preceding period of October, November, and December either (1) no milk was received from dairy farmers or units, or (2) 60 percent or more of the combined receipts of skim milk and butterfat in milk received from dairy farmers and units was classified in Class I–A in the marketing area or as Class I–A on the basis of a transfer to a pool plant, on some basis other than the failure to account for such milk, shall automatically be designated a pool plant for any of such months of April, May, or June in which 10 percent or more of the combined receipts of skim milk and butterfat in milk received from dairy farmers and units is classified in Class I–A in the marketing area or as Class I–A on the basis of a transfer to a pool plant, on some basis other than the failure to account for such milk: *Provided,* That at the option of the handler the plant shall not be a pool plant if less than 10 percent of combined receipts of skim milk and butterfat in such milk from other than pool units is classified in such Class I–A.

(c) Any plant which is a pool plant in any of the months of April, May, or June on the basis of paragraph (b) of this section or on the basis of paragraph (d) of this section and in the latter case, the percentage of combined receipts of skim milk and butterfat in milk from dairy farmers and units classified in Class I–A in the marketing area or as Class I–A on the basis of a transfer to a pool plant, is at least as great as the market percentage of pool milk in Classes I–A and I–B for the same month of the previous year, shall be a pool plant in any of the months of July through March following in which 60 percent or more of the combined receipts of skim milk and butterfat in milk received at the plant from dairy farmers and units is classified in Class I–A, Class I–B, or Classes I–A and I–B combined.

(d) Any plant which for any month is not a pool plant because of failure to meet the requirements of paragraph (a), (b), or (c) of this section shall be a pool plant in any month in which a daily average of at least 800 pounds of combined receipts of skim milk and butterfat in milk received from dairy farmers and units is classified as Class I–A in the marketing area or as Class I–A on the basis of a transfer to a pool plant, on some basis other than failure to account for such milk and if the percentage of combined receipts of skim milk and butterfat in milk classified as Class I–A and Class I–B is at least as great as the market percentage of pool milk in Classes I–A and I–B for the same month in the preceding year: *Provided,* That at the option of the handler, the plant shall not be a pool plant if none of the skim milk or butterfat in such milk from other than pool units is classified in such Class I–A: *Provided further,* That such plant shall not be a pool plant on the basis of this paragraph if it is located in the 401 miles and over freight zone.

(e) A plant whose regular pool plant designation has been canceled at the request of the handler on the first of any of the months of August through November shall be a pool plant in any month through November 30 following such cancellation if the percentage of the combined receipts of skim milk and butterfat in milk received from dairy farmers and units classified in Class I–A, Class I–B or Classes I–A and I–B combined is at least as great as the market percentage of pool milk in Classes I–A and I–B for the same month in the preceding year unless such plant qualifies as a pool plant under an other order with a provision for marketwide equalization.

(f) A plant shall not be a pool plant on the basis of this section for the periods and under the conditions set forth in subparagraphs (1), (2), and (3) of this paragraph:

(1) If the pool plant designation was canceled on the first of August, September, October, or November pursuant to § 1002.27(a) for the period through November 30 except as specified in paragraph (e) of this section.

(2) If the pool plant designation was canceled pursuant to § 1002.27 for failure to meet the requirements of § 1002.26 (a), for the period from the date the cancellation was effective through the following June 30.

(3) If the plant was a pool plant pursuant to provisions of Part 1015 of this chapter in each of the months of July through November of any year, for the months of December through June following.

(g) At the time of announcing the uniform price for each month, the market administrator shall make public the location and name of the operator of any plant for which a report of receipts from dairy farmers was used in the computation of that uniform price.

§ 1002.29 Partial pool plants.

The following plants not designated pool plants pursuant to §§ 1002.24 and 1002.28, which plants distribute fluid milk products in the marketing area or transfer fluid milk products to a pool plant shall be designated partial pool plants:

(a) Plants set forth in § 1002.28(f): *Provided,* That a plant specified in subparagraph (3) of such paragraph shall be a partial pool plant only if such plant classified skim milk or butterfat in milk received from dairy farmers or nonpool units in Class I–A on some basis other than failure to account for such milk and if such plant is not a pool plant under an other order with a provision for marketwide equalization.

(b) Plants other than those set forth in paragraph (a) of this section which have some skim milk or butterfat in milk received from dairy farmers or nonpool units classified in Class I–A on some basis other than failure to account for such milk, except a plant which would otherwise qualify as a pool plant pursuant to § 1002.28(d) but which has less than a daily average of 800 pounds of skim milk or butterfat in milk received from dairy farmers or units classified in Class I–A in the marketing area on some basis other than failure to account for such milk.

Reports Records and Facilities

§ 1002.30 Reports of receipts and utilization.

Each handler, except a handler receiving own farm milk and not required to be listed pursuant either to § 1002.11 or § 1002.12, shall report each month to the market administrator for the preceding month in the manner and on the forms prescribed by the market administrator with respect to each of his pool plants or partial pool plants and each of his pool units or partial pool units, the information set forth in paragraphs (a) through (d) of this section. Such report, if transmitted by mail, shall bear a postmark no later than the eighth day of the month and if not so mailed, shall be delivered physically to the office of the market administrator no later than the close of business on the 10th day of the month.

(a) The quantity of skim milk and butterfat contained in:

(1) Receipts of milk from producers;

(2) Receipts of fluid milk products from other pool plants or partial pool plants and from pool units or partial pool units; and

(3) Receipts of other source milk.

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

(c) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including the destination of any fluid milk product, the classification of which wholly or partially depends upon its destination; and

(d) The computation pursuant to § 1002.70 of such handler's net pool obligation.

§ 1002.31 Producer payroll reports.

Each handler shall report with respect to producers as set forth in paragraphs (a) and (b) of this section:

(a) On or before the 10th day after the end of each month, the information required by the market administrator with respect to producer additions, producer withdrawals, and changes in names of farm operators; and

(b) On or before the last day of each month such handler's producer payroll for the preceding month, which shall show for each producer:

(1) The total pounds of milk from such producer;

(2) The average butterfat content of such milk: *Provided,* That if no butterfat tests are made on any of the milk received from producers, and if such milk is received by the handler from no more than 10 producers, 3.5 percent shall be reported as the average butterfat test of milk received from producers;

(3) The amount of payment due each producer;

(4) The nature and amount of any deductions and charges made by the handler;

(5) The net amount of payment to such producer; and

(6) Such other information with respect thereto as the market administrator shall require.

§ 1002.32 Other reports.

At such time as the market administrator may request, each handler shall report to the market administrator in the manner and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat in milk and each milk product received at his nonpool plants, from dairy farmers, from other plants or nonpool units, from such handler's own farm, from other handlers, and from other sources;

(b) The quantities of skim milk and butterfat in milk and each milk product moved out of, or on hand at, his nonpool plants and the destination of such skim milk and butterfat;

(c) Information concerning land, buildings, surroundings, facilities and equipment at any of his plants;

(d) The current receipts and utilization of skim milk and butterfat at each of his pool plants and pool units; and

(e) Such other information as may be necessary for the administration of the provisions of this part.

§ 1002.33 Records and facilities.

Each handler shall maintain and make available to the market administrator or his representative during the usual hours of business such records and facilities, of his own or other persons, as are necessary for the market administrator to:

(a) Verify and in the case of errors or omissions, ascertain the correct figures.

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

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

(3) The pounds of skim milk and butterfat contained in or represented by all items in inventory at the beginning and end of each month;

(4) Payments to producers and cooperative associations;

(5) Other information required to be reported; and

(6) All claims for payments pursuant to § 1002.89.

(b) Make inspection of buildings and their surroundings, facilities, and equipment for verification purposes and to ascertain what constitutes a plant and the production, processing, and distribution resources and facilities of a producer-handler's operation; and

(c) Verify that the requirements for designation as a producer-handler have been and are being met.

§ 1002.34 Retention of records.

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

CLASSIFICATION

§ 1002.40 Skim milk and butterfat to be classified.

All skim milk and butterfat required to be reported by each handler pursuant to §§ 1002.30 and 1002.32 shall be classified each month pursuant to the provisions of §§ 1002.41 through 1002.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products plus all the water originally associated with such solids.

§ 1002.41 Classes of utilization.

Subject to the conditions set forth in §§ 1002.42 through 1002.46 the classes of utilization shall be as follows:

(a) Class I–A milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product:

(i) Inside the marketing area;

(ii) As route disposition in an other order marketing area;

(iii) To an other order plant and assigned under such other order to Class I;

(iv) In packaged form to an other order plant if such product is not defined as a fluid milk product under such other order;

(v) To a partially regulated plant under an other order and there applied as as offset to Class I sales in any other order market.

(2) Contained in inventory of packaged fluid milk products on hand at the end of the month except as provided in subparagraph (c)(4) of this section; and

(3) Not specifically accounted for as Class I–B or Class II milk.

(b) Class I–B milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product outside the marketing area, except as provided in subdivision (ii) through (v) of paragraph (a)(1) and (c) (4), (5), and (6) of this section; and

(2) In shrinkage allocated to Class I–B pursuant to § 1002.42.

(c) Class II milk shall be all skim milk and butterfat:

(1) Disposed of in any product other than a fluid milk product;

(2) Disposed of as a fluid milk product in bulk to any establishment (other than a plant defined in § 1002.8) at which food products are processed and packed in hermetically sealed containers and at which establishment there is no disposition of fluid milk products other than those received in consumer packages for consumption on the premises;

(3) Disposed of as cream which is moved to a licensed cold storage warehouse and established to have been held therein;

(4) Contained in inventory of fluid milk products in bulk which are on hand at the end of the month and also with respect to any plant not defined in § 1002.8 (b) or (d), in inventory of fluid milk products in packaged form;

(5) Disposed of as a packaged fluid milk product to an other order plant and assigned under such other order as a fluid milk product to Class II;

(6) Disposed of in bulk as a fluid milk product to an other order plant and assigned to Class II under such other order;

(7) In shrinkage allocated to Class II pursuant to § 1002.42; and

(8) In skim milk represented by the nonfat solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1002.15.

§ 1002.42 Shrinkage.

Shrinkage shall be classified at each plant or unit as follows:

(a) Compute the total shrinkage of skim milk and butterfat respectively at each plant or unit.

(b) Such shrinkage shall be assigned pro rata to classes of use in accordance with the respective volumes of skim milk and butterfat actually accounted for in each class: *Provided*, That shrinkage assigned to Class II shall not exceed 2 percent of the skim milk and butterfat, respectively, in such class actually accounted for and any excess thereof shall be classified as Class I–A.

§ 1002.43 Responsibility of handlers and the reclassification of milk.

(a) All skim milk and butterfat shall be Class I–A milk unless the handler who first receives such skim milk and butterfats proves to the market administrator that such skim milk and butterfat should be classified otherwise.

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

§ 1002.44 Transfers.

Skim milk and butterfat transferred in the form of a fluid milk product from

a pool unit or a pool plant to any other plant shall be classified pursuant to the provisions of paragraphs (a) through (e) of this section. The assignment procedure set forth in paragraph (e) shall also be applicable for the purpose of assignment of receipts at any plant which is not a plant defined pursuant to § 1002.8 (b) or (d) and which receives no milk from dairy farmers or units but from which fluid milk products are disposed of in consumer packages or dispenser inserts in the marketing area either by direct distribution or to other plants.

(a) As Class I–A milk if transferred to the plant of a handler listed pursuant to § 1002.12 or to a producer-handler under an other order;

(b) In accordance with its assignment at the transferee plant pursuant to § 1002.45(a)(15) and the corresponding step of § 1002.45(b) if transferred from a pool unit, a pool plant as defined in § 1002.8(b) (except a pool plant pursuant to § 1002.28 other than a pool plant pursuant to the proviso of the preamble of § 1002.45), to a pool plant as defined in § 1002.8(b).

(c) In accordance with its assignment at the transferee plant pursuant to § 1002.45(a) (13) and (14) and the corresponding step of § 1002.45(b) if transferred from any plant for which pool status is conditioned on assignment pursuant to § 1002.45(a) (8), (13), and (14) and the corresponding step of § 1002.45 (b) to a pool plant as defined in § 1002.8(b).

(d) As follows, if transferred to an other order plant:

(1) If transferred in packaged form classification shall be in the classes (either I–A or II) to which allocated as a fluid milk product under the other order: *Provided,* That if such product is not a fluid milk product under such other order classification shall be as Class I–A;

(2) If transferred in bulk and the operators of both the transferor and transferee plants so request in their reports of receipts and utilization filed with their respective market administrators, classification shall be as Class II milk to the extent of the Class II utilization available for such assignment at the applicable step in the allocation provisions of the transferee order;

(3) Except as provided in subparagraph (2) of this paragraph if transferred in bulk classification shall be in the classes (either Class I–A or II) to which allocated under such other order.

(e) As Class I–A if transferred in packaged or bulk to a plant which is not a plant as defined in § 1002.8 (b) or (d), nor a producer-handler plant under an other order, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph: *Provided,* That if the classification of any skim milk and butterfat so transferred is dependent on the classification of bulk fluid milk products moved from the transferee plant to a second nonpool plant, the same assignment procedure shall be followed with respect to receipts and utilization at such second nonpool plant.

(1) The transferring 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 § 1002.30 for the month within which such transaction occurred;

(2) The operator of such transferee 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;

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such transferee plant:

(i) Packaged receipts of fluid milk products from Federal order sources shall first be assigned to route disposition in Federal order marketing areas (assigning receipts to sales in the same market to the extent possible) and any residual shall be assigned to I–B route sales.

(ii) Such bulk transfers and other bulk receipts at such transferee plant from other order plants shall next be assigned to any remaining route disposition in any Federal order marketing area. For this purpose receipts from each Federal order market shall first be assigned to remaining route sales in such marketing area and any remainder of such receipts shall be prorated with all Federal order receipts to remaining route disposition in all Federal order marketing areas.

(iii) Receipts from dairy farmers shall then be assigned to any remaining route sales in the marketing area.

(iv) Remaining receipts from dairy farmers and other unregulated other source receipts (excluding opening inventory) in the form of fluid milk products shall be assigned pro rata to Class I–B and Class II utilization at such plant to the extent of such utilization available at such plant and any remainder of such receipts shall be assigned pro rata to Class I–A bulk sales to plants regulated under this order and Class I bulk sales to plants regulated under other orders.

(v) Any remaining receipts being assigned pursuant to this subparagraph shall be assigned pro rata with remaining receipts from other order plants, first to remaining Class I–A utilization, then Class I–B utilization and finally to Class II utilization at such plant: *Provided,* That if on inspection of the books and records of such plant the market administrator finds that there is insufficient utilization to cover such receipts, the remainder shall be classified as Class I–A.

§ 1002.45 Allocation of skim milk and butterfat classified.

The classification of milk received from producers at each pool plant or pool unit for each handler shall be determined each month pursuant to paragraph (a), (b), and (c) of this section: *Provided,* That for the purpose of establishing the pool status of any plant with Class I–A route disposition in the marketing area which is not a pool plant pursuant to § 1002.24, skim milk and butterfat in milk received at such plant directly from dairy farmers or units up to an amount sufficient to qualify such plant as a pool plant pursuant to § 1002.28 (a) or (b) shall be considered the source of such I–A route disposition of such plant and be subtracted from Class I–A prior to the application of the allocation sequence set forth in paragraphs (a) and (b) of this section, unless at the time of filing his report pursuant to § 1002.30 the handler elects not to have it so allocated.

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

(1) Subtract the pounds of skim milk received in packaged form from a producer-handler for marketing as certified fluid milk products from the total pounds of skim milk in Class I–A and Class I–B milk, respectively, in accordance with its proportionate disposition in such classes;

(2) Subtract from the remaining pounds of skim milk in Class I–A milk the pounds of skim milk in packaged fluid milk products received from other order plants, except cream which has been classified and priced as other than a fluid milk product under the other order;

(3) Subtract from the remaining pounds of skim milk in Class I–A milk the pounds of skim milk in inventory of packaged fluid milk products on hand at the beginning of the month: *Provided,* That for the first month of operation under this amended order such pounds of skim milk shall be subtracted from Class I–A, if classified as I–A, I–B, or Class II in the preceding month and from Class II if classified as Class III in the preceding month;

(4) Subtract from the pounds of skim milk remaining in each class in series beginning with Class II milk the pounds of skim milk in receipts of other source milk in a form other than that of a fluid milk product;

(5) Subtract in the order specified below from the pounds of skim milk remaining in Class I–A and Class II milk, in series beginning with Class II milk, the pounds of skim milk in:

(i) Receipts of fluid milk products from a producer-handler pursuant to an other order or a producer-handler defined pursuant to § 1002.12 (except pool milk designated in the preamble of § 1002.14).

(ii) Receipts of fluid milk products from a handler's plant at which milk is excepted from the pool milk definition pursuant to § 1002.14(h).

(iii) Receipts of fluid milk products from a handler with own farm milk which milk is excepted from the pool milk definition pursuant to § 1002.14(i).

(6) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in receipts of other

source milk in the form of fluid milk products from plants other than those defined in § 1002.8 (b) or (d) and units other than pool units for which the handler requests a Class II classification, but not in any case to exceed the pounds of skim milk remaining in such class;

(7) Subtract from the remaining pounds of skim milk in Class I–A and Class II milk, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products in bulk on hand at the beginning of the month: *Provided,* That for the first month of operation under this amended order such pounds of skim milk shall be subtracted from Class I–A if classified as Class I–A, I–B, or II in the preceding month and from Class II if classified as Class III in the preceding month;

(8) (i) Subtract pro rata from the pounds of skim milk remaining in Class I–B and Class II milk the remaining pounds of skim milk in receipts of other source milk in the form of fluid milk products from plants not defined pursuant to § 1002.8 (b) or (d) and from units other than pool units: *Provided,* That if the pounds of skim milk to be assigned pursuant to this subparagraph exceed the available pounds of skim milk in Class I–B and Class II, the handler shall designate the priority of sources to be assigned to such classes.

(ii) No assignment shall be made pursuant to this subparagraph with respect to milk received from a plant not defined pursuant to § 1002.8 (b) or (d) in the 401 miles and over freight zone at a plant from which 50 percent or more of the gross receipts of skim milk and butterfat leaves the plant in the form of fluid milk products in consumer packages or dispenser inserts and is classified as Class I–A;

(9) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk specified in subdivisions (i) and (ii) of this subparagraph, but not in any case to exceed the pounds of skim milk remaining in such class;

(i) In receipts of packaged cream and bulk fluid milk products pooled and priced under Part 1015 of this chapter, and

(ii) In receipts of packaged or bulk cream from other order plants if such cream was classified and priced as other than a fluid milk product under the other order.

(10) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in bulk receipts of fluid milk products from other order plants not previously assigned and for which a Class II classification is requested by both the transferor and transferee handler in filing reports of receipts and utilization for the month with their respective market administrators, but not in any case to exceed the pounds of skim milk remaining in such class;

(11) Subtract pro rata from the remaining pounds of skim milk in each class the pounds of skim milk in receipts from dairy farmers and from the handler's own farm which are excepted from the pool milk definition pursuant to § 1002.14 (h) and (i);

(12) Subtract pro rata from the remaining pounds of skim milk in each class the pounds of skim milk in receipts of fluid milk products from other order plants not previously assigned pursuant to subparagraphs (2), (9), and (10) of this paragraph;

(13) If the plant at which assignment is being made is a plant from which 50 percent or more of the gross receipts of skim milk and butterfat in the form of fluid milk products left the plant in the form of fluid milk products in consumer packages or dispenser inserts and was classified as I–A, subtract pro rata from the remaining pounds of skim milk in each class the pounds of skim milk in receipts of fluid milk products from plants in the 401 miles or over freight zone, not defined pursuant to § 1002.8 (b) or (d);

(14) Subtract from the remaining pounds of skim milk in Class I–A milk the pounds of skim milk in remaining receipts from plants (except other order plants) or units the pool status of which has not yet been established and which receipts have not previously been assigned pursuant to subparagraphs (8) and (13) of this paragraph;

(15) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received in the form of fluid milk products from other pool plants and from pool units (not previously assigned pursuant to the preamble of this section), in accordance with the classification assigned by the transferee handler subject to the conditions of subdivisions (i) through (iii) of this subparagraph:

(i) The skim milk so assigned to any class of utilization shall be limited to the amount thereof remaining in such class in the transferee plant;

(ii) If the transferor plant received during the month other source milk to be allocated pursuant to subparagraph (4) of this paragraph the skim milk so transferred shall be classified so as to allocate the least possible Class I–A or I–B utilization to such other source milk; and

(iii) If the transferor handler received during the month other source milk to be allocated pursuant to subparagraph (8) of this paragraph, the skim milk so transferred shall not be classified as Class I–A or I–B to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(16) Add to the remaining pounds of skim milk in Class I–A the pounds of skim milk received directly from dairy farmers which was deducted pursuant to the proviso in the preamble of this section;

(17) If the pounds of skim milk remaining in all classes exceeds the pounds of skim milk in receipts from producers subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

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

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class.

§ 1002.46 Rules and regulations.

Accounting rules and regulations to effectuate the provisions of §§ 1002.40 through 1002.45 shall be issued by the market administrator and shall include (but not be limited to) conversion factors to be used in the absence of specific weights and tests, specific definitions of products, specific shrinkage allowances and procedures for determining the quantities of skim milk and butterfat disposed of in specified products. Such rules and regulations shall be made, and may from time to time be amended, by the market administrator in accordance with the procedure set forth in this section: *Provided,* That at any time upon a determination by the Secretary that an emergency exists which requires the immediate adoption of rules and regulations, the market administrator may issue, with the approval of the Secretary, temporary rules and regulations without regard to the following procedure: *Provided further,* That, if any interested person makes written request for the issuance, amendment, or repeal of any rule, the market administrator shall within 30 days either issue notice of meeting pursuant to paragraph (a) of this section or deny such request and except in affirming a prior denial, or where the denial is self-explanatory, shall state the grounds for such denial: *Provided further,* That if the market administrator finds it necessary to promulgate formal rules with respect to units, he shall follow the procedure set forth in this section.

(a) All proposed rules and regulations and amendments thereto shall be the subject of a meeting called by the market administrator at which time all interested persons shall have opportunity to be heard. Notice of such meeting shall be given by the market administrator, and a copy of the proposed rules and regulations shall be sent at least 5 days prior to the date of the meeting to all handlers operating pool plants. A stenographic record shall be made at all such meetings and such record shall be public information available for inspection at the office of the market administrator.

(b) A period of at least 5 days after the meeting held pursuant to paragraph (a) of this section shall be allowed for the filing of briefs. Such briefs shall be public information available for inspection at the office of the market administrator.

(c) Not later than 30 days after a meeting held pursuant to paragraph (a) of this section, the market administrator shall issue and send to all handlers operating pool plants and pool units the tentative rules and regulations or amendments thereto relating to the issues considered at such meeting, or a tentative notice that no rules or regulations or amendments thereto are to be issued prior to further consideration at another

meeting. The tentative rules and regulations, or tentative notice, together with copies of the stenographic record and briefs, shall also at the same time be forwarded by the market administrator to the Secretary.

(d) Not later than 30 days after issuance by the market administrator, the Secretary shall either approve the tentative rules and regulations or tentative notice as issued, or direct the market administrator to reconsider. In which latter event, the market administrator shall within 30 days either issue revised tentative rules and regulations or tentative notice, or call another meeting pursuant to paragraph (a) of this section.

(e) The tentative rules and regulations and amendments thereto or tentative notice issued pursuant to paragraph (c) of this section shall be effective as of the first of the month following approval by the Secretary, but not sooner than 10 days after issuance by the market administrator.

MINIMUM PRICES

§ 1002.50 Class prices.

For pool milk received during each month from dairy farmers or cooperative associations of producers, each handler shall pay per hundredweight not less than the prices set forth in this section, subject to the differentials and adjustments in §§ 1002.51 and 1002.81. Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler but which does not operate the plant or the unit receiving the milk from producers shall on or before the 15th day of the following month pay such class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 1002.51, 1002.81, and 1002.82 (b) applicable at the location where the milk is received from producers. Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler and which operates the plant or the unit receiving the milk from producers shall on or before the 15th day of the following month pay such cooperative association in full for such milk at not less than the minimum class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 1002.51, 1002.52, 1002.81, and 1002.82(b) applicable at the plant at which the milk is first received.

(a) For Class I–A milk the price during each month shall be a price computed pursuant to subparagraphs (1) through (10) of this paragraph, except that from the effective date hereof the Class I–A price each month shall be $6.39 through April 1969.

(1) Divide (with the result expressed to three decimal places) the monthly wholesale price index for all commodities in the second preceding month as reported by the Bureau of Labor Statistics, U.S. Department of Labor, by the average of the monthly indexes reported on the same base for the year 1955.

(2) Multiply the base price of $5.20 by the result determined pursuant to subparagraph (1) of this paragraph. Express the result to the nearest cent.

(3) For each month during the 3-year period ending with the second preceding month, calculate to one decimal place the percentage that the total volume of milk in Class I–A and Class I–B was of the total volume of reported receipts of pool milk (these percentages to be referred to as utilization percentages): *Provided,* That for the purpose of computing such utilization percentage each month there shall be added to the volume of milk in Class I–A and Class I–B the pounds of skim milk subject to the fluid skim differential which is in excess of that volume subject to the differential for the corresponding month of the period November 1965 through October 1966. For this purpose the utilization percentages for the months of November 1966 to the effective date of this order shall be recomputed on this same basis.

(4) Calculate the average of the 36 monthly utilization percentages for the 3-year period ending with the second preceding month.

(5) Calculate the average of the six utilization percentages for the second and third preceding months and for the same months of the 2 preceding years.

(6) Divide the result determined pursuant to subparagraph (5) of this paragraph by the result determined pursuant to subparagraph (4) of this paragraph expressing the result to three decimal places.

(7) Calculate the average of the two utilization percentages in the second and third preceding months.

(8) Divide the result determined pursuant to subparagraph (7) of this paragraph by the result determined pursuant to subparagraph (6) of this paragraph. Express the result of one decimal place and add 100.

(9) Calculate a utilization adjustment percentage by subtracting the base utilization percentage of 56.2 from the result determined pursuant to subparagraph (8) of this paragraph.

(10) Multiply the result determined pursuant to subparagraph (2) of this paragraph by the utilization adjustment percentage determined pursuant to subparagraph (9) of this paragraph.

(b) Whenever any of the following conditions exist for 3 consecutive months, the Secretary shall call a public hearing promptly to consider those and other economic conditions, or promptly announce his determination that such a hearing should not be held, together with reasons for such determination:

(1) There is a difference of more than six points for each of 3 consecutive months between the index of the cost of production announced pursuant to § 1002.22(m)(1)(iv) and the index of wholesale prices (1955 base) announced pursuant to § 1002.22(m)(1)(i).

(2) There is a difference of more than 15 points for each of 3 consecutive months between the index of the cost of production announced pursuant to § 1002.22(m)(1)(iv) and the index of the Class I–A price announced pursuant to § 1002.22 (m)(1)(v).

(3) The Class I–A price for each of 3 consecutive months is less than $1 higher than the condensery price announced pursuant to § 1002.22(m)(2)(iv) for such months or more than $2.50 higher than such condensery price.

(c) For Class I–B milk the price shall be the price for Class I–A milk.

(d) For Class II milk, the price shall be the net amount determined pursuant to this paragraph:

(1) Adjust the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month, to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department for the month. Such price shall be rounded to the nearest cent but shall not exceed a price computed as follows:

(i) Multiply by 4.2 the Chicago butter price specified in this subparagraph;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(iii) From the sum of the results arrived at under subdivisions (i) and (ii) of this subparagraph, subtract 48 cents, and round to the nearest cent.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month	*Amount (dollars per cwt)*
January	+0.03
February	+.02
March	−.05
April	−.09
May	−.12
June	−.11
July	+.03
August	+.10
September	+.06
October	+.06
November	+.06
December	+.06

§ 1002.51 Transportation differentials.

The class prices set forth in § 1002.50 shall be subject to a transportation differential determined in accordance with paragraphs (a) through (e) of this section.

(a) The market administrator shall determine a freight zone for each pool plant and each partial pool plant. Such freight zone shall be the shortest highway mileage from the plant to the nearest of the following points as computed by the market administrator from data contained in Mileage Guide No. 5, without supplements, issued on July 20, 1949, effective August 21, 1949, by the Household Goods Carriers' Bureau, Agent, Washington, D.C.: Mount Vernon or Yonkers in the State of New York; Tenafly, Glen Ridge, East Orange, Elizabeth, Hackensack, Hillside, Irvington, or Passaic in the State of New Jersey. The freight zone for plants located in New York City, Nassau, and Suffolk Counties in the State of New York, or in Essex, Hudson, and Union Counties in the State of New Jersey shall be in the 1- to 10-mile zone. The market administrator shall publicly announce the freight zones for pool plants.

(b) The market administrator shall determine and publicly announce a freight zone for each minor civil division (township, borough, incorporated village, or city) within which farms included in a pool or partial pool unit are located by computing the shortest highway mileage distance from the nearest point in the minor civil division to the nearest point specified in paragraph (a) of this section, using the mileage guide specified in such paragraph supplemented by U.S. Geological Survey maps. In States where the smallest governmental unit except for incorporated cities or villages is the county, a zone for the county shall be determined in the same manner as for minor civil divisions. The zone for each farm shall be the zone of the minor civil division or county in which the farm is located.

(c) The differential rates applicable at plants shall be as set forth in the following schedule:

A Freight zone (miles)	B Classes I–A and I–B (cents per cwt.)	C Class II (cents per cwt.)
1–10	+24.0	+8
11–20	+22.8	+8
21–25	+21.6	+8
26–30	+21.6	+7
31–40	+20.4	+7
41–50	+19.2	+7
51–60	+18.0	+6
61–70	+16.8	+6
71–75	+15.6	+6
76–80	+15.6	+5
81–90	+14.4	+5
91–100	+13.2	+5
101–110	+12.0	+4
111–120	+10.8	+4
121–125	+9.6	+4
126–130	+9.6	+3
131–140	+8.4	+3
141–150	+7.2	+3
151–160	+6.0	+2
161–170	+4.8	+2
171–175	+3.6	+2
176–180	+3.6	+1
181–190	+2.4	+1
191–200	+1.2	+1
201–210	0.0	0
211–220	−1.2	0
221–225	−2.4	0
226–230	−2.4	−1
231–240	−3.6	−1
241–250	−4.8	−1
251–260	−6.0	−2
261–270	−7.2	−2
271–275	−8.4	−2
276–280	−8.4	−3
281–290	−9.6	−3
291–300	−10.8	−3
301–310	−12.0	−4
311–320	−13.2	−4
321–325	−14.4	−4
326–330	−14.4	−5
331–340	−15.6	−5
341–350	−16.8	−5
351–360	−18.0	−6
361–370	−19.2	−6
371–375	−20.4	−6
376–380	−20.4	−7
381–390	−21.6	−7
391–400	−22.8	−7
401 and over	−24.0	−8

(d) The differential rate applicable to each pool unit or partial pool unit shall be computed each month as follows: Multiply the volume of pool milk received from farms in each zone by the rate for that zone as set forth in the schedule in paragraph (c) of this section, add the resulting values for all zones of the unit, divide such sum by the total volume of milk received by the unit and round to the nearest 0.1 cent. Rates shall be computed separately for columns B and C of such schedule.

(e) In the event that a plant in the 401 miles and over freight zone becomes a pool plant, a 10-mile zone shall be determined for such plant and for each farm in any pool unit delivering to such plant. The column B differentials in paragraph (c) of this section shall be extended at the same rate as provided in such column for such plant or unit: *Provided,* That in no case shall such differential cause the class price or the uniform price for such plant or unit to be less than the Class II price for such plant or unit: *Provided further,* That farms or units delivering to such plant shall be deemed to be in the same zone as the plant.

§ 1002.52 Connecticut order differential.

For skim milk and butterfat which is classified in Class II under Part 1015 of this chapter and is received in the form of packaged cream or a bulk fluid milk product at a pool plant and is classified as Class I–A, the handler shall pay, a differential equal to the difference between the Class II price under Part 1015 of this chapter and the Class I–A price appropriately adjusted for differentials pursuant to §§ 1002.51, 1002.81, and 1002.82(b).

§ 1002.53 Producer-handler price differential.

For skim milk and butterfat received from a handler who is a producer-handler under this or any other order and is assigned to Class I–A pursuant to § 1002.45(a)(5)(i), the transferee handler shall pay a differential equal to the difference between the Class I–A price and the Class II price both appropriately adjusted for differentials pursuant to §§ 1002.51 and 1002.82(b).

§ 1002.54 Use of equivalent price or index.

If for any reason a price or index specified by this part for use in computing class prices or other purposes is not reported or published in the manner therein described, the market administrator shall use a price or index determined by the Secretary to be equivalent to or comparable with the price or index specified.

Determination of Uniform Price

§ 1002.70 Net pool obligation of handlers.

Each handler's net pool obligation for milk received at each plant and unit shall be computed separately pursuant to paragraphs (a) through (d) of this section and then combined into one total to determine the handler's total net pool obligation.

(a) Multiply the quantity of milk in each class remaining after the computation pursuant to § 1002.45(a)(17) and the corresponding step of § 1002.45(b) by the applicable class price adjusted by the applicable differential pursuant to § 1002.51:

(b) For each partial pool plant or partial pool unit multiply the quantity of pool milk in each class by the applicable class price adjusted by the applicable differential pursuant to § 1002.51;

(c) Deduct, in the case of each plant or unit nearer than the 201-to-210-mile zone and add, in the case of each plant or unit farther than the 201-to-210-mile zone, the sum obtained by multiplying the quantity of pool milk received from dairy farmers by the differential in column B of § 1002.51(c) applicable at the plant and the weighted average column B differential computed pursuant to § 1002.51(d) applicable to the unit.

(d) Add the amounts computed in subparagraphs (1) through (6) of this paragraph:

(1) Multiply the pounds of overage deducted from each class pursuant to § 1002.45(a)(17) and the corresponding step of § 1002.45(b) by the applicable class price adjusted by the differentials pursuant to §§ 1002.51 and 1002.81;

(2) Multiply the difference between the applicable Class I–A and Class II prices, both adjusted by the applicable differential pursuant to § 1002.51, by the pounds of skim milk and butterfat in other source milk subtracted from Class I–A pursuant to § 1002.45(a)(4) and the corresponding step of § 1002.45(b);

(3) Multiply the producer-handler price differential by the pounds of skim milk and butterfat subtracted from Class I–A pursuant to § 1002.45(a)(5)(i) and the corresponding step of § 1002.45(b);

(4) Multiply the difference between the Class II price for the preceding month and the Class I–A price for the current month, both applicable at the location of the nearest plant or unit from which an equivalent quantity of Class II milk was received in the preceding month, by the pounds of skim milk and butterfat subtracted from Class I–A pursuant to § 1002.45(a)(7) and the corresponding step of § 1002.45(b);

(5) Multiply the Connecticut order price differential by the pounds of skim milk and butterfat in bulk receipts of fluid milk products and packaged receipts of cream which have been priced and pooled under Part 1015 of this chapter and subtracted from Class I–A milk pursuant to § 1002.45(a)(12) and the corresponding step of § 1002.45(b); and

(6) Multiply the difference between the Class II price and the Class I–A price for the current month both applicable at the location of the transferor plant, by the pounds of skim milk and butterfat from other order plants (except Connecticut) in receipts of fluid cream classified and priced as other than a fluid milk product under the originating order and subtracted from Class I–A pursuant to § 1002.45(a)(12) and the corresponding step of § 1002.45(b).

§ 1002.71 Computation of the uniform price.

The market administrator shall, on or before the 14th day of each month, audit for mathematical correctness and obvious errors the report submitted for the preceding month by each handler. If the unreserved cash balance in the producer settlement fund to be included in the computation is less than 2 cents per hundredweight of pool milk on all reports, the report of any handler who has not made payment of the last monthly pool debit account rendered pursuant to § 1002.84 shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until he has made full payment of outstanding monthly pool debits. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(a) Combine into one total the net pool obligations of all handlers computed pursuant to § 1002.70;

(b) Subtract the total of payments required to be made pursuant to § 1002.89;

(c) Subtract for each of the months of March, April, May, and June an amount computed by multiplying the total hundredweight of pool milk for the month by 10 cents in March, 20 cents in April, and 30 cents in May and June;

(d) Add for the months of August, September and October, respectively, an amount representing 25 percent, 30 percent, and 30 percent of the aggregate amount subtracted pursuant to paragraph (c) of this section for the prior period of March–June, and for November add the remainder of the amount subtracted pursuant to paragraph (c) of this section and the interest earned on the aggregate fund;

(e) Add the amount of unreserved cash in the producer settlement fund;

(f) Subtract an amount equal to not less than 8 cents nor more than 9 cents per hundredweight of pool milk to provide against the contingency of errors in reports and payments or of delinquencies in payments by handlers; and

(g) Divide the result obtained in paragraph (f) of this section by the total pounds of pool milk delivered by dairy farmers. The result shall be known as the uniform price.

Payment by Handlers Directly to Producers

§ 1002.80 Time and rate of payments.

On or before the 25th day of each month each handler shall make payment, subject to paragraphs (a), (b), (c), and (d) of this section, to each producer for all pool milk delivered by such producer during the preceding month at not less than the uniform price, subject to appropriate differentials set forth in §§ 1002.81 and 1002.82. For milk received in a bulk tank unit there may be deducted, as proper and as authorized in writing by the producer, or by a cooperative association authorized to act on behalf of such producer, a tank truck service charge, not to exceed 10 cents per hundredweight, when such tank truck service is provided by the handler or at his expense. Any such deduction with respect to bulk tank milk must be made by the handler not later than the date on which the producer is required to be paid for the milk involved, and the same rate of deduction shall apply until canceled by the producer or by the cooperative by notifying the handler in writing, in which case the cancellation shall be effective on the first day of the month following its receipt by the handler.

(a) Each handler which is also a cooperative marketing association, determined by the Secretary to be qualified under the Capper-Volstead Act with respect to producers who are members of and under contract with such association, may make distribution in accordance with the contract between the association and such members of the net proceeds of all its sales in all markets in all use classifications.

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

(c) If a handler claims that he cannot make the required payment because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, such payment shall be made to the producer settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make such payment from the producer settlement fund to the handler or to the lawful claimant as the case may be.

(d) If not later than the date when such payment is required to be made, legal proceedings have been instituted by the handler for the purpose of administrative or judicial review of the market administrator's findings upon verification as provided above such payment shall be made to the producer settlement fund and shall be held in reserve until such time as the above-mentioned proceedings have been completed or until the handler submits proof to the market administrator that the required payment has been made to the producer or association of producers in which latter event the payment shall be refunded to the handler.

§ 1002.81 Butterfat differential.

The butterfat differential for the adjustment of prices as specified in this part shall be plus or minus for each one-tenth of 1 percent of butterfat therein above or below 3.5 percent an amount computed as follows:

Multiply by 0.120 and round to the nearest even one-tenth cent the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during the period between the 16th day of the preceding month and the 15th day inclusive of the current month by the United States Department of Agriculture for Grade A (92-score) bulk creamery butter in the New York City market.

§ 1002.82 Location differentials.

(a) *Transportation differential.* The transportation differential shall be plus or minus the appropriate differential shown in column B of the schedule in § 1002.51(c) for the zone of the plant to which the milk is delivered or in the case of farms included in units the zone of the township in which the milk is received.

(b) *Direct delivery differential.* For pool milk received at a plant or pool unit milk received from farms in the 1- to 10-mile zone through the 61- to 70-mile zone as determined pursuant to § 1002.51, the handler shall pay five cents per hundredweight in addition to any amounts required by other provisions of this section.

Producer Settlement Fund and Its Operation

§ 1002.83 Producer settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer settlement fund" into which he shall deposit all payments and out of which he shall make all payments

pursuant to §§ 1002.85 through 1002.89. All amounts subtracted under § 1002.71 (c), inclusive of interest earned thereon, shall remain therein as an obligated balance until it is withdrawn for the purpose of effectuating § 1002.71(d).

§ 1002.84 Handler's accounts.

The market administrator shall establish an account for each handler who is required to make payments to the producer settlement fund or who received payments from the producer settlement fund. After computing the uniform price and each handler's pool debit or credit each month, and at such times as he deems appropriate, the market administrator shall render each handler a statement of his account showing the debit or credit balance, together with all debits or credits entered on such handler's account since the previous statement was rendered: *Provided,* That the handler operating a pool plant receiving milk from a partial pool plant or partial pool unit without producers as defined in § 1002.6, or from a partial pool plant in the 401 miles or over freight zone, shall be responsible for the debit or credit arising on milk so received and for the payment of the administration assessment pursuant to § 1002.90 on such milk.

§ 1002.85 Payment to the producer settlement fund.

On or before the 18th day of each month each handler shall make full payment of the debit balance, if any, of such handler shown on the last statement of account rendered pursuant to § 1002.84.

§ 1002.86 Payments out of producer settlement fund.

On or before the 20th day of each month the market administrator shall make payment to each handler of the credit balance, if any, of such handler shown on the last statement of account rendered pursuant to § 1002.84. If, at any such time, the balance in the producer settlement fund is insufficient to make full payment due to each handler, the market administrator shall reduce uniformly the payments to each handler and shall complete such payments as soon as the necessary funds are available. No handler who, on the 25th day of the month, has not received such payments in full from the market administrator shall be deemed to be in violation of §§ 1002.80 through 1002.82 if he reduces his total payments to producers for milk delivered by such producers during the preceding month by not more than the amount of the reduction in payment from the producer settlement fund.

§ 1002.87 Handler's pool debit or credit.

After computing the uniform price for each month, the market administrator shall compute each handler's pool debit or credit as follows:

(a) Multiply the quantity of pool milk received by each handler from dairy farmers by the uniform price.

(b) If the result obtained in paragraph (a) of this section is less than the handler's net pool obligation, the difference shall be entered on the handler's producer settlement fund account as such handler's pool debit.

(c) If the result obtained in paragraph (a) of this section is greater than the handler's net pool obligation, the difference shall be entered on the handler's producer settlement fund account as such handler's pool credit.

§ 1002.88 Adjustments of errors in payments.

Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer settlement fund, the market administrator shall debit the handler's producer settlement fund account for any unpaid amount. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall credit the handler's producer settlement fund account for any such amount.

§ 1002.89 Cooperative payments for marketwide services.

Payments shall be made to qualified cooperatives or to federations under the conditions, in the manner, and at the rates set forth in this section.

(a) *Definitions.* As used in this section the following terms shall have the following meanings:

(1) "Cooperative" means a cooperative association of producers which is duly incorporated under the cooperative corporation laws of a state; is qualified under the Capper-Volstead Act (7 U.S.C. 291 et seq.); has all its activities under the control of its members; and has full authority in the sale of its members' milk.

(2) "Federation" means a federation of cooperatives.

(3) "Federated cooperative" means a cooperative which is a member of a federation and on whose membership the federation is an applicant for or receives payments under subparagraph (2) of paragraph (f) of this section.

(4) "Member" means, when used with respect to a member of a cooperative or of a federated cooperative, only a member who is also a producer, as defined in § 1002.6.

(b) *Qualified cooperatives and federations.* A cooperative or federation may submit an application to the market administrator for payments under the provisions of this section. In accordance with the requirements of the rules and regulations issued by the market administrator, any such application shall include a written description of the applicant's program for the performance of marketwide services, including evidence that adequate facilities and personnel will be maintained by it so as to enable it to perform the marketwide services; and the application shall contain a statement by the applicant that it will perform the required marketwide services for which it is applying for payments. The application shall set forth all necessary data so as to enable the market administrator to determine whether it meets the qualification requirements with respect to the payments for which the application is submitted. An application shall be approved by the market administrator only if he determines that:

(1) In the case of a cooperative:

(i) It has not less than 4,000 members and receives from its members not less than one cent per hundredweight of milk delivered by them: *Provided,* That no person shall be counted in this respect as a member if he is a member of another cooperative which is an applicant for or which receives cooperative payments, or if he is a member of a federated cooperative.

(ii) If the application is also for an additional payment under subparagraph (3) of paragraph (f) of this section, it has not less than 6,000 members and receives from its members not less than one cent per hundredweight of milk delivered by them, subject to the proviso in subdivision (i) of this subparagraph.

(iii) If the application is also for an additional payment under subparagraph (4) of paragraph (f) of this section, the cooperative is an operating cooperative which operates marketing facilities, i.e., pool plant(s), at which it receives at least 25 per centum, by weight, of the pool milk marketed by its members: *Provided,* That in determining whether the 25 per centum minimum requirement is complied with, there shall be excluded the milk delivered by a member of the cooperative who is a member of another cooperative which is an applicant for or which receives cooperatives payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk.

(2) In the case of a federation:

(i) It is duly incorporated under the laws of a State.

(ii) It has contracts with each of its federated cooperatives under which the cooperatives agree to remain in the federation for at least 1 year, and such contracts cover or will be renewed for a yearly period for every subsequent year for which the federated cooperatives are to be included within the membership of the federation for cooperative payment purposes.

(iii) Its federated cooperatives have an aggregate of not less than 4,000 members and the federated cooperatives receive from their members not less than one cent per hundredweight of milk delivered by them; and its federated cooperatives will pay to the federation, when required by rules and regulations issued by the market administrator, the minimum monthly payment specified in the rules and regulations to finance the activities of the federation that are not marketwide in character: *Provided,* That no person shall be counted in this respect as a member if he is a member of a cooperative which is an applicant for or

which receives cooperative payments, or if he is a member of another federated cooperative.

(iv) If the application is also for an additional payment under subparagraph (3) of paragraph (f) of this section, the aggregate membership of the federated cooperatives is not less than 6,000 members and the federated cooperatives received from their members not less than 1 cent per hundredweight of milk delivered by their members, subject to the proviso in subdivision (iii) of this subparagraph.

(v) If the application is also for an additional payment under subparagraph (5) of paragraph (f) of this section, the federation operates marketing facilities; i.e., pool plant(s), or the federated cooperatives operate marketing facilities, at which is received at least 25 per centum, by weight, of the pool milk marketed by the members of the federated cooperatives: *Provided,* That in determining whether the 25 per centum minimum requirement is complied with, there shall be excluded the milk delivered by members of a cooperative which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation which is an applicant for or receiving cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(3) The applicant cooperative or federation demonstrates that it has the ability to perform the marketwide services for which application is made, and that such services will be performed.

(4) The applicant cooperative or the federated cooperatives of an applicant federation are in no way precluded from arranging for the utilization of milk under their respective control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification.

(c) *Notice of qualification or denial: Effective date.* Upon determination by the market administrator that a cooperative or a federation is qualified to receive payment for performance of the marketwide services, he shall transmit such determination to the applicant, cooperative or federation and publicly announce the issuance of the determination. The determination shall be effective with respect to milk delivered on and after the first day of the month following issuance of the determination. If, after consideration of an application for payments for marketwide services, the market administrator determines that the cooperative or federation is not qualified to receive such payments he shall promptly notify the applicant and specifically set forth in such notice his reasons for denial of the application.

(d) *Requirements for continued qualification.* From time to time and in accordance with rules and regulations which may be issued by the market administrator, each qualified cooperative or federation must demonstrate to the market administrator that it continues to meet the qualification requirements for the payments and is fully performing the marketwide services for which it is being paid.

(e) *Marketwide services.* Each cooperative or federation shall perform the marketwide services enumerated in this paragraph. Such services are: (1) Analyzing milk marketing problems and their solutions, conducting market research and maintaining current information as to all market developments, preparing and assembling statistical data relative to prices and marketing conditions, and making an economic analysis of all such data; (2) determining the need for the formulation of amendments to the order and proposing such amendments or requesting other appropriate action by the Secretary or the market administrator in the light of changing conditions; (3) participating in proceedings with respect to amendments to the order, including the preparation and presentation of evidence at public hearings, the submission of appropriate briefs and exceptions, and also participating, by voting or otherwise, in the referenda relative to amendments; (4) participating in the meetings called by the market administrator, such as meetings with respect to rules and regulations issued under the order, including activities such as the preparation and presentation of data at such meetings and briefs for submission thereafter; (5) conducting a comprehensive education program among producers—i.e., members and nonmembers of cooperatives—and keeping such producers well informed for participation in the activities under the regulatory order and, as a part of such program, issuing publications that contain relevant data and information about the order and its operation, and the distribution of such publications to members and, on the same subscription basis, to nonmembers who request it, and holding meetings at which members and nonmembers may attend; and (6) in the case of a cooperative or federation which receives an additional payment under subparagraph (4) or (5) of paragraph (f) of this section, operating marketing facilities, or having within its membership federated cooperatives operating marketing facilities; i.e., pool plant(s), at which is received at least 25 per centum, by weight, of the milk marketed by all the members of the cooperative or by all the members of the federated cooperatives' members.

(f) *Rate, computation, time, and method of payment.* (1) Subject to the provisions of paragraph (g) of this section, the market administrator, on or before the 25th day of each month, shall make payment out of the producer settlement fund, or issue equivalent credit therefor to each cooperative or federation which is qualified for such payments for marketwide services. The payment to a cooperative shall be based upon the pool milk reported by cooperative or proprietary handlers to have been received during the preceding month from its members, and the payment to a federation shall be based upon the pool milk reported by cooperative or proprietary handlers to have been received during the preceding month from the members of its federated cooperatives, subject in both instances to adjustment upon verification by the market administrator.

(2) Such payment or credit shall be at the rate of two cents per hundredweight of milk in accordance with subparagraph (1) of this paragraph: *Provided,* That in computing payment to a cooperative there shall be excluded all of the milk of its members who belong to another cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk: *Provided further,* That in computing payment to a federation there shall be excluded all of the milk of members of a cooperative which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation which is an applicant for or receiving cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(3) Any cooperative that has at least 6,000 members and any federation which has an aggregate membership of its federated cooperatives of at least 6,000 members shall receive a payment, in addition to the payment provided for in subparagraph (2) of this paragraph, of 1 cent per hundredweight of milk in accordance with subparagraph (1) of this paragraph and subject to the provisos contained in subparagraph (2) of this paragraph.

(4) Any cooperative that operates marketing facilities, i.e., pool plant(s), at which is received at least 25 per centum, by weight, of the milk marketed by its members shall receive a payment, in addition to the payment provided for in subparagraph (2) or subparagraph (3) of this paragraph of 1 cent per hundredweight of all milk marketed by its members in accordance with subparagraph (1) of this paragraph: *Provided,* That in computing the payment under this subparagraph there shall be excluded the milk delivered by a member of the cooperative who is a member of another cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk.

(5) Any federation that operates marketing facilities, i.e., pool plant(s), or whose members include one or more federated cooperatives that operate marketing facilities, at which is received at least 25 per centum, by weight, of the milk marketed by the members of its federated cooperatives shall receive a payment, in addition to the payment provided for in subparagraph (2) or subparagraph (3) of this paragraph, of 1 cent per hundredweight of all milk

marketed by such members in accordance with subparagraph (1) of this paragraph: *Provided,* That in computing the payment under this subparagraph there shall be excluded the milk delivered by members of a cooperative which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation which is an applicant for or receiving cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(6) If an individually qualified cooperative is affiliated with a federation, the cooperative payment shall be made to such cooperative unless its contract with the federation specifies in writing that the federation is to receive the payments. Any such contract must authorize the federation to receive the payments for at least 1 year, and such agreement must cover or be renewed for a yearly period for every subsequent year for which the federation is to receive the payments.

(g) *Disqualification.* (1) The market administrator shall issue an order wholly or partly disqualifying a previously qualified cooperative or federation for payments authorized pursuant to this section and such payments shall not thereafter be made to it if he determines that:

(i) The cooperative or federation no longer complies with the requirements of this section: *Provided,* That in the case of the federation, if one of its federated cooperatives has failed to comply with the requirements of this section applicable to it or has failed, promptly after demand by the market administrator, to arrange for the utilization of milk under its control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification, the federation shall be disqualified only to the extent that its qualification for payments or the amount of its payments are based upon the membership, milk, or operations of such noncomplying federated cooperatives;

(ii) The cooperative or federation has failed to make reports or furnish records pursuant to this section or pursuant to rules and regulations issued by the market administrator; or

(iii) In the case of the cooperative, it has failed, promptly after demand by the market administrator, to arrange for the utilization of milk under its control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification.

(2) An order of the market administrator wholly or partly disqualifying a cooperative or federation shall not be issued until after the cooperative or federation has had opportunity for hearing thereon following not less than 15 days' notice to it specifying the reasons for the proposed disqualifications. If the cooperative or federation fails to file a written request for hearing with the market administrator within such period of 15 days, the market administrator may issue an order of disqualification without further notice; but if within such a period a request for hearing is filed, the market administrator shall promptly proceed to hold such hearing pursuant to rules and regulations issued by him under paragraph (1) of this section.

(3) A disqualification order issued by the market administrator shall set forth the findings and conclusions on the basis of which it is issued.

(h) *Appeals*—(1) *From denials of application.* Any cooperative or federation whose application for qualification has been denied by the market administrator may, within 30 days after notice of such denial, file with the Secretary a written petition for review. But the failure to file such petition shall not bar the cooperative or federation from again applying to the market administrator for qualification.

(2) *From disqualification orders.* A disqualification order by the market administrator shall become final 30 days after its service on the cooperative or federation unless within such 30-day period the cooperative or federation files a written petition with the Secretary for review thereof. If such petition for review is filed, payments for which the cooperative or federation has been disqualified by the order shall be held in reserve by the market administrator pending ruling of the Secretary, after which the sums so held in reserve shall either be returned to the producer settlement fund or paid over to the cooperative or federation depending on the Secretary's ruling on the petition. If such petition for review is not filed, any payments which otherwise would be made within the 30-day period following issuance of the disqualification order shall be held in reserve until such order becomes final and shall then be returned to the producer settlement fund.

(3) *Record on appeal.* If an appeal is taken under subparagraph (1) or subparagraph (2) of this paragraph, the market administrator shall promptly certify to the Secretary the ruling or order appealed from and the evidence upon which it was issued: *Provided,* That if a hearing was held the complete record thereof, including the applications, petitions, and all exhibits or other documentary material submitted in evidence shall be the record so certified. Such certified material shall constitute the sole record upon which the appeal shall be decided by the Secretary.

(i) *Regulations.* The market administrator is authorized to issue regulations and amendments thereto to effectuate the provisions of this section and to facilitate and implement the administration of its provisions. Such regulations shall be issued in accordance with the following procedure:

(1) All proposed rules and regulations and amendments thereto shall be the subject of a meeting called by the market administrator at which all interested persons shall have opportunity to be heard. Not less than 5 days prior to the meeting, notice thereof and of the proposed regulations or amendments shall be published in the FEDERAL REGISTER and mailed to qualified cooperatives and federations. A stenographic record shall be made at such meetings which shall be public information and be available for inspection at the office of the market administrator.

(2) A period of at least 5 days after the meeting shall be allowed for the filing of briefs.

(3) All regulations and amendments thereto issued by the market administrator pursuant to this section must be submitted in tentative form to the Secretary for approval, shall not be effective without such approval, and shall be published in the FEDERAL REGISTER following such approval. The regulations or amendments in tentative form shall be forwarded also to cooperatives and federations qualified under this section and to other persons upon request in writing. The Secretary shall either approve the regulations or amendments thereto submitted by the market administrator or direct the market administrator to reconsider the tentative rules or amendments. In the event the market administrator is directed to give reconsideration to the matter, the market administrator shall either issue revised tentative regulations or amendments or call another meeting pursuant to this section for additional consideration of the rules or amendments.

(j) *Reports and records.* A qualified cooperative or federation and any federated cooperative in a qualified federation shall make such reports to the market administrator as may be requested by him for the administration of the provisions of this section, and shall maintain and make available to the market administrator or his representative such records as will enable the market administrator to verify such reports.

(k) *Notices, demands, orders, etc.* All notices, demands, orders, or other papers required by this section to be given to or served upon a cooperative or federation shall be deemed to have been given or served as of the time when mailed to the last known secretary of the cooperative or federation at his last known address.

EXPENSE OF ADMINISTRATION

§ 1002.90 Payment by handlers.

As his pro rata share of the expense of administration of this part, each handler shall, on or before the 18th day of each month, pay to the market administrator a sum not exceeding 2 cents per hundredweight on the total quantity of pool milk received from dairy farmers at plants or from farms in a unit operated by such handler, directly or at the instance of a cooperative association of producers, the exact amount to be determined by the market administrator subject to review by the Secretary. This section shall not be deemed to duplicate any similar payment by any handler

under an order issued by the Commissioner of Agriculture and Markets of the State of New York, or the Director of the New Jersey Office of Milk Industry, with respect to the marketing area. Whenever verification by the market administrator discloses an error in the payment made by any handler, such error shall be adjusted not later than the date next following such disclosure on which payments are due pursuant to this section.

MISCELLANEOUS

§ 1002.91 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c(15)(A) of the Act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

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

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

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the 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 part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 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 periods of time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

§ 1002.92 Continuing obligation of handlers.

Unless otherwise provided by the Secretary in any notice of amendment, termination, or suspension of any or all of the provisions of this part, such amendment, termination, or suspension shall not affect, waive, or terminate any right, duty, obligation, or liability which shall have risen or may thereafter arise in connection with any provision of this part; release or waive any violation of this part occurring prior to the effective date of such amendment, termination, or suspension; or affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 1002.93 Continuing power and duty of market administrator.

The market administrator shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, to such person as the Secretary shall direct; and (c) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator pursuant to this part.

§ 1002.94 Liquidation.

Upon the termination or suspension of this part, the market administrator 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 and owing at the time of such termination or suspension. Any funds collected for expenses 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 in liquidating the business of the market administrator's office shall be distributed to handlers in an equitable manner.

§ 1002.95 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.

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

Effective date: July 1, 1968.

Signed at Washington, D.C., on May 28, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-6495; Filed, May 31, 1968; 8:48 a.m.]

[Milk Order 6]

PART 1006—MILK IN UPPER FLORIDA MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Upper Florida marketing area (7 CFR Part 1006), it is hereby found and determined that:

(a) The following provisions in § 1006.16(b) of the order will not tend to effectuate the declared policy of the Act for the period of June 1 through August 31, 1968:

1. The language in the introductory text which reads "in any month in which not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant"; and

2. Subparagraphs (2), (3), and (4) in their entirety.

(b) Thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) The suspension will permit unlimited diversion of producer milk to nonpool plants from June 1 through August 31, 1968. Without the suspension action, the order would limit the quantity of producer milk that could be diverted by a cooperative association to 25 percent of all milk of its member producers physically received at pool plants during the month. The same percentage limitation on the diversion of its producer receipts would apply to the operator of a pool plant. Also, the order would require that at least 10 days' production of an individual producer be delivered to a pool plant if diversion of his milk is to be permitted on other days of the month.

Northeast Florida Milk Producers Association requested the suspension and

was supported in its request by Dairy Farmers Mutual. These producer groups represent a majority of the producers on the Upper Florida market.

The closing of schools in June, July and August will result in a significant loss of Class I sales for producers and a corresponding surplus of milk. The absence of available manufacturing facilities in the market will require diverting the excess milk to distant manufacturing outlets in other states. Considerable hauling economies can be realized by diverting the milk that is produced nearest these outlets. Without the suspension action, additional hauling will be required in moving this milk to pool plants to assure that producers will remain qualified as such under the order.

(4) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (33 F.R. 7119). None were filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective June 1, 1968.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the period June 1 through August 31, 1968.

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

Effective date: June 1, 1968.

Signed at Washington, D.C., on May 27, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-6483; Filed, May 31, 1968; 8:47 a.m.]

[Milk Order 64]

PART 1064—MILK IN GREATER KANSAS CITY MARKETING AREA

Order Amending Order

§ 1064.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Greater Kansas City marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than June 1, 1968. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued April 26, 1968, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued May 16, 1968. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective June 1, 1968, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

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

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

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

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

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Greater Kansas City marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as amended, and as hereby further amended, as follows:

Section 1064.51(a) is revised to read as follows:

§ 1064.51 Class prices.

* * * * *

(a) *Class I milk.* The Class I price shall be the basic formula price for the preceding month plus $1.30 and plus 20 cents through April 1969;

* * * * *

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

Effective date: June 1, 1968.

Signed at Washington, D.C., on May 28, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-6504; Filed, May 31, 1968; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., Rev. 1, Amdt. 8]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—General Regulations Governing Price Support for the 1964 and Subsequent Crops

ELIGIBILITY REQUIREMENTS

The regulations issued by the Commodity Credit Corporation published in 31 F.R. 5941, 32 F.R. 7843, 9301, 10910, and 13376, and 33 F.R. 222, 299, 2564, 5659, and 6097 containing the General Regulations Governing Price Support for the 1964 and Subsequent Crops of Grains and Similarly Handled Commodities are hereby amended as follows:

Paragraph (c) of § 1421.53 is amended to provide that heirs who (1) succeed to the beneficial interest of a decedent producer (2) assume the decedent's obligation with respect to a loan if a loan has already been obtained and (3) assure continued safe storage of the commodity if under a farm storage loan shall be eligible for price support whether such succession occurs before or after harvest. The amended paragraph reads as follows:

§ 1421.53 Eligibility requirements.

* * * * *

(c) *Beneficial interest.* To be eligible for price support, the beneficial interest in the commodity must be in the producer tendering the commodity as security for a loan or for purchase and must always have been in him or in him and a former producer whom he succeeded before it was harvested, except that heirs who (1) succeed to the beneficial interest of a decedent producer, (2) assume the decedent's obligation under a loan if a loan has already

been obtained, and (3) assure continued safe storage of the commodity if under farm storage loan shall be eligible for price support as producers whether such succession occurs before or after harvest of the commodity. Commodities obtained through payment-in-kind certificates or by purchase shall not be eligible for price support. If price support is made available through an approved cooperative marketing association, the beneficial interest in the commodity must always have been in the producer-members who delivered the commodity to the approved association or its member associations or must always have been in them and former producers whom they succeeded before the commodity was harvested, except as provided in the case of heirs of a decedent producer. Commodities acquired by a cooperative marketing association shall not be eligible for price support if the producer-members who delivered the commodity to the association or its member association do not retain the right to share in the proceeds from the marketing of the commodity as provided in Part 1425 of this chapter.

* * * * *

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 401, 403, 405, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1421, 1423, 1425)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 27, 1968.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 68-6496; Filed, May 31, 1968; 8:48 a.m.]

[CCC Farm Storage and Drying Equipment Loan Program Regs., Amdt. 2]

PART 1474—FARM STORAGE FACILITIES

Subpart—Farm Storage and Drying Equipment Loan Program Regulations

ELIGIBLE BORROWERS AND REPAYMENT OF LOAN AND ACCELERATION OF MATURITY DATE

The subpart of Part 1474, Title 7, Code of Federal Regulations, published in the FEDERAL REGISTER of July 1, 1967 (32 F.R. 9510), and amended in the FEDERAL REGISTER of December 14, 1967 (32 F.R. 17888), is further amended as follows:

1. Section 1474.4 is amended to permit the making of loans for the purpose of providing farm storage and drying equipment on the farm for sunflower seed, as well as for the price support commodities listed therein, and to specify the basis for computing the need for storage of sunflower seed. Section 1474.4 is also amended to clarify the manner in which storage needs are determined. As amended, § 1474.4 reads as follows:

§ 1474.4 Eligible borrowers.

(a) *Definition.* An "eligible borrower" shall be any person who as landowner, landlord, tenant or sharecropper (1) produces one or more of the following eligible commodities: Corn, oats, barley, grain sorghum, wheat, rye, soybeans, flaxseed, rice, dry edible beans, peanuts (hereinafter called "price support commodities"), and sunflower seed, and (2) needs the proposed farm storage and drying equipment for the storage or conditioning of one or more of such eligible commodities. The term "person" shall mean any individual or individuals competent to enter into a binding contract, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State, political subdivision of a State, or any agency thereof. If two or more eligible borrowers join together in the purchase and erection, installation, construction, or remodeling of eligible farm storage or drying equipment, each such borrower shall sign all documents and shall be liable jointly and severally with respect to the loan.

(b) *Need for storage or equipment.* At the time any loan application is being considered, the county committee shall determine if the proposed farm storage or drying equipment is needed for the storage or conditioning of eligible commodities produced on the farm(s) to which the loan application relates. For the purpose of this determination, the maximum storage space on which a loan may be made shall be the amount by which the total capacity of existing storage on the farm(s) which is suitable for the storage of eligible commodities is less than the storage capacity necessary to store 2 years' (in the case of sunflower seed 1 year's) production of all eligible commodities produced on the farm(s) to which the loan application relates (computed on the basis of estimated yields), except that production shall not be included from any acreage devoted to commodities subject to voluntary adjustment progams if the applicant fails to indicate an intention to participate in such programs. A loan for obtaining farm storage of a greater capacity than the storage space needed by the applicant may be approved, but the amount of such loan shall not exceed the maximum authorized in § 1474.8(b).

2. Section 1474.10 is amended to clarify the method used to compute interest on loans, by amending the first sentence and adding a new sentence between the first and second sentences, as follows:

§ 1474.10 Repayment of loan and acceleration of maturity date.

The principal of the loan shall be repayable in equal annual installments with interest on the unpaid balance from date of disbursement or date of last repayment, at 34 cents for each whole unit of $100 or fraction thereof (stated to the nearest tenth) for each calendar month or fraction thereof, from and including the calendar month of disbursement, or month to which interest has been paid, to but excluding the calendar month of repayment. When the last day of the calendar month falls on a nonworkday for the county office, repayment made on the first workday of the next succeeding calendar month shall be considered as repayment during the preceding calendar month for computation of interest. * * *

(Secs. 4 and 5(b), 62 Stat. 1070-1072, as amended; 15 U.S.C. 714b, 714c(b))

Effective date: This amendment shall be effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 27, 1968.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 68-6497; Filed, May 31, 1968; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 21,747]

PART 545—OPERATIONS

Amendments Relating to Certificate Accounts

MAY 23, 1968.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) for the following purposes:

(1) To authorize Federal savings and loan associations to distribute earnings on certificate accounts at the certificate account rate every 3 months or, optionally, at each date as of which the association regularly distributes earnings.

(2) To require Federal savings and loan associations which distribute earnings on certificate accounts on one of the optional methods referred to in (1) above to adjust earnings so distributed to the regular rate or to a percentage of the regular rate in the case of certificate accounts which are not maintained in accordance with the eligibility requirements for such certificate accounts.

(3) To authorize the distribution of earnings by Federal savings and loan associations on amounts earned and credited to certificate accounts at the rate applicable to certificate accounts.

(4) To permit Federal savings and loan associations to adjust the distribution of earnings on certificate accounts as provided in (2) above.

Resolved further that, for such purposes, said Part 545 is hereby amended by amendments as follows, effective June 15, 1968:

1. Amend paragraph (c) of § 545.1 of the rules and regulations for the Federal Savings and Loan System to read as follows:

(c) *Membership fee.* Except to the extent, expressly permitted or authorized

by Charter E, § 545.3–1 of this part, or paragraph (d) of this section, no Federal association shall directly or indirectly charge any membership, admission, repurchase, withdrawal, or any other fee or sum of money for the privilege of becoming, remaining, or ceasing to be a holder of a savings account of such Federal association.

2. Add the following subparagraph (3) to paragraph (c) of § 545.3–1 of the rules and regulations for the Federal Savings and Loan System:

(3) *Additional optional forms of certificates.*

A Federal association at its option may issue a certificate containing additional language as follows:

(i) As to any certificate which does not contain the fourth sentence of the quoted language set forth in subparagraph (1) of this paragraph, either the sentence "Earnings at a higher rate provided pursuant to § 545.3–1 of the Rules and Regulations for the Federal Savings and Loan System are distributable on this certificate account every 3 months from its date while the account meets the eligibility requirements, other than the time requirement, fixed by the association.", or the sentence "Earnings at a higher rate provided pursuant to § 545.3–1 of the Rules and Regulations for the Federal Savings and Loan System are distributable on this certificate account at each date as of which the association regularly distributes earnings on its savings accounts while the account meets the eligibility requirements, other than the time requirement, fixed by the association."

(ii) A certificate which includes either of the sentences in subdivision (i) of this subparagraph shall also contain one of the following sentences:

"If this certificate account is not maintained in accordance with the eligibility requirement fixed by the association, adjustment will be made in the earnings theretofore distributed thereon during the current eligibility period by deduction from amounts withdrawn so that such earnings paid or credited at the higher rate will be adjusted to the regular rate.", or

"If this certificate account is not maintained in accordance with the eligibility requirements fixed by the association, adjustment will be made in the earnings theretofore distributed thereon during the current eligibility period by deduction from amounts withdrawn so that such earnings paid or credited at the higher rate will be adjusted to the following percentage of the regular rate of earnings:

"(Here a statement shall be included as to the percentage of the regular rate which is fixed by the association, which percentage may vary according to the portion of the eligibility period for which the funds remain in the account but shall not be less than 50 percent of the regular rate.)"

(iii) "Earnings on amounts earned and credited on this certificate account are distributable at the rate applicable to this certificate account."

3. Amend subparagraph (1) of paragraph (d) of § 545.3–1 of the rules and regulations for the Federal Savings and Loan System to read as follows:

(d) *Time and manner of distributing earnings.* (1) As to an account issued under this section which is evidenced either by an account book or by a certificate issued in accordance with paragraph (c), which does not contain the fourth sentence of the quoted language set forth in subparagraph (1) of paragraph (c), or which is not a certificate containing optional language authorized by subdivision (i) of subparagraph (3) of paragraph (c) of this section, earnings at the regular rate shall be distributed on each such savings account at each date as of which the Federal association regularly distributes earnings on its savings accounts.

4. Amend subparagraph (3) of paragraph (d) of § 545.3–1 of the rules and regulations for the Federal Savings and Loan System to read as follows:

(3) When any savings account issued pursuant to this section has met the applicable eligibility requirements fixed pursuant to paragraph (b) of this section, any earnings on the account that then remain undistributed may thereupon be credited or paid to the owner thereof.

5. Add the following subparagraph (8) to paragraph (d) of § 545.3–1 of the rules and regulations for the Federal Savings and Loan System to read as follows:

(8) As to a certificate account which contains any of the sentences authorized by subparagraph (3) of paragraph (c) of this section, earnings shall be distributed as therein provided.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48, Comp., p. 1071)

Resolved further that, since it is in the public interest in the present economic climate for Federal savings and loan associations to have available the additional options provided by the amendments herein adopted as soon as possible, the Federal Home Loan Bank Board finds that notice and public procedure on the amendment is contrary to the public interest and for the same reason, the Board finds that publication in the FEDERAL REGISTER for not less than 30 days prior to the effective date is contrary to the public interest, and the Board determines that the amendment shall be effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 68-6531; Filed, May 31, 1968; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1332]

PART 13—PROHIBITED TRADE PRACTICES

American Savings Life Insurance Co. and Frihoff N. Allen

Subpart—Advertising falsely or misleadingly: § 13.85 *Government approval, action, connection or standards:* 13.85–35 Government indorsement; § 13.260 *Terms and conditions:* 13.260–40 Insurance coverage. Subpart—Misrepresenting oneself and goods—Goods: § 13.1760 *Terms and conditions:* 13.1760–40 Insurance coverage.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, American Savings Life Insurance Co. et al., Pheonix, Ariz., Docket C-1332, May 8, 1968]

Consent order requiring a Pheonix, Ariz., mail-order insurance firm to cease misrepresenting its insurance policies by using "Military Life Insurance Policy", "Military Department," and similar terms in its advertising, failing to disclose that the insurance offered is not government sponsored or approved, and using application forms which indicate the policy is already in force.

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

It is ordered, That respondents American Savings Life Insurance Co., a corporation, and its officers, and Frihoff N. Allen, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or indirectly through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of any insurance policy or policies, in commerce, as "commerce" is defined in the Federal Trade Commission Act, except in those States where respondents are licensed and regulated by State law to conduct the business of insurance, do forthwith cease and desist from:

1. Using the expressions "Special $10,000 Military Life Insurance Policy," "Allotment Certificate," "Military Department," "No Military Restrictions," or any other words or terms of similar import or meaning.

2. Using any letter or other solicitation material in contacting parents or other relatives of members of the Armed Forces of the United States which does not reveal in a prominent place, in clear language and in type at least as large as the largest type used on said material; (a) that the insurance offered for sale by respondents is in addition to, and separate from, the insurance made available to servicemen by the U.S. Government; (b) that said insurance has not been approved or recommended by the U.S. Armed Forces or any agency of the U.S. Government; and (c) that said insurance is being offered without the knowledge or consent of the serviceman who appears as the insured therein.

3. Using any policy form or similar document, prior to the receipt by respondents of the required premium, which contains the name of the insured, designation of the beneficiary, policy number, or signature of any representative of respondents; or which contains any indicia of an executed, inforce insurance policy.

4. Representing, directly or by implication, that the insurance offered for

sale by respondents has been made available by, or has been approved, endorsed, or recommended by, the U.S. Government or any agency or office thereof.

5. Misrepresenting in any manner the conditions or circumstances under which such insurance was initiated or issued.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

Issued: May 8, 1968.

By the Commission.

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

[F.R. Doc. 68-6472; Filed, May 31, 1968; 8:46 a.m.]

[Docket No. C-1335]

PART 13—PROHIBITED TRADE PRACTICES

Brooklyn Quilting Corp. et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-80 Textile Fiber Products Identification Act; 13.1185-90 *Wool Products Labeling Act;* § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act; 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act; 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130, 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, Brooklyn Quilting Corp. et al., Brooklyn, N.Y., Docket C-1335, May 10, 1968]

In the Matter of Brooklyn Quilting Corp., a Corporation, and Benjamin Zauderer, Nathan Shotsky, and David H. Turkel, Individually and as Officers of the Said Corporation

Consent order requiring a Brooklyn, N.Y., manufacturer of quilted and fabric materials to cease misbranding its wool and textile fiber products and failing to keep required records.

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

It is ordered, That respondents Brooklyn Quilting Corp., a corporation, and its officers, and Benjamin Zauderer, Nathan Shotsky, and David H. Turkel, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Brooklyn Quilting Corp., a corporation, and its officers, and Benjamin Zauderer, Nathan Shotsky, and David H. Turkel, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

B. Failing to maintain and preserve proper records showing the fiber content of the textile fiber products manufactured by said respondents as required by section 6 of the Textile Fiber Products Identification Act and Rule 39 of the regulations promulgated thereunder.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

Issued: May 10, 1968.

By the Commission.

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

[F.R. Doc. 68-6473; Filed, May 31, 1968; 8:46 a.m.]

[Docket No. C-1333]

PART 13—PROHIBITED TRADE PRACTICES

C. Itoh & Co. (America) Inc.

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, C. Itoh & Co. (America) Inc., New York, N.Y., Docket C-1333, May 9, 1968]

Consent order requiring a New York City importer and distributor of fabrics to cease importing and selling any fabric so highly flammable as to be dangerous when worn.

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

It is ordered, That respondent C. Itoh & Co. (America) Inc., a corporation, and its officers, and respondent's representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States;

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

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

any fabric which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of the order to each of its operating divisions.

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

Issued: May 9, 1968.

By the Commission.

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

[F.R. Doc. 68-6474; Filed, May 31, 1968; 8:46 a.m.]

[Docket No. C–1334]

PART 13—PROHIBITED TRADE PRACTICES

Division West Chinchilla Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.60 *Earnings and profits;* § 13.225 *Services.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1615 *Earnings and profits;* § 13.1715 *Quality.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Division West Chinchilla Corp. et al., Omaha, Nebr., Docket C–1334, May 9, 1968]

In the Matter of Division West Chinchilla Corp., a Corporation, and Richard G. Wood and Craig Moody, Individually and as Officers of Said Corporation, and James R. Holyfield, Individually and as a Former Officer of Said Corporation

Consent order requiring an Omaha, Nebr., seller of chinchilla breeding stock to cease misrepresenting the profits to be made in chinchilla breeding, the fertility of its stock, and making other false claims.

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

It is ordered, That respondents Division West Chinchilla Corp., a corporation, and its officers, and Richard G. Wood and Craig Moody, individually and as officers of said corporation, and James R. Holyfield, individually and as a former officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of chinchilla breeding stock or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. It is commercially feasible to breed or raise chinchillas in homes, basements, garages, closed-in porches, spare buildings, barns, or other quarters or buildings or that large profits can be made in this manner: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented quarters or buildings have the requisite space, temperature, humidity, ventilation, and other environmental conditions which would make them adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis and that large profits can be made in this manner.

2. Breeding chinchillas for profit can be achieved without previous knowledge or experience in the feeding, care, and breeding of such animals.

3. Chinchillas are hardy animals or are not susceptible to disease.

4. Purchasers of respondents' chinchilla breeding stock will receive select or choice quality chinchillas or any other grade or quality of chinchillas: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that purchasers do actually receive chinchillas of the represented grade or quality.

5. Each female chinchilla purchased from respondents and each female offspring produce at least three live young per year.

6. The number of live offspring produced per female chinchilla is any number: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented number of offspring are usually and customarily produced by female chinchillas purchased from respondents or the offspring of said chinchillas.

7. The breeding stock of six females and one male chinchilla purchased from respondents will produce live offspring of 18 the first year, 33 the second year, 69 the third year, 144 the fourth year and 303 the fifth year.

8. The number of live offspring produced by respondents' chinchilla breeding stock is any number: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented number of offspring are usually and customarily produced by chinchillas purchased from respondents or the offspring of said chinchillas.

9. Offspring of chinchilla breeding stock purchased from respondents will produce pelts selling for the average price of $21.60 each.

10. Purchasers of respondents' breeding stock will receive for chinchilla pelts any price or prices: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented price or prices per pelt are usually received for pelts produced by chinchillas purchased from respondents, or by the offspring of said chinchillas.

11. A purchaser starting with six females and one male will have, from the sale of pelts, an annual income, earnings or profits of $5,076 in the sixth year after purchase.

12. Purchasers of respondents' breeding stock will realize earnings, profits, or income in any amount or range of amounts: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented amount or range of amounts of earnings, profits, or income are usually realized by purchasers of respondents breeding stock.

13. Purchasers of respondents' chinchilla breeding stock will receive service calls from respondents' service personnel four times a year for 2 successive years after purchase of the animals or at any other interval or frequency: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented number of service calls are actually furnished.

14. Purchasers of respondents' chinchilla breeding stock are given guidance in the care and breeding of chinchillas or are furnished advice by respondents as to the breeding of chinchillas: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that purchasers are actually given the represented guidance in the care and breeding of chinchillas or are furnished the represented advice by respondents as to the breeding of chinchillas.

B. 1. Misrepresenting, in any manner, the assistance, training, services, or advice supplied by respondents to purchasers of their chinchilla breeding stock.

2. Misrepresenting, in any manner, the earnings or profits of purchasers of respondents' chinchilla breeding stock.

C. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of the respondents' products or services and failing to secure from each such salesmen or other person a signed statement acknowledging receipt of said order.

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

Issued: May 9, 1968.

By the Commission.

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

[F.R. Doc. 68–6475; Filed, May 31, 1968; 8:46 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 68–149]

PART 16—LIQUIDATION OF DUTIES

Countervailing Duties; Steel Welded Wire Mesh From Italy

On October 6, 1967, there was published in the FEDERAL REGISTER a "Notice of Countervailing Duty Proceedings." That notice stated that as a result of the receipt of certain information, a determination would be made whether certain rebates or refunds granted by the Government of Italy on the exportation from Italy of steel welded wire mesh constitute the payment or bestowal of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

Pursuant to § 16.24(d) of the Customs Regulations (19 CFR 16.24(d)), interested parties were afforded 30 days from the date of the publication of that notice in the FEDERAL REGISTER to submit in writing any relevant data, views, or arguments with respect to the matter covered by the notice.

An investigation was conducted pursuant to § 16.24(d) of the Customs Regulations (19 CFR 16.24(d)).

After consideration of all information received including written submissions from interested parties, the Bureau is satisfied that exports of such steel welded wire mesh from Italy receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

Accordingly, notice is hereby given that steel welded wire mesh imported directly or indirectly from Italy, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of this notice in the Customs Bulletin, will be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303, the net amount of such bounty or grant under the information presently available has been ascertained and determined, or estimated, and such net amount is hereby declared to be 15.28 lire per kilo of the product. Effective on the 31st day after the date of publication of this notice in the Customs Bulletin, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable steel welded wire mesh imported directly or indirectly from Italy, which benefit from such bounties or grants there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such steel welded wire mesh.

The table in § 16.24(f) of the Customs Regulations (19 CFR 16.24(f)), is amended by inserting after the last entry for Italy the words "Steel Welded Wire Mesh" in the column headed "Commodity," the number of this Treasury decision in the column headed "Treasury Decision," and the words "Bounty declared—Rate" in the column headed "Action."

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

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

Approved: May 29, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-1597; Filed, May 31, 1968; 11:44 a.m.]

[T.D. 68-142]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Claims for Amounts Due Deceased or Incompetent Public Creditors

Section 24.70(c), Customs Regulations, relating to the submission of claims for amounts due deceased or incompetent public creditors, amended.

Section 24.70(c) of the Customs Regulations now provides that claims for refunds of excessive duties, or taxes, or for payment of drawback, and other similar amounts due deceased or incompetent public creditors shall be submitted by customs field officers to the Bureau of Customs, Accounting Section, for administrative examination and transmission to the General Accounting Office for direct settlement when unresolved questions of fact or law are involved. It has been decided that the regulation should be amended to provide that such claims shall be submitted to the appropriate regional commissioner of customs for settlement, or if there is a doubtful question of fact or law, through the regional commissioner to the Commissioner of Customs for settlement or for transmission to the General Accounting Office for consideration.

Accordingly, the second sentence of § 24.70(c) of the Customs Regulations is amended to read as follows:

Claims for refunds of excessive duties, or taxes, or for payment of drawback and other similar claims due deceased or incompetent public creditors shall be submitted to the appropriate regional commissioner of customs.

Further, the last sentence of § 24.70(c) is amended to read as follows:

The regional commissioner shall settle the claim unless there is a doubtful question of fact or law, in which case the claim shall be forwarded to the Assistant Director (Accounting), Division of Financial Management, Bureau of Customs, with originals or certified copies of any necessary documents and with an appropriate report and recommendation.

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

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

Approved: May 22, 1968.

MATTHEW J. MARKS,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 68-6502; Filed, May 31, 1968; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 42—EGGS AND EGG PRODUCTS

Frozen Whole Eggs, Identity Standard; Order Listing Monopotassium Phosphate as Optional Color Preservative

In the matter of amending the standard of identity for frozen whole eggs (21 CFR 42.20) to list monopotassium phosphate as an optional color preservative:

No comments were received in response to the notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of February 17, 1968 (33 F.R. 3139), and based on a petition filed by Frigid Food Products, Inc., 1599 Warren Avenue, Detroit, Mich. 48201.

Based on information furnished by the petitioner, and other relevant information, the Commissioner of Food and Drugs concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the proposed amendment with the word "solution" changed wherever it appeared to "carrier" because of the difference in solubility between monosodium phosphate and monopotassium phosphate.

Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120): *It is ordered*, That § 42.20 (b) and (c) be revised to read as follows:

§ 42.20 Frozen eggs, frozen whole eggs, frozen mixed eggs; identity; label statement of optional ingredients.

* * * * *

(b) Monosodium phosphate or monopotassium phosphate may be added either directly or in a water carrier, but the amount added does not exceed 0.5 percent of the weight of the frozen eggs. If a water carrier is used, it shall contain not less than 50 percent by weight of such monosodium phosphate or monopotassium phosphate.

(c) When one of the optional ingredients specified in paragraph (b) of this section is used, the label shall bear the statement "Monosodium phosphate (or monopotassium phosphate) added to preserve color," or, in case the optional ingredient used is added in a water carrier, the statement shall be "Monosodium phosphate (or monopotassium phosphate), with _____ percent water as a carrier, added to preserve color," the blank being filled in to show the percent

by weight of water used in proportion to the weight of the finished food. The statement declaring the optional ingredient used shall appear on the principal display panel or panels with such prominence and conspicuousness as to render it likely to be read and understood under customary conditions of purchase.

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 filed 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.

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

Dated: May 23, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-6488; Filed, May 31, 1968; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XIV—The Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1450—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Miscellaneous Amendments

1. Section 1450.735-23 *Outside employment and other activity* is amended as follows:

a. The second sentence of paragraph (c) is deleted and the following is inserted in lieu thereof: "However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of his employment by the Board, except when that information has been made available to the general public or will be made available on request, or when the Board gives written authorization for the use of nonpublic information on the basis that the use is in the public interest."

b. Paragraph (d) is revoked.

2. Section 1450.735-26 *Misuse of information* is amended by changing "§ 1450.735-22(c)" to read "§ 1450.735-23(c)".

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. 1219)

Dated: May 29, 1968.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 68-6544; Filed, May 31, 1968; 8:49 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGFR 68-63]

DRYDOCK AND TAILSHAFT EXAMINATIONS

Ocean and Coastwise Cargo and Tank Vessels

1. The purpose of the amendments in this document is to revise the requirements regarding drydock and tailshaft examinations of ocean and coastwise cargo and tank vessels by providing that such vessels may be drydocked every 24 months rather than every 18 months, and by providing for their tailshaft drawing every 48 months rather than 36 months. Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER of February 29, 1968 (33 F.R. 3564-3570), and the Merchant Marine Council Public Hearing Agenda dated March 25, 1968 (CG-249), the Merchant Marine Council held a Public Hearing on March 25, 1968, for the purpose of receiving comments, views, and data. The proposed changes included changes in the drydock and tailshaft examination requirements, which were identified as Item PH 7-68 (CG-249, pages 245-248, inclusive). All comments received were favorable to these proposals. As recommended by the Merchant Marine Council, these proposals are approved.

2. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 of Title 14, United States Code, and the delegation of authority of the Secretary of Transportation in 49 CFR 1.4(a)(2) to promulgate regulations in accordance with the laws cited with the regulations below, the following amendments in this document are prescribed and shall be effective on and after July 1, 1968: *Provided*, That the regulatory amendments in this document may be complied with during the interim period prior to the effective date specified in lieu of existing requirements at the option of the owners of cargo and tank vessels.

SUBCHAPTER D—TANK VESSELS

PART 31—INSPECTION AND CERTIFICATION

Subpart 31.10—Inspections

3. Section 31.10-20(a)(1) is amended to read as follows:

§ 31.10-20 Drydocking or hauling out—TB/ALL.

(a) * * *

(1) Each tank vessel shall be drydocked or hauled out at intervals not to exceed 24 months if it operates in salt water an aggregate of more than 12 months in the 24-month period since it was last drydocked or hauled out.

* * * * *

§ 31.10-23 [Deleted]

4. Section 31.10-23 *Examination of tailshaft—T/OC* is deleted and the revised requirements are now in § 61.15-15 of this chapter (Subchapter F—Marine Engineering).

(R.S. 4405, as amended, 4417a, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 391a, 416, 49 U.S.C. 1655(b); 49 CFR 1.4(a)(2). Interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp.)

SUBCHAPTER F—MARINE ENGINEERING

PART 61—INSTALLATIONS, TESTS, INSPECTIONS, MARKINGS, AND OFFICIAL FORMS

Subpart 61.15—Tests and Inspections of Machinery and Equipment

5. Section 61.15-15 is amended to read as follows:

§ 61.15-15 Tailshaft survey.

(a) The requirements in this section apply only to ocean and coastwise vessels.

(b) Tailshafts shall be drawn at least once in every 2 years except as follows:

(1) Vessels fitted with a single tailshaft fabricated of materials resistant to corrosion by sea water, or fitted with a continuous liner or with a sealing gland which effectively prevents sea water from contacting the steel shaft, shall be drawn at least once in every 3 years; or,

(2) Vessels fitted with multiple tailshafts which meet the requirements of subparagraph (1) of this paragraph shall be drawn at least once in every 4 years; or,

(3) Vessels fitted with a single tailshaft, which in addition to meeting the requirements of subparagraph (1) of this paragraph have a tailshaft and keyway specifically designed to reduce stress concentrations in accordance with the standards established by the American Bureau of Shipping, shall be drawn at least once in every 4 years: *Provided*, That on each drawing the tailshaft is, in addition to the visual examination, checked by an effective nondestructive testing method from the after edge of the liner to a point one third of the length of the cone from the large end.

(c) Where the propelling machinery is located amidships, the after stern tube bearing of the sea water lubricated type shall be rebushed when it is worn down

to ¼-inch clearance for shafts of 9 inches or less in diameter, 7/16-inch clearance for shafts exceeding 9 inches but not exceeding 12 inches in diameter, and ⅜-inch clearance for shafts exceeding 12 inches in diameter. Where the propelling machinery is located aft, the maximum clearance shall be one-sixteenth inch less than the applicable above clearance for propelling machinery located amidships.

(d) Where circumstances warrant it, the District Commander may extend the tailshaft drawing interval to the next regular drydocking period, but not to exceed 4 months. When it is shown that a vessel has had a long period of lay up, the Officer in Charge, Marine Inspection, may grant an extension equal to the time the vessel has been laid up, but in no case shall the extension exceed 1 year.

(R.S. 4405, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 49 U.S.C. 1655(b); 49 CFR 1.4(a)(2). Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426–4431, as amended, 4433, as amended, 4434, as amended, 4453, as amended, 4488, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, sec. 3, 68 Stat. 675; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404–409, 411, 412, 435, 481, 489, 366, 395, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR, 1965 Supp.)

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 91—INSPECTION AND CERTIFICATION

Subpart 91.40—Drydocking

6. Section 91.40–1(a)(1) is amended to read as follows:

§ 91.40–1 When required.

(a) * * *

(1) Each vessel shall be drydocked or hauled out at intervals not to exceed 24 months if it operates in salt water an aggregate of more than 12 months in the 24-month period since it was last drydocked or hauled out.

(R.S. 4405, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938; 46 U.S.C. 375, 416, 49 U.S.C. 1655(b); 49 CFR 1.4(a)(2). Interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4418, as amended, 4426, as amended, 4427, as amended, 4433, as amended, 4453, as amended, 4488, as amended, sec. 14, 29 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 361, 362, 391, 392, 404, 405, 411, 435, 481, 366, 395, 363, 367, 526p, 50 U.S.C. 198; E.O. 11239, July 31, 1965, 30 F.R. 9671, 3 CFR 1965 Supp.)

Dated: May 28, 1968.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 68-6501; Filed, May 31, 1968; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 68-542]

PART 0—COMMISSION ORGANIZATION

Staff Actions and Correspondence

1. The Commission has recently completed a review of practices relating to routine correspondence and to actions taken under delegated authority and has determined to alter certain of these practices. The practices, as revised, are outlined in a new § 0.204 of the rules and regulations, which is set out in the attached appendix.

2. Section 0.204(a) contains a pro forma statement of the authority of Commission officials to whom authority is delegated to issue orders pursuant to that authority and to enter into correspondence concerning matters for which they are responsible. Section 0.204(b) provides that such authority to issue orders or to enter into correspondence may be exercised by the official to whom authority is delegated or by subordinate officials acting for him. Section 0.204(c) deals with the signature of staff documents and correspondence and provides, in effect, that the official giving final approval of their contents shall sign (or be identified in) documents and letters. Section 0.204 (d) and (e) deals generally with the form or orders issued under delegated authority and the form of minute entries.

3. The principal changes are in the provision for action by subordinate members of the staff and for the signature of action documents and correspondence by the official giving final approval of their contents. Heretofore, it has been the practice for most correspondence and documents to be signed by the Secretary of the Commission. The revised practices will be beneficial to the public, in that the responsible official and the level at which action has been taken will appear clearly from the document, and should also enhance the efficiency of Commission operations.

4. Changes in the remaining sections set out in the appendix involve the clarification or deletion of provisions providing for the signature of correspondence and documents by the Secretary, and the deletion of particular provisions now dealt with generally in § 0.204.

5. Authority for the amendments set forth in the attached appendix is contained in sections 4 (i) and (j), 5, and 303(r) of the Communications Act of 1934 as amended, 47 U.S.C. 154 (i) and (j), 155, and 303(r), and the Public Information Act of 1966, 5 U.S.C. 552. Because the amendments are procedural in nature and pertain to internal Commission practices, the procedural and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are inapplicable.

Accordingly, it is ordered, Effective June 4, 1968, that Part 0 of the rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303, 5 U.S.C. 552)

Adopted: May 15, 1968.

Released: May 28, 1968.

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

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

1. In § 0.5(b), subparagraph (5) is revised to read as follows:

§ 0.5 General description of Commission organization and operations.

* * * * *

(b) * * *

(5) *The Secretary.* With minor exceptions, the Secretary signs all correspondence and documents adopted by the Commission. He is custodian of the Commission's seal and records. He maintains records of Commission actions and the dockets of hearing proceedings, and is responsible for their accuracy, authenticity, and completeness. Except as otherwise provided in this chapter, he is the proper addressee and recipient of papers filed with the Commission.

* * * * *

2. In § 0.51, paragraph (a) is revised to read as follows:

§ 0.51 Functions of the Office.

* * * * *

(a) To maintain minutes and records of official Commission actions and, with minor exceptions, to sign all correspondence and documents adopted by the Commission.

* * * * *

3. Section 0.204 is added to read as follows:

§ 0.204 The exercise of delegated authority.

(a) *Authority to issue orders and to enter into correspondence.* Any official (or group of officials) to whom authority is delegated in this subpart is authorized to issue orders (including rulings, decisions, or other action documents) pursuant to such authority and to enter into general correspondence concerning any matter for which he is responsible under this subpart or subpart A of this part.

(b) *Authority of subordinate officials.* Authority delegated to any official to issue orders or to enter into correspondence under paragraph (a) of this section may be exercised by that official or by appropriate subordinate officials acting for him.

(c) *Signature.*

(1) A final decision of the Review Board is signed by the Board member responsible for its preparation.

(2) Other orders made by a committee, board or panel identify the body and are signed by the Secretary.

[1] Commissioners Hyde, Chairman; and Loevinger absent.

(3) Upon signing an order, the Secretary affixes the Commission's seal.

(4) General correspondence by a committee or board is signed by the committee or board chairman.

(5) All other orders and letters are signed by the official who has given final approval of their contents.

(6) With the exception of certain license forms also signed by the issuing Engineer in Charge, license forms bear only the signature of the Secretary and the seal of the Commission.

(d) *Form of orders.* Orders may be issued in any appropriate form (e.g., as captioned orders, letters, telegrams) and may, if appropriate, be issued orally. Orders issued orally shall, if practicable, be confirmed promptly in writing.

(e) *Minutes entries.* Except as otherwise provided in this subpart, actions taken as provided in paragraph (d) of this section shall be recorded in writing and filed in the official minutes of the Commission.

§ 0.214 [Amended]

4. In § 0.214, paragraph (b) is deleted, and the paragraph designator for paragraph (a) is deleted.

§ 0.215 [Amended]

5. In § 0.215, paragraph (b) is deleted, and the paragraph designator for paragraph (a) is deleted.

6. Section 0.247 is revised to read as follows:

§ 0.247 Record of actions taken.

The application and authorization files and other appropriate files of the Office of the Chief Engineer are designated as the official minute entries of actions taken pursuant to §§ 0.241 and 0.243.

§ 0.257 [Deleted]

7. Section 0.257 is deleted.

§ 0.261 [Amended]

8. In § 0.261, paragraph (c) is deleted.

9. Section 0.287 is revised to read as follows:

§ 0.287 Record of actions taken.

The history card, the station file, and other appropriate files are designated to be the official record of the action taken by the Chief of the Broadcast Bureau.

10. In § 0.289, paragraph (b) is revised to read as follows:

§ 0.289 Authority delegated.

* * * * *

(b) All minutes of actions taken by the Chief of the CATV Task Force pursuant to the authority delegated in this section shall be maintained for public inspection by the CATV Task Force.

* * * * *

§ 0.305 [Deleted]

11. Section 0.305 is deleted.

12. Section 0.307 is revised to read as follows:

§ 0.307 Record of actions taken.

The application and authorization files in the License Branch and the appropriate central files of the Common Carrier Bureau are designated as the Commission's official records of actions by the Chief of the Bureau pursuant to authority delegated to him. In the case of joint authority exercised by the Chief, Common Carrier Bureau, and the Chief, Safety and Special Radio Services Bureau, § 0.337 applies.

§ 0.313 [Deleted]

13. Section 0.313 is deleted.

14. Section 0.337 is revised to read as follows:

§ 0.337 Record of actions taken.

The history card pertaining to a certain station is designated to be the official record of the action taken by the Chief, Safety and Special Radio Services Bureau, in pursuance of the authority delegated to him in §§ 0.331 and 0.332 or jointly to him and the Chief, Common Carrier Bureau, in § 0.333. In cases where no history card is prepared, the application and authorization file pertaining to the station in question is designated to be the official record of the action taken by the Chief of the Bureau, or by him jointly with the Chief of the Common Carrier Bureau.

§ 0.357 [Deleted]

15. Section 0.357 is deleted.

§ 0.361 [Amended]

16. In § 0.361, paragraph (h) is deleted.

17. Section 0.371 is revised to read as follows:

§ 0.371 Authority delegated.

The Chief, Opinions and Review, is delegated authority to act upon the following matters in hearing proceedings which are pending before the Commission en banc:

(a) Motions or petitions for extension of time.

(b) Pleadings which are moot.

(c) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(d) To issue orders, in accordance with Commission instructions, specifying or changing the day or hour of oral argument.

18. Section 0.381 is revised to read as follows:

§ 0.381 Defense Commissioner.

The authority delegated to the Commission under Executive Order 11092 is redelegated to the Defense Commissioner.

§ 0.383 [Amended]

19. Section 0.383(d) is deleted.

[F.R. Doc. 68-6500; Filed, May 31, 1968; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

ARROWWOOD NATIONAL WILDLIFE REFUGE, N. DAK.

Hunting

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926, 16 U.S.C. 668aa), it is proposed to amend 50 CFR 32.21 by the addition of Arrowwood National Wildlife Refuge, N. Dak., to the list of areas open to the hunting of upland game, as legislatively permitted.

It has been determined that the regulated hunting of upland game may be permitted as designated on the Arrowwood National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.21 is amended by the following addition:

§ 32.21 List of open areas; upland game.

* * * * *

NORTH DAKOTA

Arrowwood National Wildlife Refuge.

* * * * *

J. P. LINDUSKA,
Acting Director, Bureau of Sport Fisheries and Wildlife.

MAY 24, 1968.

[F.R. Doc. 68-6476; Filed, May 31, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 777]

PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Proposed Amendment of Flour Second Clear Definition

Notice is hereby given pursuant to section 4a, Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 553) that the Agricultural Stabilization and Conservation Service proposes to issue Amendment 8 to the Republication of the Processor Wheat Marketing Certificate Regulations (31 F.R. 13502).

Consideration will be given to all written comments or suggestions in connection with the proposed amendment, filed in duplicate, with the Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, during the 15-day period beginning with the date this notice is published in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director at the above address during regular business hours (7 CFR 1.27(b)).

It is proposed that the granulation requirement, similar to those specified in the Standards of Identity for Wheat Flour issued by Food and Drug Administration and published in the FEDERAL REGISTER dated October 27, 1964 (29 F.R. 14623), be incorporated into the definition of flour second clears, paragraph (u), § 777.3 of the regulations so as to provide more precise standards for clears which are eligible for refund under the regulations.

The proposed amendment of paragraph (u), § 777.3 would read as follows:

§ 777.3 Definitions.

* * * * *

(u) "Flour second clears", means a coproduct of patent flours (including Durum patent flour) which is produced in a 72 percent extraction rate type of milling operation in the United States from wheat produced in the United States and which meets the requirements of this paragraph. Flour second clears produced from Soft Red Winter wheat or White wheat (except the subclass Hard White wheat) or from a mixture which includes at least 80 percent Soft Red Winter or White wheat (except Hard White wheat) shall have an ash content of 0.75 percent or more. Flour second clears produced from Durum wheat, or from a mixture which includes more than 20 percent Durum wheat, shall have an ash content of 1.25 percent or more. Flour second clears produced from any other class or other mixtures shall have an ash content of 1 percent or more. The ash content shall be calculated to 14 percent moisture basis. Flour second clears shall be a product of the initial milling process and shall not be a product reconstituted by the mixing or blending of the normal byproducts of 72 percent extraction type flour milling operation such as mill run, bran, shorts, middlings, or red dog. When tested for granulation in the manner described below, not less than 98 percent of the product must pass through a cloth having openings not larger than those of woven wire cloth designated "210 micron (No. 70)" in Table I of "Standard Specification for Sieves," published March 1, 1940, in L.C. 584 of the U.S. Department of Commerce, National Bureau of Standards. Granulation shall be determined as follows: Sift 100 grams of the product for 5 minutes over a sieve which is clothed with 7XX silk bolting cloth and equipped underneath with four Type A Carmichael cloth cleaners. The flour sifter shall have 15 x 15 inch sieves, 2½-inch throw and a speed of 120 r.p.m. The Type A Carmichael cloth cleaners shall have tufts of goat hair that brushes against the bottom of the silk screen. Weigh the product remaining on top of the sieve and subtract the weight from 100 to determine the percentage of granulation.

* * * * *

Section 777.18 would also be amended by changing the first sentence of paragraph (c) to read as follows:

§ 777.18 Food processors manufacturing flour second clears.

* * * * *

(c) *Records.* The processor shall retain a copy of all Forms CCC-165, laboratory reports, and mill records which identify production runs in which the flour second clears were processed (including, among other things, date of processing, lot number, and type of wheat processed) and blended (if applicable) and which can be identified to the flour second clears covered by a specific certification. (The laboratory reports shall contain an analysis of the ash content of the flour second clears but need not show the granulation of the clears.) * * *

Signed at Washington, D.C., on May 27, 1968.

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

[F.R. Doc. 68-6499; Filed, May 31, 1968; 8:48 a.m.]

Consumer and Marketing Service

[7 CFR Part 923]

HANDLING OF SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Reserve Fund

Consideration is being given to the following proposed amendment to § 923.202 *Reserve fund.* On July 16, 1958, the Secretary established a reserve fund in accordance with §§ 923.1 to 923.71 of the marketing agreement and order. The proposed amendment would increase the amount of money which the Washington

Cherry Marketing Committee would be authorized to put in their reserve fund.

As amended, § 923.202 would read as follows:

§ 923.202 Reserve fund.

(a) The establishment of a reserve fund of an amount which shall not exceed approximately 1 fiscal year's operational expenses is appropriate and necessary to the maintenance and functioning of the Washington Cherry Marketing Committee. The committee is authorized to expend any funds in such reserve for expenses authorized pursuant to § 923.42.

(b) Terms used in this section shall have the same meaning as given to the respective term in said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: May 27, 1968.

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

[F.R. Doc. 68-6484; Filed, May 31, 1968; 8:47 a.m.]

[7 CFR Part 1009]

MILK IN CLARKSBURG, W. VA., MARKETING AREA

Determination of Equivalent Price for Use in Computing Class I Prices

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Clarksburg, W. Va., marketing area (7 CFR Part 1009), it is hereby found and determined that:

(1) The Class I price of the Clarksburg order is based in part on the Class I price of the Greater Wheeling, W. Va., order (Part 1008). The Clarksburg order provides in § 1009.51(a) "That the Class I price shall be not more than 35 cents in excess of, nor less than 15 cents in excess of the average of the Class I prices for the same month pursuant to Part 1008 (Greater Wheeling) of this chapter and at Athens-Scioto district plants pursuant to Part 1005 (Tri-State) of this chapter".

(2) Effective July 1, 1968, the Greater Wheeling order will be merged with the Northeastern Ohio and Greater Youngstown-Warren orders into one order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area (33 F.R. 5988).

(3) For the purpose of computing the Clarksburg Class I price, the Class I price at Wheeling, W. Va., pursuant to the Eastern Ohio-Western Pennsylvania milk order (Part 1036) will be equivalent to the Class I price under the Greater Wheeling order and should be used until such time as the Clarksburg order can be amended.

(4) Interested parties were afforded the opportunity to file written data, views, or arguments concerning this determination (33 F.R. 6937). None were filed in opposition to the proposed determination.

Therefore, good cause exists for making this determination effective July 1, 1968.

Effective date: July 1, 1968.

Signed at Washington, D.C., on May 27, 1968.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 68-6485; Filed, May 31, 1968; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, BRANCH OF OFFICE SERVICES, WASHINGTON OFFICE

Delegation of Authority Regarding Contracts and Leases

A. Pursuant to the authority delegated to me in Bureau Manual 1510.03B2b (33 F.R. 7590), the Chief, Branch of Office Services, Washington Office, is authorized:

1. To enter into contracts with established sources for supplies and services including capitalized equipment, regardless of amount, and

2. To enter into contracts under section 302(c)(3) of the Federal Property and Administrative Services Act of 1949, for supplies, services and capitalized equipment, not to exceed $2,500 per transaction ($2,000 for construction), provided that the requirement is not available from established sources.

B. This authority may not be redelegated.

J. F. HUCHINGSON,
Chief, Division of Administrative Services.

MAY 24, 1968.

[F.R. Doc. 68-6477; Filed, May 31, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

LIVESTOCK FEED PROGRAM

Notice of Designation of Emergency Areas

Notice is hereby given that, pursuant to the provisions of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1472, 63 Stat. 1055), and the Act of September 21, 1959, as amended (sections 1-4, 73 Stat. 574), the Secretary of Agriculture has designated the counties specified in this notice as emergency areas for purposes of the Livestock Feed Program (7 CFR Part 1475, as amended). Feed grains will be made available for sale to livestock owners in such counties in accordance with the terms and conditions in the regulations for such program. The designated counties are as follows:

Louisiana—Natchitoches
Texas—Hidalgo

Signed at Washington, D.C., on May 13, 1968.

CHARLES L. FRAZIER,
Acting Vice President, Commodity Credit Corporation.

[F.R. Doc. 68-6481; Filed, May 31, 1968; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

COLORADO STATE UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68-00576-33-46040. Applicant: Colorado State University, Fort Collins, Colo. 80521. Article: Electron microscope, Elmiskop IA. Manufacturer: Siemens & Halske, West Germany. Intended use of article: The article will be used for both high- and low-magnification microscopy of plastic embedded microorganisms. The organisms studied will be fixed by the most delicate fixative procedures incubated according to a number of cytochemical procedures for intracellular localization of specific enzymes, which include acid and alkaline phosphotase, lipase, succinic dehydrogenase, ATPase, peroxidase and B-gluceronadase. Application received by Commissioner of Customs: May 9, 1968.

Docket No. 68-00577-33-46040. Applicant: Medical College of Ohio at Toledo, Post Office Box 6190, Toledo, Ohio 43614. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used for scientific research on fine structure of mammalian spermatozoa and on negatively stained proteins extracted from sperm. Application received by Commissioner of Customs: May 9, 1968.

Docket No. 68-00579-33-46040. Applicant: Medical College of South Carolina, Department of Pathology, 80 Barre Street, Charleston, S.C. 29401. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in the following activities:

1. Training fellows and graduate students, principally in the Department of Pathology; this includes all phases of teaching of normal and pathological ultrastructure.
2. Examination of biopsy material from patients with diagnostic problems or unusual and inadequately studied diseases.
3. Examination of tumors from surgical operating rooms and autopsy rooms.
4. Evaluation of specific details of the effects of operative and other dental procedures upon the dental pulp and oral tissues generally.
5. Research programs which are clinically oriented.

Application received by Commissioner of Customs: May 13, 1968.

Docket No. 68-00581-33-46040. Applicant: Western Kentucky University, Bowling Green, Ky. 42101. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for teaching biology courses as well as more advanced courses such as microbiology, pathology, and histology. In addition, faculty and graduate students will utilize the instrument for investigation of ultrastructural changes associated with gonadal transplantation in crayfish. Application received by Commissioner of Customs: May 13, 1968.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-6463; Filed, May 31, 1968; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review

during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00391-88-79700. Applicant: U.S. Department of Interior, Geological Survey, 18th and F Streets NW., Washington, D.C. 20242. Article: Analytical stereoplotter, Model AP/C. Manufacturer: Ottico Meccanica Italiano, S.P.A., Italy. Intended use of article: The article will be used mainly for investigations of exotic type imagery from earth-orbital, lunar and planetary missions. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The applicant requires for its purposes an instrument capable of reconstituting complex geometric configurations resulting from semirandom and restricted operating conditions, in connection with the investigation of unconventional imagery from earth-orbital, lunar, and planetary missions.

The Department of Commerce knows of no instrument or apparatus being manufactured in the United States, which is capable of performing the required functions.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-6464; Filed, May 31, 1968; 8:45 a.m.]

LOYOLA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00499-00-46040. Applicant: Loyola University, Purchasing Department, 6525 North Sheridan Road, Chicago, Ill. 60626. Article: Electromagnetic shutter. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used to obtain precise exposure time. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory for an electron microscope of foreign manufacture, already in the possession of the applicant.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with the foreign article or adaptable to the instrument with which the foreign article is intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-6465; Filed, May 31, 1968; 8:45 a.m.]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00484-00-66700. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Spare parts for Prevost projector. Manufacturer: Prevost, Italy. Intended use of article: The article will be used as spare parts for an existing Prevost projector. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which such articles are intended to be used, is being manufactured in the United States. Reasons: The application relates to a set of spare parts for a Prevost projector already in the possession of the applicant.

The Department of Commerce knows of no similar parts being manufactured in the United States, which are interchangeable with, or are adaptable to the instrument in which the foreign articles are intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-6466; Filed, May 31, 1968; 8:45 a.m.]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00485-00-66700. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Spare parts for Prevost projector. Manufacturer: Prevost, Italy. Intended use of article: The article will be used as spare parts for an existing Prevost projector. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which such articles are intended to be used, is being manufactured in the United States. Reasons: The application relates to a set of spare parts for a Prevost projector already in the possession of the applicant.

The Department of Commerce knows of no similar parts being manufactured in the United States, which are interchangeable with, or are adaptable to the instrument in which the foreign articles are intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-6467; Filed, May 31, 1968; 8:45 a.m.]

STATE UNIVERSITY OF NEW YORK AT ALBANY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00403–88–45300. Applicant: State University of New York at Albany, 1400 Washington Avenue, Albany, N.Y. 12203. Article: Electron microprobe, C.E.C. Type 27–101. Manufacturer: Cameca, France. Intended use of article: The article will be used in the analysis of micrometeorites, in the identification and mapping of concentrations of various elements in bony tissues, and in the study of compositional inhomogeneities and diffusion in mineral grains. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a transmission-type electron microscope accessory which is pertinent to the purposes for which the foreign article is intended to be used.

The Department of Commerce knows of no microprobes being manufactured in the United States, which are furnished with a transmission-type accessory.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–6468; Filed, May 31, 1968; 8:45 a.m.]

UNIVERSITY OF COLORADO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00494–00–46040. Applicant: University of Colorado, Purchasing Department, 4200 East Ninth Avenue, Denver, Colo. 80220. Article: Electromagnetic shutter. Manufacturer: Siemens, West Germany. Intended use of article: The article will be used to obtain precise control over the shortest exposure time. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory for an electron microscope of foreign manufacture, already in the possession of the applicant.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with the foreign article or adaptable to the instrument with which the foreign article is intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–6469; Filed, May 31, 1968; 8:45 a.m.]

UNIVERSITY OF MICHIGAN ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 68–00568–33–46500. Applicant: University of Michigan, 113 Dentistry Building, 1011 North University Avenue, Ann Arbor, Mich. 48104. Article: Ultramicrotome, Model "Om U2". Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used for sectioning thin sections of various soft tissues, including lymph nodes, pancreas, salivary glands, and bone marrow for research projects. Application received by Commissioner of Customs: May 6, 1968.

Docket No. 68–00570–33–46040. Applicant: Vanderbilt University, Nashville, Tenn. 37203. Article: Electron microscope, Model HU–11E–1. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in molecular biology for defining membrane morphology and to interpret this ultrastructure in terms of the functional components of membranes. Application received by Commissioner of Customs: May 8, 1968.

Docket No. 68–00571–00–87200. Applicant: State University of New York, Stony Brook, N.Y. 11790. Article: Tandem voltage regulator, Model TVS–11. Manufacturer: Elron Electronic Industries, Ltd., Israel. Intended use of Article: The article will be used for readjusting terminal voltage of the electrostatic voltage producing machine during research and graduate study. Application received by Commissioner of Customs: May 8, 1968.

Docket No. 68–00572–65–46040. Applicant: State University of New York, Stony Brook, N.Y. 11790. Article: Electron microscope, Model EM 300. Manufacturer: N.V. Philips Gloeilampenfabrieken, The Netherlands. Intended use of article: The article will be used for research and graduate studies which include the investigation of physical properties of materials and experimental work closely related to courses in surfaces and interfaces, advanced topics in solids, advanced techniques of materials research, and the physical properties of materials. Application received by Commissioner of Customs: May 8, 1968.

Docket No. 68–00573–01–78030. Applicant: DHEW, U.S. Food and Drug Administration, 599 Delaware Avenue, Buffalo, N.Y. 14202. Article: Spectrophotometer, Infrared Model 225. Manufacturer: Bodenseewerk Perkin-Elmer and Co., GmbH, West Germany. Intended use of article: The article will be used as a means of quantitating the ingredients of various foods, drugs, and cosmetics with a high degree of accuracy and precision. Application received by Commissioner of Customs: May 8, 1968.

Docket No. 68–00574–33–46040. Applicant: U.S. Department of Agriculture, Agricultural Research Center, Beltsville, Md. 20705. Article: Electron microscope, Model EM6B. Manufacturer: Associated Electronic Industries, Inc., United Kingdom. Intended use of article: The article will be used for biological research in the following areas: (1) Cytopathogenesis of intracellular parasitism employing high resolution electron microscopy and both current and experimental methods of cytochemistry. (2) Studies of parasite cell membrane structure, host-parasite interface, and the aggregations of macromolecules under certain experimental conditions utilizing negative staining technics. (3) Membrane physiology involving development of technics to investigate the structural aspects of transport across the cell membrane of intracellular parasites incorporating tagged simple sugars and amino acids. Application received by Commissioner of Customs: May 8, 1968.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–6470; Filed, May 31, 1968; 8:45 a.m.]

Maritime Administration

[Docket S–211]

UNITED STATES LINES, INC.

Notice of Application

Notice is hereby given of the application dated May 1, 1968, as supplemented May 8, 1968, of United States Lines, Inc., which seeks written permission pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1223) to make calls on a maximum of 55 sailings per calendar year in the domestic commerce of the United States between U.S. Atlantic and Hawaiian ports with any of its vessels operating on Trade Route No. 12 (Line D), U.S. Atlantic/Far East Service. Existing permission allows the applicant's Line D vessels twelve (12) eastbound and eighteen (18) westbound calls per annum at Hawaii in the domestic trade.

Interested parties may inspect this application in the Office of Government Aid, Maritime Administration, Room 4077, GAO Building, 441 G Street NW., Washington, D.C.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit a written statement with reference to the application must, by close of business on June 14, 1968, file same with the Secretary, Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. Notwithstanding anything in § 201.78 of the rules of practice and procedure (46 CFR Part 201), petitions for leave to intervene received after the close of business June 14, 1968, will not be considered in this proceeding.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for June 25, 1968, at 10 a.m., in Room 4519, GAO Building, 441 G Street NW., Washington, D.C. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

Dated: May 29, 1968.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 68–6545; Filed, May 31, 1968; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

NORWICH PHARMACAL CO.

Notice of Filing of Petitions for Food Additives Buquinolate, Chlortetracycline, Sodium Sulfate, Arsanilic Acid, 3-Nitro-4-Hydroxyphenylarsonic Acid

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that petitions (3) have been filed by the Norwich Pharmacal Co., Norwich, N.Y. 13815, proposing that the food additive regulations (21 CFR Part 121, Subpart C) be amended to provide for the safe use of combination drugs containing (A) buquinolate, chlortetracycline, and sodium sulfate, (B) buquinolate, chlortetracycline, sodium sulfate, and arsanilic acid, and (C) buquinolate, chlortetracycline, sodium sulfate, and 3-nitro-4-hydroxyphenylarsonic acid in chicken feed:

1. As an aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix,* and *E. acervulina;*

2. For treatment of chronic respiratory disease (air-sac infection) and bluecomb (nonspecific infectious enteritis);

3. For prevention of synovitis;

4. For growth promotion and feed efficiency; and

5. For improving pigmentation.

NOTE: Combination A applies to uses 1, 2, and 3; combinations B and C apply to uses 1 through 5.

Dated: May 21, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68–6490; Filed, May 31, 1968; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

WALT WHITMAN AND BENJAMIN FRANKLIN BRIDGE TOLLS

Notice of Public Hearing

The Federal Highway Administrator has received protests that the tolls now charged for transit over the Walt Whitman and Benjamin Franklin bridges between Philadelphia, Pa., and Camden, N.J., are not reasonable and just by reason of a change in tolls which occurred on February 1, 1968. The protestors have asked the Administrator to prescribe reasonable rates of toll for transit over those bridges pursuant to section 503 of the General Bridge Act of 1946 (60 Stat. 847; 33 U.S.C. 526).

The old and new toll schedules to which the protests are directed are as follows:

Classification	Toll prior to Feb. 1, 1968	Toll after Feb. 1, 1968
Passenger automobile	$0.25	$0.50.
40-trip commutation book	$7.50	$10.00.
20-trip commutation book		$7.00.
Motorcycle	$0.15	$0.25.
Passenger bus	$0.50	$1.00.
Horse or horse-drawn vehicle	$0.30	
Passenger automobile and trailer	$0.40	$0.75.
Trucks:		
7,000 lbs. gr. wt.	$0.25	
7,001–19,000 lbs. gr. wt.	$0.50	
19,001–30,000 lbs. gr. wt.	$0.75	
30,001–36,000 lbs. gr. wt.	$1.00	
36,001–48,000 lbs. gr. wt.	$1.50	
48,001–60,000 lbs. gr. wt.	$1.75	
60,001–73,280 lbs. gr. wt.	$2.00	
Truck and trailer not exceeding 19,000 lbs.	$0.50	
Commercial truck and trailer exceeding 19,000 lbs.	Gr. wt. plus $0.40 per axle.	
Commercial trucks:		
2 axle—7,000 lbs. and under		$0.50.
2 axle—7,001 lbs. and over		$1.00.
2 axle	$1.00	
3 axle	$1.20	$1.50.
4 axle	$1.60	$2.00.
5 axle	$2.00	$2.50.
6 axle and over	$2.40	$3.00.
Truck tractor—7,000 lbs.	$0.25	
Truck tractor—7,001–19,000 lbs.	$0.50	
Truck tractor—19,001–30,000 lbs.	$0.75	
Special permit: Commercial motor vehicles 60,001 lbs. gr. wt. and upward.	$10.00 fee plus $1.50 for first 40,000 lbs. and $0.25 for each 2,000 lbs. in excess of 40,000.	$10.00 fee plus $1.50 for first 40,000 lbs. and $0.25 for each 2,000 lbs. in excess of 40,000.
Public service vehicle	No charge.	No charge.

The Administrator has decided to conduct a hearing under the Administrative Procedure Act (5 U.S.C. 554–558) for the purpose of affording all interested parties the opportunity to submit, orally or in writing, data, views, facts, and arguments relevant to the question whether the present toll rates are reasonable and just and the question whether the Administrator should prescribe the reasonable rates to be charged for transit over the bridges.

In consideration of the foregoing, notice is hereby given that the Federal Highway Administrator will hold a public hearing for this purpose. The hearing will be conducted before Robert R. Boyd, a Hearing Examiner. It will be held in Philadelphia, Pa., and will convene on June 26, 1968. The exact time and place of the hearing shall be prescribed by the Hearing Examiner.

Interested persons are invited to attend the hearing and present oral or written evidence on the issues set forth above, which will be made a part of the record of the hearing. Persons submitting statements or testimony shall be subject to cross-examination by any other participant. Any person who desires to participate in the hearing and to offer evidence in oral or documentary form should notify the Hearing Examiner at the address given below, not later than June 21, 1968, stating the nature and approximate amount of time requested for making his presentation.

The Federal Highway Administration shall participate as a party to the hearing.

In addition to the powers conferred by 5 U.S.C. 556(c), the Hearing Examiner shall have power to make all needful rules and regulations to govern the conduct of the hearing.

Upon conclusion of the hearing and not later than August 1, 1968, the Hearing Examiner shall issue a recommended decision, and thereafter certify the entire record to the Federal Highway Administrator. Prior to such recommended decision, interested parties will be afforded reasonable opportunity, as determined by the Hearing Examiner, to submit proposed findings and briefs. Thereafter, exceptions to the recommended decision and findings of fact, together with briefs thereon, may be filed with the Federal Highway Administrator within 15 days after the date such decision and findings are served.

All communications concerning the hearing should be addressed to the Hearing Examiner, Philadelphia Bridge Tolls, Mr. Robert R. Boyd, Room 307A, Donohoe Building, 400 Sixth Street SW., Washington, D.C. 20591.

Issued in Washington, D.C., on May 29, 1968.

LOWELL K. BRIDWELL,
Federal Highway Administrator.

[F.R. Doc. 68-6505; Filed, May 31, 1968; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT (FORT CALHOUN STATION, UNIT NO. 1)

Order Convening Post Hearing Conference

For the consideration of receipt of construction and architect-engineering contracts into the record of evidence in this proceeding, Applicant has requested that a post hearing conference be convened.

This Atomic Safety and Licensing Board approves the request.

Wherefore, it is ordered, That a post hearing conference in this proceeding be convened at 2 p.m. on June 4, 1968, in Hearing Room 1067 at the Atomic Energy Commission Headquarters at 1717 H Street NW., Washington, D.C.

Issued: May 28, 1968, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[F.R. Doc. 68-6486; Filed, May 31, 1968; 8:47 a.m.]

[Docket No. 50-302]

FLORIDA POWER CORP. (CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT)

Notice of Hearing on Application for Provisional Construction Permit

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and Part 2, rules of practice, notice is hereby given that a hearing will be held at 10 a.m., local time, on July 16, 1968, in the Crystal River Elementary School Auditorium, Crystal River, Fla., to consider the application filed under section 104b of the Act by Florida Power Corp. (the applicant) for a provisional construction permit for a pressurized water reactor designed to initially operate at 2,452 megawatts (thermal) to be located at the applicant's site on the Gulf of Mexico, about 7½ miles northwest of the town of Crystal River, Citrus County, Fla.

The hearing will be conducted by the Atomic Safety and Licensing Board designated by the Atomic Energy Commission consisting of Dr. Hugh Paxton, Los Alamos, N. Mex.; Dr. Eugene Greuling, Durham, N.C.; and Samuel W. Jensch, Esq., Chairman, Washington, D.C. Dr. Rolf Eliassen, Palo Alto, Calif., has been designated as a technically qualified alternate.

A prehearing conference will be held by the Board at 10 a.m., local time, on June 19, 1968, in the Crystal River Elementary School Auditorium, Crystal River, Fla., to consider the matters provided for consideration by § 2.752 of 10 CFR Part 2 and section II of Appendix A to 10 CFR Part 2.

The Director of Regulation proposes to make affirmative findings on Item Nos. 1–3 and a negative finding on Item 4 specified below as the basis for the issuance of a provisional construction permit to the applicant substantially in the form proposed in Appendix A hereto.

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicant has described the proposed design of the facility, including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public;

2. Whether the applicant is technically qualified to design and construct the proposed facility;

3. Whether the applicant is financially qualified to design and construct the proposed facility; and

4. Whether the issuance of a permit for the construction of the facility will be inimical to the common defense and security or to the health and safety of the public.

In the event that this proceeding is not a contested proceeding, as defined by § 2.4 of the Commission's rules of practice, 10 CFR Part 2, the Board will, without conducting a de novo evaluation of the application, consider the issues of whether the application and the record of the proceeding contain sufficient information, and the review by the Commission's regulatory staff has been adequate, to support the findings proposed to be made and the provisional construction permit proposed to be issued by the Director of Regulation.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as the issues in this proceeding, Item Nos. 1

through 4 above as the basis for determining whether the provisional construction permit should be issued to the applicant.

As they become available, the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS) and the Safety Evaluation by the Commission's regulatory staff will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., where they will be available for inspection by members of the public. Copies of the ACRS report and the regulatory staff's Safety Evaluation may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of § 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, by June 14, 1968.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of § 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary, U.S. Atomic Energy Commission, Germantown, Md., or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., not later than June 14, 1968, or in the event of a postponement of the prehearing conference, at such time as the Board may specify.

The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action and the contentions of the petitioner. A petition for leave to intervene which is not timely filed will be denied unless the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of § 2.705 of the Commission's rules of practice, must be filed by the applicant on or before June 14, 1968.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, or may be filed by delivery to the Office of the Secretary, U.S. Atomic Energy Commission, Germantown, Md., or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

Pending further order of the Board, parties are required to file, pursuant to the provisions of §2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

Dated at Germantown, Md., this 29th day of May 1968.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. McCOOL,
Secretary.

APPENDIX A

PROVISIONAL CONSTRUCTION PERMIT

[Construction Permit -------]

1. Pursuant to § 104 b. of the Atomic Energy Act of 1954, as amended (the Act), and Title 10, Chapter 1, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and pursuant to the order of the Atomic Safety and Licensing Board, the Atomic Energy Commission (the Commission) hereby issues a provisional construction permit to Florida Power Corp. (the applicant), for a utilization facility (the facility), designed to operate at 2,452 megawatts (thermal), described in the application and amendments thereto (the application) filed in this matter by the applicant and as more fully described in the evidence received at the public hearing upon that application. The facility, known as Crystal River Unit 3 Nuclear Generating Plant, will be located at the applicant's site on the Gulf of Mexico, about 7½ miles northwest of the town of Crystal River, Citrus County, Fla.

2. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act, and rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the conditions specified or incorporated below:

A. The earliest date for the completion of the facility is December 1, 1971, and the latest date for the completion of the facility is June 1, 1972.

B. The facility shall be constructed and located at the site as described in the application, about seven and one-half miles northwest of Crystal River, Citrus County, Fla.

C. This construction permit authorizes the applicant to construct the facility described in the application and the hearing record in accordance with the principal architectural and engineering criteria set forth therein.

3. This permit is provisional to the extent that a license authorizing operation of the facility will not be issued by the Commission unless (a) the applicant submits to the Commission, by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from time to time; (b) the Commission finds that the final design provides reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with procedures approved by it in connection with the issuance of said license; and (c) the applicant submits proof of financial protection and the execution of an indemnity agreement as required by section 170 of the Act.

For the Atomic Energy Commission.

[F.R. Doc. 68-6546; Filed, May 31, 1968; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18650; Order E-26838]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Agreement CAB 20125 R-17 through R-20.[1]

Issued under delegated authority May 27, 1968.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated May 9, 1968, names additional specific commodity rates, as set forth in the attachment hereto,[2] which reflect significant reductions from the general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval thereof is conditioned as hereinafter ordered.

Accordingly, It is ordered, That:

Agreement CAB 20125, R-17 through R-19, be approved, provided approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-6487; Filed, May 31, 1968; 8:47 a.m.]

[1] R-20 was withdrawn by letter dated May 22, 1968.

[2] Filed as part of the original document.

CIVIL SERVICE COMMISSION

PRINTING MANAGEMENT SERIES, NATIONWIDE

Notice of Adjustment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has increased the minimum rates and rate ranges as follows:

GS-1654 Printing Management Series

(Note: Eligibility for these special rates is limited to employees who have at least a Baccalaureate Degree with a major in printing management.)
Geographic coverage: Nationwide.
Effective date: First day of the first pay period beginning on or after June 2, 1968.

PER ANNUM RATES

Grade	1[1]	2	3	4	5	6	7	8	9	10
GS-5	$7,239	$7,425	$7,611	$7,797	$7,983	$8,169	$8,355	$8,541	$8,727	$8,913
GS-7	7,634	7,859	8,084	8,309	8,534	8,759	8,984	9,209	9,434	9,659

[1] Corresponding statutory rates: GS-5—tenth; GS-7—fifth.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this letter on and after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

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

[F.R. Doc. 68-6548; Filed, May 31, 1968; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RP68-19]

SOUTHERN NATURAL GAS CO.

Order Providing for Hearing on and Suspension of Proposed Tariff Sheet

MAY 24, 1968.

On April 25, 1968, Southern Natural Gas Co. (Southern) tendered for filing Original Sheet No. 121A to its FPC Gas Tariff Volume No. 3, Rate Schedule F-5 to become effective May 25, 1968. Original Sheet No. 121A increases the price for gas sold to Transwestern Pipeline Co. from 13.48 cents[1] to 15.56 cents[2] per Mcf at 14.65 p.s.i.a. The amount of annual increase is $51,168. The proposed rate is above the applicable area rate set by Opinion Nos. 468 and 468-A.

Sales under Rate Schedule F-5 are being made pursuant to temporary authorization issued September 15, 1967, in Docket No. CP67-219. Pursuant to that temporary Southern has collected the applicable area rate determined in Permian of 13.48 cents per Mcf, which is its presently effective rate.

The rate, charge, classification, and service contained in Original Sheet No. 121A tendered by Southern April 25, 1968, may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commissions finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a public hearing concerning the lawfulness of the rate, charge, classification, and service contained in Southern's Original Sheet No. 121A to its FPC Gas Tariff, Volume 3, Rate Schedule F-5, and that said proposed Original Sheet No. 121A and the rate contained therein be suspended and the use thereof deferred as hereinafter provided.

The Commissions orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held on a date to be fixed by notice from the Secretary concerning the lawfulness of the rate, charge, classification, and service contained in Southern's Original Sheet No. 121A to its FPC Gas Tariff, Volume No. 3, Rate Schedule F-5.

(B) Pending such hearing and decision thereon Southern's Original Sheet No. 121A to its FPC Gas Tariff, Volume No. 3, Rate Schedule F-5 is suspended and the use thereof deferred until October 25, 1968, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended tariff sheet, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 10, 1968.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-6471; Filed, May 31, 1968; 8:45 a.m.]

[1] 16.5-cent base rate less 1.83-cent B.t.u. adjustment and less other quality adjustments of 1.19 cents.

[2] 17.5-cent base rate less 1.94-cent B.t.u. adjustment.

SECURITIES AND EXCHANGE COMMISSION

[812-2300]

GREATER WASHINGTON INDUSTRIAL INVESTMENTS, INC. AND GREATER WASHINGTON NEWSUB, INC.

Notice of Filing of Application for Exemption

MAY 27, 1968.

Notice is hereby given that Greater Washington Industrial Investments, Inc. ("Greater Washington"), 1725 K Street NW., Washington, D.C. 20006, and Greater Washington Newsub, Inc. ("Newsub"), 1725 K Street NW., Washington, D.C. 20006, both District of Columbia corporations registered as closed-end, nondiversified, management type investment companies under the Investment Company Act of 1940 ("Act") have jointly filed an application pursuant to section 6(c) of the Act requesting an order of the Commission for certain exemptions from sections 12(e), 17(a), and 17(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Greater Washington, licensed under the Small Business Investment Act of 1958, was organized in 1959 and commenced operations in 1960 when it first offered its shares to the public. Newsub was organized by Greater Washington as a wholly owned subsidiary on March 6, 1968. Other than organizational matters, Newsub has not engaged in any business of any kind.

In order to provide a framework within which it can retain and operate a portion of its assets under the Small Business Administration program and at the same time free the major portion of its assets to enable it to take advantage of investment opportunities not contemplated under that program, Greater Washington proposes, subject to stockholder approval, to cause its license as a small business investment company and its name to be transferred to Newsub, changing the name of Greater Washington to "Greater Washington Investors, Inc." Greater Washington intends to transfer from time to time certain of its assets to Newsub which thereafter will operate as a small business investment company. Greater Washington further proposes to continue to engage, and to cause Newsub to engage, in the business of furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities.

Greater Washington and Newsub have agreed that the order of the Commission that may issue pursuant to this notice may be conditioned upon the following:

1. Greater Washington will not make any investment in Newsub if the aggregate value of any existing investment plus the cost of any additional investment in Newsub would exceed 25 percent

of the value of Greater Washington's total assets on a corporate basis, provided that initially Greater Washington may transfer to Newsub assets the aggregate value of which, less the amount of debt of Greater Washington to the SBA assumed by Newsub, does not exceed 25 percent of the value of Greater Washington's total assets on a corporate basis prior to such transfer.

2. Greater Washington will at all times continue to own and hold, beneficially and of record, all of the outstanding capital stock of Newsub.

3. Greater Washington will not cause or permit Newsub to change any of its fundamental investment policies, or take any other action referred to in section 13(a) of the Act, unless such action shall have been authorized by Greater Washington as the holder of all of the outstanding voting securities of Newsub after approval of such action by the vote of a majority (as defined in the Act) of Greater Washington's outstanding voting securities.

4. Greater Washington will not cause or permit Newsub to enter into, renew or perform any investment advisory or underwriting contracts or agreements, written or oral, as contemplated by section 15 of the Act, unless the terms of such contracts or agreements and any renewal thereof shall have been approved in compliance with section 15 of the Act. Any vote of the stockholders of Newsub as required by section 15 of the Act will be deemed to require a vote of Greater Washington's stockholders. Any action of the directors of Newsub as required by section 15 of the Act, will be deemed to require a vote of the directors of Greater Washington, including a majority of those directors who are not parties to any such contract or agreement or affiliated persons of any such party.

5. Subject always to Greater Washington, individually, and Greater Washington and Newsub on a consolidated basis, having the asset coverage required by section 18(a) of the Act immediately after the issuance or sale of any senior securities, (a) Greater Washington may issue and sell to one or more banks, or to one or more insurance companies (but not to both a bank or banks and an insurance company or insurance companies) its unsecured promissory notes or other unsecured evidences of indebtedness in consideration of any loan, extension or renewal thereof made by private arrangement, provided that such notes or evidences of indebtedness are not intended to be publicly distributed, and provided further that such notes or evidences of indebtedness are not convertible into, exchangeable for, or accompanied by any options to acquire, any equity security, and (b) Newsub may borrow from the SBA on such basis as the SBA may from time to time lend to small business investment companies and as may be permitted under the Act and applicable rules thereunder, provided that Greater Washington will not guarantee any such borrowings by Newsub, except the borrowings by Greater Washington from SBA initially assumed by Newsub, but no extensions or renewals thereof, and provided that Greater Washington will not issue or have outstanding any other class of senior security for the period which such guaranty is outstanding. Greater Washington will not itself, and will not cause or permit Newsub to, otherwise issue any class of senior security.

6. Greater Washington will file with the Commission and transmit to its stockholders reports prescribed and required by section 30 of the Act, including separate financial statements of Newsub. Greater Washington also will cause Newsub to file with the Commission copies of all reports which Newsub will be required to file with the SBA. Any independent public accountant who signs a financial statement filed by Greater Washington or Newsub with the Commission shall be selected and approved for Greater Washington in compliance with section 32(a) of the Act by a majority (as defined in the Act) of Greater Washington's outstanding voting securities.

7. All of the directors of Newsub are and will be directors of Greater Washington and all of the officers of Newsub will hold corresponding positions with Greater Washington.

Section 12(d)(1), as here pertinent, prohibits the acquisition by a registered investment company of more than 5 percent of the total outstanding voting stock of any other investment company if the policy of such other investment company is the concentration of investments in a particular industry or group of industries, or more than 3 percent of such stock if the policy is not so to concentrate.

Section 12(e) of the Act provides, among other things, that notwithstanding the provisions of section 12(d)(1), a registered investment company may utilize up to 5 percent of the value of its assets to purchase or otherwise acquire any securities issued by another investment company engaged in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence and reorganizing companies or similar activities, provided that the securities issued by such other investment company consist solely of one class of common stock. An exemptive order from section 12(e) of the Act is necessary in order to enable Greater Washington to invest more than 5 percent of the value of its assets in Newsub which, as noted, will be a 100 percent owned subsidiary of Greater Washington and permit Newsub to issue two classes of securities, viz common stock to be held by Greater Washington and debt to be held by the SBA.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from selling to or purchasing from such registered company any securities or other property. Since Newsub is an affiliated person of Greater Washington, a registered investment company, section 17(a) makes it unlawful for any transfer of assets to be effected between the two companies, as presently contemplated, in the absence of an exemptive order of the Commission.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, among other things, that it shall be unlawful, with certain exceptions not applicable here, for an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered company or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by the Commission. Greater Washington and Newsub have requested an order exempting them from the provisions of section 17(d) of the Act to permit them to participate in any possible joint transactions with third persons have no affiliation with Greater Washington, Newsub or with their affiliates.

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

Greater Washington and Newsub submit that the requested exemptions are necessary to enable them to contemporaneously implement the Congressional intent recited in the Small Business Investment Act of 1958 and to engage in the furnishing of venture capital as contemplated by section 12(e) of the Act.

Notice is further given that any interested person may, not later than June 17, 1968, 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 Greater Washington and Newsub 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 upon said application 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.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by registered mail to the Associate Administrator for Investment, Investment Division, Small Business Administration, Washington, D.C. 20416.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 68-6478; Filed, May 31, 1968; 8:46 a.m.]

[File No. 7-2916]

MONOGRAM INDUSTRIES, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 27, 1968.

In the matter of application of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Monogram Industries, Inc., File No. 7-2916

Upon receipt of a request, on or before June 11, 1968, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 68-6479; Filed, May 31, 1968; 8:46 a.m.]

[70-4635]

NEW ENGLAND POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

MAY 27, 1968.

Notice is hereby given that New England Power Co. ("NEPCO"), 441 Stuart Street, Boston, Mass. 02116, an electric utility subsidiary company of New England Electric System, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rules 42(b)(2) and 50 as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $20 million principal amount of first mortgage bonds, Series N, ------ percent due July 1, 1998. The interest rate (which shall be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest (which shall be not less than 100 percent nor more than 102.75 percent of the principal amount thereof), will be determined by the competitive bidding. The bonds will be issued under an indenture of trust and first mortgage dated November 15, 1936, between NEPCO and New England Merchants National Bank of Boston (successor to The New England Trust Co.), trustee, as heretofore supplemented and as to be further supplemented by a 13th Supplemental Indenture to be dated July 1, 1968.

The net proceeds from the sale will be applied to the payment of NEPCO's short-term notes evidencing borrowings made to pay for capitalizable expenditures or to reimburse the treasury therefor. Such notes are expected to be outstanding in the amount of $26 million at the time of the proposed issuance and sale of the bonds.

The fees and expenses to be paid in connection with the proposed transactions are estimated at $75,000, including $34,000 for legal, accounting, and other services to be rendered at cost by the system service company. The fees and expenses of independent counsel for the underwriters, to be paid by the successful bidders, are to be supplied by amendment.

It is stated that the Massachusetts Department of Public Utilities, the New Hampshire Public Utilities Commission, and the Vermont Public Service Board have jurisdiction over the proposed issuance and sale of bonds and 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 June 19, 1968, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (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 application, as filed or as it may be amended, may be granted 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. 68-6480; Filed, May 31, 1968; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 28, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41337—*Clay, kaolin, or pyrophyllite from Fort Deposit and Letohatchie, Ala.* Filed by O. W. South, Jr., agent (No. A6008), for interested rail carriers. Rates on clay, kaolin, or pyrophyllite, in carloads, from Fort Deposit and Letohatchie, Ala., to Cranston, R.I.

Grounds for relief—Rate relationship.

Tariff—Supplement 18 to Southern Freight Association, agent, tariff ICC S-751.

FSA No. 41338—*Clay from Kentucky and Tennessee points.* Filed by O. W. South, Jr., agent (No. A6009), for interested rail carriers. Rates on clay, except clay commercially suitable for filling of fabric or filling or coating of paper, or for use in the manufacturing of rubber and rubber articles, in carloads, from

Clayburn and Wickliffe, Ky., McKenzie, Spinks, and Whitlock, Tenn., and points taking same rates, to Barberton, Ohio.

Grounds for relief—Rate relationship.

Tariff—Supplement 18 to Southern Freight Association, agent, tariff ICC S–751.

FSA No. 41339—*Copper sulphate, CL, from Copperhill, Tenn.* Filed by O. W. South, Jr., agent (No. A6010), for interested rail carriers. Rates on copper sulphate, minimum weight 100,000 pounds, in carloads, from Copperhill, Tenn., to Minneapolis, Minn., Transfer and St. Paul, Minn.

Grounds for relief—Market competition.

Tariff—Supplement 178 to Southern Freight Association, agent, tariff ICC S–240.

By the Commission.

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

[F.R. Doc. 68–6491; Filed, May 31, 1968; 8:47 a.m.]

[Notice 617]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 27, 1968.

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 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 representative, if any, and the protests must certify that such service has been made. The protests 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 62133 (Sub-No. 9 TA), filed May 23, 1968. Applicant: EVANS EXPRESS COMPANY, INC., 94 Van Guysling Avenue, Schenectady, N.Y. 12305. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Meat, meat products, and meat byproducts, and dairy products*, as described in sections A and B, appendix I of descriptions case 61 M.C.C. 209 and 766, and *frozen foods*, not embraced in these descriptions, on commercial bill of lading, from Schenectady, N.Y., to points in Franklin, Clinton, and Essex Counties, N.Y.; and points in Franklin, Chittenden, Addison, Rutland, and Bennington Counties, Vt., *returned shipments* of same commodities in the reverse direction, for 150 days. Supporting shipper: Oscar Mayer & Co., Inc., Madison, Wis. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 115331 (Sub-No. 253 TA), filed May 23, 1968. Applicant: TRUCK TRANSPORT INCORPORATED, 1931 North Geyer Road, St. Louis, Mo. 63131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer compounds, ingredients, and materials*, in bulk, from North Little Rock, Ark., to points in Mississippi, for 180 days. Supporting shipper: Olin Mathieson Chemical Corp., Post Office Box 991, Little Rock, Ark. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3248–B, 1520 Market Street, St. Louis, Mo. 63103.

No. MC 125433 (Sub-No. 5 TA), filed May 23, 1968. Applicant: F-B TRUCK LINE COMPANY, 4255 South Second West Street, Salt Lake City, Utah 84107. Applicant's representative: D. Acklie, Post Office Box 806, 1201 J Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Kitchen and bathroom cabinets, accessories, and materials* used in the installation thereof, from Salt Lake City, Utah, to points in Washington, Idaho, Oregon, California, Nevada, Arizona, New Mexico, Wyoming, Colorado, and Montana; (2) *supplies, materials, and equipment utilized in the manufacture of kitchen and bathroom cabinets*, from points in Washington, Idaho, Oregon, California, Nevada, Arizona, New Mexico, Wyoming, Colorado, and Montana, to Salt Lake City, Utah, for 180 days. Supporting shipper: Lady Fair Kitchens, Inc., 358 Rio Grande Avenue, Salt Lake City, Utah 84101. Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 127261 (Sub-No. 3 TA) (Correction), filed May 17, 1968, published FEDERAL REGISTER, Notice No. 615, dated May 22, 1968, and republished as corrected this issue. Applicant: DIAZ MOTOR FREIGHT, INC., Post Office Box 8166, 2829 Frenchmen Street, New Orleans, La. 70122. Applicant's representative: W. T. Croft, 1815 H Street NW., Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wire mesh, structural steel, and reinforcing steel*, from New Orleans, La., to points in Mississippi, Arkansas, Alabama, Flordia, Georgia, Louisiana, and Tennessee, for the Laclede Steel Co. of New Orleans, La., for 180 days. NOTE: The purpose of this correction is to show the correct docket number assigned to this case. No. MC 129325 Sub 1 TA was assigned in error. Supporting shipper: Laclede Steel Co., District Office, 5601 France Road, Post Office Box 26391, New Orleans, La. 70126. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T–4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 129401 (Sub-No. 2 TA), filed May 21, 1968. Applicant: JOE R. BRAWLEY, doing business as BRAWLEY TRANSPORTATION COMPANY, 944 Davie Avenue, Statesville, N.C. 28677. Applicant's representative: H. Charles Ephraim, 1411 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Thermoplastic materials and compounds* (except in bulk), from Statesville, N.C., to Irondale, Ala., City of Industry, Calif., Bridgeport, Conn., West Chicago, Ill., Wooster, Ohio, and Winchester, Va.; (2) *equipment, materials, and supplies used in the manufacture of thermoplastic materials, compounds, and products* (except in bulk), from Statesville, N.C., to Salinas, Calif., West Chicago, Ill., Wooster, Ohio, and Winchester, Va.; (3) *thermoplastic materials and compounds, thermoplastic products, and equipment, materials, and supplies used in the manufacture of thermoplastic materials, compounds, and products* (except in bulk), from Salinas, Calif., West Chicago, Ill., Wooster, Ohio, and Winchester, Va., to Statesville, N.C.; (4) *equipment, materials, and supplies used in the fabrication of wooden bins* (except in bulk), from points in North Carolina to Bartow, Fla.; (5) *wooden crates and boxes*, set up and knocked down, from Statesville, N.C., to points in Georgia, South Carolina, Virginia, West Virginia, Alabama, Arkansas, Louisiana Maryland, Mississippi, and Pennsylvania, the service herein is to be performed for the account of Fusion Rubbermaid Corp., for 180 days. Supporting shipper: Fusion Rubbermaid Corp., Post Office Box 1308, Statesville, N.C. 28677. Send protests to: Jack K. Huff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 417, BSR Building, 316 East Morehead Street, Charlotte, N.C. 28202.

No. MC 129405 (Sub-No. 2 TA), filed May 23, 1968. Applicant: SQUAMISH TRANSFER LIMITED, 900 West First Street, North Vancouver, British Columbia, Canada. Applicant's representative: George R. Labissioniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from ports of entry on the United States-Canada border at or near Blaine, Wash., to Seattle, Wash., for 180 days. Supporting shipper: Continental Can Co. of Canada, Ltd., Post Office Box 20, New Westminster, British Columbia, Canada. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 129922 (Sub-No. 1 TA), filed May 23, 1968. Applicant: RODNEY M. BOWIE, doing business as BOWIE'S STONE SUPPLY CO., Route 1, Box 51, Dickerson, Md. 20753. Applicant's representative: Robert R. Tiernan, 1712 N Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flagstone*, granite, slate, other than crushed or pulverized, from points in Vermont, Pennsylvania, New York, New Jersey, Tennessee, North Carolina, and Virginia to points in Washington, D.C., Maryland, and Virginia, for 180 days. Supporting shipper: Albert J. Battista, Battista Stone Co., Inc., 10001-7 Locks Road, Bethesda, Md. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-6492; Filed, May 31, 1968; 8:47 a.m.]

[Notice 147]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 28, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), 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-70356. By order of May 20, 1968, the Transfer Board approved the transfer to Niagara Falls Industrial Trucking Co., Ltd., 2004 Coholan Street, Niagara Falls, Ontario, Canada, of the operating rights in certificate No. MC-110647 issued October 30, 1967, to Joseph Sarkany and John L. Young, a partnership, doing business as Industrial Trucking Co., Niagara Falls, Ontario, Canada, authorizing the transportation of crude artificial abrasives, in bulk, in dump trucks, between the United States-Canada boundary line at Niagara Falls, N.Y., on the one hand, and, on the other, Niagara Falls and Wheatfield (Niagara County), N.Y.

No. MC-FC-70407. By order of May 21, 1968, the Transfer Board approved the transfer to Piggy Shuttle, Inc., New York, N.Y., of permit in No. MC-2294, issued September 25, 1950, to William R. Struck & Sons, Inc., acquired by Vincent P. Grompone, Metuchen, N.J., pursuant to No. MC-FC-68604, and authorizing the transportation of, such merchandise as is dealt in wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business; and fruits, vegetables, farm products, poultry, and sea food; from and to or between points in the New York, N.Y., area, and those in a northern New Jersey territory as specified. George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306, counsel for applicants.

No. MC-FC-70476. By order of May 20, 1968, the Transfer Board approved the transfer to Kelly & Adkins Trucking Co., Inc., Jenkins, Ky., of the operating rights in certificates Nos. MC-126210 and MC-126210 (Sub-No. 1) issued July 14, 1965, and September 18, 1967, respectively, to Dallas Kelly, Freeman Adkins, and Eugene Adkins, doing business as Kelly & Adkins Trucking Co., Jenkins, Ky., authorizing the transportation of: (1) *Used coal mining machinery and used coal mining equipment* which because of size or weight require special equipment or handling, and *materials and supplies* used in connection with the coal mining industry, except commodities in bulk, and (2) *crushed stone, limestone, gravel, aggregates, and agricultural lime*, between specified points in Kentucky, Virginia, Pennsylvania, Tennessee, and West Virginia. Fred F. Bradley, 213 St. Clair Street, Frankfort, Ky. 40601, attorney for applicants.

No. MC-FC-70481. By order of May 20, 1968, the Transfer Board approved the transfer to Paul E. Confer, Howard, Pa., of the operating rights in certificates Nos. MC-96235 and MC-96235 (Sub-No. 5) issued May 26, 1950, and June 26, 1950, respectively, to Charles W. King, Beavertown, Pa., authorizing the transportation of fertilizer, fertilizer materials, brick, floor and structural tile, brick chips, and brick and shale granules, from and to points as specified in Maryland, Pennsylvania, New Jersey, Delaware, Connecticut, New York, Virginia, and the District of Columbia. John M. Musselman, 400 North Third Street, Harrisburg, Pa. 17108, attorney for applicants.

No. MC-FC-70500. By order of May 20, 1968, the Transfer Board approved the transfer to Bob Kilpatrick, Moving & Storage Inc., Northvale, N.J., of that portion of certificate No. MC-68472 issued September 17, 1940, to Herman Meyers Moving Co., Inc., Brooklyn, N.Y., remaining after the transfer approved in No. MC-FC-70373, authorizing the transportation of household goods, over irregular routes, between New York, N.Y. (except those points in the New York, N.Y., commercial zone within Westchester County, N.Y.), on the one hand, and on the other, points in New York (except those in the New York, N.Y., commercial zone within Westchester County, N.Y.), Connecticut, Massachusetts, Rhode Island, Maine, Vermont, New Jersey, Pennsylvania, Delaware, Maryland, New Hampshire, and the District of Columbia. Robert B. Pepper, Registered Practitioner, 297 Academy Street, Jersey City, N.J. 07306, representative for applicants.

No. MC-FC-70505. By order of May 20, 1968, the Transfer Board approved the transfer to R. L. Whitehead, Inc., Hobgood, N.C., of the operating rights in certificate No. MC-5382 issued August 11, 1937, to Ralph Whitehead, Hobgood, N.C., authorizing the transportation of livestock, farm produce, and forest products, from Hobgood, N.C., and points within 50 miles thereof, to Franklin, Suffolk, Norfolk, and Richmond, Va.; fertilizer and fertilizer materials, from Richmond and Norfolk, Va., to points in North Carolina within 50 miles of Hobgood, N.C.; feed, groceries, bagging, and ties, from Norfolk, Va., to points in North Carolina within 50 miles of Hobgood, N.C., and household goods, office furniture, and store fixtures, between Hobgood, N.C., on the one hand, and, on the other, points in Virginia. Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, N.C. 27601, attorney for applicants.

No. MC-FC-70507. By order of May 20, 1968, the Transfer Board approved the transfer to Louis T. Boulden, 32 Honeysuckle Drive, Wilmington, Del. 19804, of the operating rights in certificate No. MC-95327 issued July 1, 1941, to Harry D. Boulden, 26 Honeysuckle Drive, Wilmington, Del. 19804, authorizing the transportation of passengers and their baggage, in charter operations, from points in New Castle County, Del., to Washington, D.C., and points in Virginia, Maryland, and Pennsylvania.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-6493; Filed, May 31, 1968; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30-6 (Southwestern Area), Disaster No. 636]

MANAGER, DISASTER BRANCH OFFICE, WESLACO, TEX.

Delegation of Authority

Delegation of Authority from Area Administrator, Southwestern Area, SBA, to Manager, Disaster Branch Office, SBA, Weslaco, Tex.

Notice is hereby given that Delegation of Authority No. 30-6 to Manager, Disaster Branch Office, Weslaco, Tex. (Disaster No. 636), 32 F.R. 14289, October 14, 1967, is hereby rescinded in its entirety.

Effective date: May 15, 1968.

ROBERT E. WEST,
Area Administrator.

[F.R. Doc. 68-6442; Filed, May 31, 1968; 8:45 a.m.]

FEDERAL REGISTER

VOLUME 33 • NUMBER 107

Saturday, June 1, 1968 • Washington, D.C.

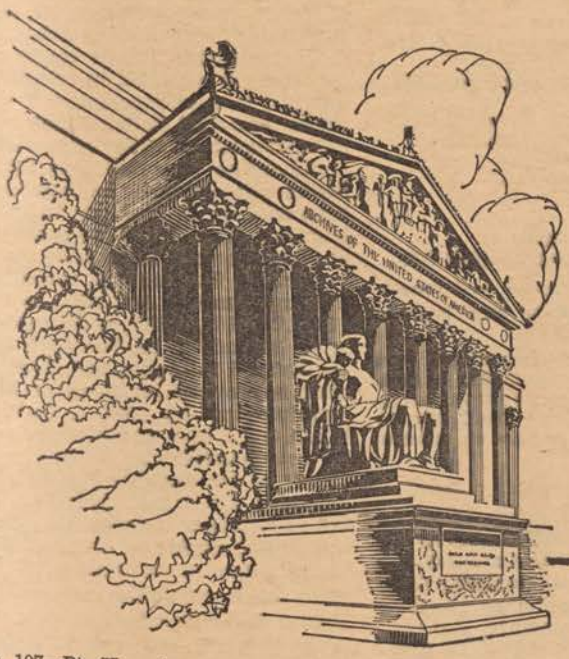
PART II

Department of the Treasury

Bureau of Customs

•

Antidumping Regulations



Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T.D. 68-148]

ANTIDUMPING REGULATIONS

Notice of a proposal to amend the Customs Regulations providing procedures under the Antidumping Act, 1921, was published in the FEDERAL REGISTER for October 28, 1967 (32 F.R. 14955). Interested persons were given an opportunity to submit relevant data, views, or arguments in writing regarding the proposed amendments.

Due consideration has been given to all comments, views, and other data received. In response to those comments or for editorial purposes, changes have been made in §§ 53.15, 53.23, 53.26, 53.29, 53.30, 53.31, 53.33, 53.34, 53.35, 53.36, 53.38 (renumbered § 53.37), 53.48, and 53.52.

Accordingly, the Customs Regulations are amended, to add a new Part 53, Antidumping, and to delete §§ 14.6 through 14.13, 16.21, 16.22, and 17.9 of the regulations as follows:

PART 14—APPRAISEMENT

§§ 14.6–14.13 [Deleted]

Part 14 is amended by deleting therefrom §§ 14.6 through 14.13, entitled "Procedure under Antidumping Act" and footnotes 14 and 15 thereto.

(Sec. 407, 42 Stat. 18; 5 U.S.C. 301, 19 U.S.C. 173)

PART 16—LIQUIDATION OF DUTIES

§§ 16.21 and 16.22 [Deleted]

Part 16 is amended by deleting therefrom §§ 16.21 and 16.22 and footnote 16.

(Sec. 407, 42 Stat. 18; 5 U.S.C. 301, 19 U.S.C. 173)

PART 17—PROTESTS AND REAPPRAISEMENTS

§ 17.9 [Deleted]

Part 17 is amended by deleting therefrom § 17.9 and footnote 10 thereto, and by amending the center heading preceding § 17.9 to read: "American Producers' Appeals and Protests."

(Sec. 407, 42 Stat. 18; 5 U.S.C. 301, 19 U.S.C. 173)

PART 53—ANTIDUMPING

A new Part 53, entitled "Antidumping," is added to read as follows:

Sec.
53.1 Scope.

Subpart A—Fair Value

53.2 Fair value; definition.
53.3 Fair value based on price in country of exportation; the usual test.
53.4 Fair value based on sales for exportation to countries other than the United States.
53.5 Fair value based on constructed value.
53.6 Calculation of fair value.
53.7 Fair value; differences in quantities.
53.8 Fair value; circumstances of sale.
53.9 Fair value; similar merchandise.
53.10 Fair value; offering price.
53.11 Fair value; sales agency.
53.12 Fair value; fictitious sales.
53.13 Fair value; sales at varying prices.
53.14 Fair value; quantities involved and differences in price.
53.15 Fair value; revision of prices or other changed circumstances.
53.16 Fair value; shipments from intermediate country.

Subpart B—Availability of Information

53.23 Availability of information in antidumping proceedings.

Subpart C—Procedure Under Antidumping Act, 1921

53.25 Suspected dumping; information from customs officer.
53.26 Suspected dumping; information from persons outside Customs Service.
53.27 Suspected dumping; nature of information to be made available.
53.28 Adequacy of information.
53.29 Initiation of antidumping proceeding; summary investigation.
53.30 Antidumping Proceeding Notice.
53.31 Full scale investigation.
53.32 Determination as to fact or likelihood of sales at less than fair value.
53.33 Negative determination.
53.34 Withholding of appraisement.
53.35 Affirmative determination; general.
53.36 Affirmative determination; Appraisement withheld pursuant to § 53.34 (b).
53.37 Affirmative determination—Opportunity to present views.
53.38 Referral to U.S. Tariff Commission.
53.39 Revocation of determination of sales at less than fair value; determination of sales at not less than fair value.
53.40 Dumping finding.
53.41 Modification or revocation of finding.
53.42 Publication of determinations and findings.
53.43 List of current findings.

Subpart D—Action by District Director of Customs

53.48 Action by the District Director of Customs.
53.49 Certificate of importer.
53.50 Appraisement of merchandise covered by Form 4.
53.51 Appraisement when required certificate not filed.
53.52 Reimbursement of dumping duties.
53.53 Release of merchandise; bond.
53.54 Type of bond required.
53.55 Conversion of currencies.
53.56 Dumping duty.
53.57 Notice to importer.
53.58 Dumping duty; Samples.
53.59 Method of computing dumping duty.

Subpart E—Antidumping Appeals and Protests

53.64 Antidumping appeals and protests procedure.

AUTHORITY: The provisions of this Part 53 issued under secs. 201–212, 407, 42 Stat. 11 et seq., as amended, sec. 5, 72 Stat. 585, secs. 406, 407, 42 Stat. 18; 5 U.S.C. 301, 19 U.S.C. 160–173. Other authorities are cited to text in parentheses.

§ 53.1 Scope.

This part sets forth procedures and rules applicable to proceedings under the Antidumping Act, 1921, as amended, the assessment of the special dumping duty, appeals for reappraisement, applications for review of reappraisements, and protests relating to matters under the Antidumping Act, 1921, as amended.

Subpart A—Fair Value

§ 53.2 Fair value; definition.

For the purposes of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), the fair value of the imported merchandise shall be determined in accordance with §§ 53.3 to 53.5.

§ 53.3 Fair value based on price in country of exportation; the usual test.

(a) *General.* Merchandise imported into the United States will ordinarily be considered to have been sold, or to be likely to be sold, at less than fair value if the purchase price or exporter's sales price (as defined in sections 203 and 204, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is, or is likely to be, less than the price (as defined in section 205, after adjustment as provided for in section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 164, 161)), at which such or similar merchandise (as defined in section 212(3) of the Antidumping Act, 1921, as amended (19 U.S.C. 170a(3))) is sold for consumption in the country of exportation on or about the date of purchase or agreement to purchase of the merchandise imported into the United States if purchase price applies, or on or about the date of exportation thereof if exporter's sales price applies.

(b) *Restricted sales.* When home market sales form the appropriate basis of comparison, they will be used for this purpose whether or not they are restricted. If there should be restrictions which affect the value of the merchandise, appropriate adjustment of the home market price will be made.

§ 53.4 Fair value based on sales for exportation to countries other than the United States.

(a) *General.* If it is demonstrated that during a representative period the quantity of such or similar merchandise sold for consumption in the country of exportation is so small, in relation to the quantity sold for exportation to countries other than the United States, as to be an inadequate basis for comparison, then merchandise imported into the United States will ordinarily be deemed to have been sold, or to be likely to be sold, at less than fair value if the purchase price or the exporter's sales price (as defined in sections 203 and 204, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is, or is likely to be, less than the price (as defined in section 205, after adjustment as provided for in section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 164, 161)), at which such or similar merchandise (as defined in section 212(3) of the Antidumping Act, 1921, as amended (19 U.S.C. 170a(3))) is sold for exportation to countries other than the United States on or about the date of purchase or of agreement to purchase the merchandise imported into the United States if purchase price applies, or on or about the date of exportation thereof if exporter's sales price applies.

(b) *Twenty-five percent rule.* Generally, the quantity of such or similar merchandise sold for consumption in the country of exportation will be considered to be an inadequate basis for comparison if it is less than 25 percent of the quantity sold other than for exportation to the United States.

(c) *Restricted sales.* When third country sales form the appropriate basis of comparison, they will be used for this purpose whether or not they are restricted. If there should be restrictions which affect the value of the merchandise, appropriate adjustment of the third country price will be made.

§ 53.5 Fair value based on constructed value.

(a) *General.* If the information available is deemed by the Secretary insufficient or inadequate for a determination under § 53.3 or § 53.4, he will determine fair value on the basis of the constructed value as defined in section 206 of the Antidumping Act, 1921, as amended (19 U.S.C. 165).

(b) *Merchandise from controlled economy country.* Ordinarily, if the information available indicates that the economy of the country from which the merchandise is exported is controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of fair value under § 53.3 or § 53.4, the Secretary will determine fair value on the basis of the constructed value of the merchandise determined on the normal costs, expenses, and profits as reflected by the prices at which such or similar merchandise is sold by a non-state-controlled-economy country either (1) for consumption in its own market; or (2) to other countries, including the United States.

§ 53.6 Calculation of fair value.

In calculating fair value under section 201(a), Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), the criteria in §§ 53.7 through 53.16 shall apply.

§ 53.7 Fair value; differences in quantities.

(a) *General.* In comparing the purchase price or exporter's sales price, as the case may be, with such applicable criteria as sales or offers, on which a determination of fair value is to be based, reasonable allowances will be made for differences in quantities if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. In determining the question of allowances for differences in quantity, consideration will be given, among other things, to the practice of the industry in the country of exportation with respect to affording in the home market (or third country markets, where sales to third countries are the basis for comparison) discounts for quantity sales which are freely available to those who purchase in the ordinary course of trade.

(b) *Criteria for allowances.* Allowances for price discounts based on sales in large quantities ordinarily will not be made unless:

(1) *Six-month rule.* The exporter during the 6 months prior to the date when the question of dumping was raised or presented (or during such other period as investigation shows is more representative) had been granting quantity discounts of at least the same magnitude with respect to 20 percent or more of such or similar merchandise which he sold in the home market (or in third country markets when sales to third countries are the basis for comparison) and that such discounts had been freely available to all purchasers; or

(2) *Cost justification.* The exporter can demonstrate that the discounts are warranted on the basis of savings specifically attributable to the quantities involved.

(c) *Price lists.* In determining whether a discount has been given, the presence or absence of a published price list reflecting such a discount is not controlling. In certain lines of trade, price lists are not commonly published and in others although commonly published they are not commonly adhered to.

§ 53.8 Fair value; circumstances of sale.

(a) *General.* In comparing the purchase price or exporter's sales price, as the case may be, with the sales, or other criteria applicable, on which a determination of fair value is to be based, reasonable allowances will be made for bona fide differences in circumstances of sale if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. Differences in circumstances of sale for which such allowances will be made are limited, in general, to those circumstances which bear a reasonably direct relationship to the sales which are under consideration.

(b) *Examples.* Examples of differences in circumstances of sale for which reasonable allowances generally will be made are those involving differences in credit terms, guarantees, warranties, technical assistance, servicing, and assumption by a seller of a purchaser's advertising or other selling costs. Reasonable allowances will also generally be made for differences in commissions. Except in those instances where it is clearly established that the differences in circumstances of sale bear a reasonably direct relationship to the sales which are under consideration, allowances generally will not be made for differences in research and development costs, production costs, and advertising and other selling costs of a seller unless such costs are attributable to a later sale of merchandise by a purchaser: *Provided,* That reasonable allowances for selling expenses generally will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual selling expense incurred in the one market or the total amount of the commission allowed in such other market, whichever is less.

(c) *Relation to market value.* In determining the amount of the reasonable allowances for any differences in circumstances of sale, the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise but, where appropriate, may also consider the cost of such differences to the seller, as contributing to an estimate of market value.

§ 53.9 Fair value; similar merchandise.

In comparing the purchase price or exporter's sales price, as the case may be, with the selling price in the home market, or for exportation to countries other than the United States, in the case of similar merchandise described in subdivisions (C), (D), (E), or (F) of section 212(3), Antidumping Act, 1921, as amended (19 U.S.C. 170a(3)), due allowance shall be made for differences in the merchandise. In this regard the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise but, when appropriate, he may also consider differences in cost of manufacture if it is established to his satisfaction that the amount of any price differential is wholly or partly due to such differences.

§ 53.10 Fair value; offering price.

In the determination of fair value, offers will be considered in the absence of sales, but an offer made in circumstances in which acceptance is not reasonably to be expected will not be deemed to be an offer.

§ 53.11 Fair value; sales agency.

If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207 of the Antidumping Act, 1921 (19 U.S.C. 166), the price at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in the determination of fair value.

§ 53.12 Fair value; fictitious sales.

In the determination of fair value, no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.

§ 53.13 Fair value; sales at varying prices.

Where the prices in the sales which are being examined for a determination of fair value vary (after allowances provided for in §§ 53.7, 53.8, and 53.9), determination of fair value will take into account the prices of a preponderance of the merchandise thus sold or weighted averages of the prices of the merchandise thus sold. Unless there is a clear preponderance of merchandise sold at the same price, weighted averages of the prices of the merchandise sold normally will be used.

§ 53.14 Fair value; quantities involved and differences in price.

Merchandise will not be deemed to have been sold at less than fair value unless the quantity involved in the sale or sales to the United States, or the difference between the purchase price or exporter's sales price, as the case may be, and the fair value, is more than insignificant.

§ 53.15 Fair value; revision of prices or other changed circumstances.

(a) *Discontinuance of investigation.* Whenever the Secretary of the Treasury is satisfied during the course of an antidumping investigation that either

(1) Price revisions have been made which eliminate the likelihood of sales at less than fair value and that there is no likelihood of resumption of the prices which prevailed before such revision; or

(2) Sales to the United States of the merchandise have terminated and will not be resumed;

or whenever the Secretary concludes that there are other changed circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation, the Secretary may publish a notice to this effect in the FEDERAL REGISTER.

(b) *Notice.* The notice shall state the facts relied on by the Secretary in publishing the notice and that those facts are considered to be evidence that there are not and are not likely to be sales at less than fair value. The notice shall also state that unless persuasive evidence or argument to the contrary is presented within 30 days the Secretary will determine that there are not and are not likely to be sales at less than fair value. The acceptance of assurances to revise prices or the termination of sales at less than fair value will not prevent the Secretary from making a determination of sales at less than fair value in any case where he considers such action appropriate or if the exporters have requested such action.

§ 53.16 Fair value; shipments from intermediate country.

If the merchandise is not imported directly from the country of origin, but is shipped to the United States from another country, the price at which such or similar merchandise is sold in the country of origin will be used in the determination of fair value if the merchandise was merely transshipped through the country of shipment.

Subpart B—Availability of Information

NOTE: For Bureau of Customs general provisions relating to availability of information see Part 26 of this chapter.

§ 53.23 Availability of information in antidumping proceedings.

(a) *Information generally available.* In general, all information but not necessarily all documents, obtained by the Treasury Department including the Bureau of Customs, in connection with any antidumping proceeding will be available for inspection or copying by any person. With respect to documents prepared by an officer or employee of the United States, factual material, as distinguished from recommendations and evaluations, contained in any such document will be made available by summary or otherwise on the same basis as information contained in other documents. Attention is directed to § 24.12 of this chapter relating to fees charged for providing copies of documents.

(b) *Requests for confidential treatment of information.* Any person who submits information in connection with an antidumping proceeding may request that such information, or any specified part thereof, be held confidential. Information covered by such a request shall be set forth on separate pages from other information; and all such pages shall be clearly marked "Confidential Treatment Requested." The Commissioner of Customs or the Secretary of the Treasury or the delegate of either will determine, pursuant to paragraph (c) of this section, whether such information, or any part thereof, shall be treated as confidential. If it is so determined, the information covered by the determination will not be made available for inspection or copying by any person other than an officer or employee of the U.S. Government or a person who has been specifically authorized to receive it by the person requesting confidential treatment. If it is determined that information submitted with such a request, or any part thereof, should not be treated as confidential, or that summarized or approximated presentations thereof should be made available for disclosure, the person who has requested confidential treatment thereof shall be promptly so advised and, unless he thereafter agrees that the information, or any specified part or summary or approximated presentations thereof, may be disclosed to all interested parties, the information will not be made available for disclosure, but to the extent that it is self-serving it will be disregarded for the purpose of the determination as to sales at less than fair value and no reliance shall be placed thereon in this connection, unless it can be demonstrated from other sources that the information is correct.

(c) *Standards for determining whether information will be regarded as confidential*—(1) *General.* Information will ordinarily be considered to be confidential only if its disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information. Further, if disclosure of information in specific terms or with identifying details would be inappropriate under this standard, the information will ordinarily be considered appropriate for disclosure in generalized, summary or approximated form, without identifying details, unless the Commissioner of Customs or the Secretary of the Treasury or the delegate of either determines that even in such generalized, summary or approximated form, such disclosure would still be of significant competitive advantage to a competitor or would still have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information. As indicated in paragraph (b) of this section, however, the decision that information is not entitled to protection from disclosure in its original or in another form will not lead to its disclosure unless the person supplying it consents to such disclosure.

(2) *Information ordinarily regarded as appropriate for disclosure.* Information will ordinarily be regarded as appropriate for disclosure if it

(i) Relates to price information;

(ii) Relates to claimed freely available price allowances for quantity purchases; or

(iii) Relates to claimed differences in circumstances of sale.

(3) *Information ordinarily regarded as confidential.* Information will ordinarily be regarded as confidential if its disclosure would

(i) Disclose business or trade secrets;

(ii) Disclose production costs;

(iii) Disclose distribution costs, except to the extent that such costs are accepted as justifying allowances for quantity or differences in circumstances of sale;

(iv) Disclose the names of particular customers or the price or prices at which particular sales were made.

(5 U.S.C. 552)

Subpart C—Procedure Under Antidumping Act, 1921

§ 53.25 Suspected dumping; information from customs officer.

If any district director of customs has knowledge of any grounds for a reason to believe or suspect that any merchandise is being, or is likely to be, imported into the United States at a purchase price or exporter's sales price less than the foreign market value (or, in the absence of such value, than the constructed value), as contemplated by section 201(b) Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), or at less than its "fair value" as that term is defined in § 53.2, he shall communicate his belief or suspicion promptly to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in § 53.27, if the district director has such information or if it is readily available to him.

§ 53.26 Suspected dumping; information from persons outside Customs Service.

Any person outside the Customs Service who has information that merchandise is being, or is likely to be, imported into the United States under such circumstances as to bring it within the purview of the Antidumping Act, 1921, as amended, may, on behalf of an industry in the United States, communicate such information in writing to the Commissioner of Customs.

§ 53.27 Suspected dumping; nature of information to be made available.

Communications to the Commissioner pursuant to § 53.26, regarding suspected dumping should, to the extent feasible, contain or be accompanied by the following:

(a) A detailed description or sample of the merchandise; if no sample is furnished, the Bureau of Customs may call upon the person who furnished the information to furnish samples of the imported and competitive domestic articles, or either;

(b) The name of the country from which it is being, or is likely to be, imported;

(c) The name of the exporter or exporters and producer or producers, if known;

(d) The ports or probable ports of importation into the United States;

(e) Information indicating that an industry in the United States is being injured, or is likely to be injured, or prevented from being established;

(f) Such detailed data as are available with respect to values and prices indicating that such merchandise is being, or is likely to be, sold in the United States at less than its fair value, within the meaning of the Antidumping Act, 1921, as amended, including information as to any differences between the foreign market value or constructed value and the purchase price or exporter's sales price which may be accounted for by any difference in taxes, discounts, incidental costs such as those for packing or freight, or other items.

(g) Such material as is available indicating the market price for similar merchandise in the country of exportation and in any third countries in which merchandise of the producer complained of is known to be sold.

(h) Such information as is available as to sales made for consumption in the country of exportation or for exportation otherwise than to the United States over a significant period of time prior to the date upon which the information is furnished.

(i) Such suggestions as the person furnishing the information may have as to specific avenues of investigation to be pursued or questions to be asked in seeking pertinent information.

§ 53.28 Adequacy of information.

If any information filed pursuant to § 53.26 in the opinion of the Commissioner does not conform substantially with the requirements of § 53.27, the Commissioner shall return the communication to the person who submitted it with detailed written advice as to the respects in which it does not conform.

§ 53.29 Initiation of antidumping proceeding; summary investigation.

Upon receipt of information pursuant to § 53.25 or § 53.26 in a form acceptable to the Commissioner, the Commissioner shall conduct a summary investigation. If he determines that the information is patently in error, or that merchandise of the class or kind is not being and is not likely to be imported in more than insignificant quantities, or for other reasons determines that further investigation is not warranted, he shall so advise the person who submitted the information and the case shall be closed.

§ 53.30 Antidumping Proceeding Notice.

If the case has not been closed under § 53.29, the Commissioner shall publish a notice in the FEDERAL REGISTER that information in an acceptable form has been received pursuant to § 53.25 or § 53.26. This notice, which may be referred to as the "Antidumping Proceeding Notice," will specify—

(a) Whether the information relates to all shipments of the merchandise in question from an exporting country, or only to shipments by certain persons or firms; in the latter case, the names of such persons and firms will be specified.

(b) The date on which information in an acceptable form was received and that date shall be the date on which the question of dumping was raised or presented for purposes of sections 201(b) and 202(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b) and 161(a)).

(c) The fact that there is some evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

(d) A summary of the information received. If a person outside the Customs Service raised or presented the question of dumping, his name shall be included in the notice unless a determination under § 53.23 requires that his name not be disclosed.

§ 53.31 Full-scale investigation.

(a) *Initiation of investigation.* Upon publication of an Antidumping Proceeding Notice the Commissioner shall proceed, by a full-scale investigation, or otherwise, to obtain such additional information, if any, as may be necessary to enable the Secretary to reach a determination as provided by § 53.32. In order to verify the information presented, or to obtain further details, investigations will, where appropriate, be conducted by Customs Representatives in foreign countries, unless the country concerned objects to the investigation. If an adequate investigation is not permitted, or if any necessary information is withheld, the Secretary will reach a determination on the basis of such facts as are available to him.

(b) *Termination of investigation.* If at any time during an investigation the Commissioner determines that further investigation is not warranted by the facts of the case, he may recommend to the Secretary that the case be closed by a determination of no sales at less than fair value.

§ 53.32 Determination as to fact or likelihood of sales at less than fair value.

(a) *Fair value determination.* Upon receipt from the Commissioner of Customs of the information referred to in § 53.31, the Secretary of the Treasury will proceed as promptly as possible to determine whether or not the merchandise in question is in fact being, or is likely to be, sold in the United States or elsewhere at less than its fair value.

(b) *Submission of views.* During the course of an antidumping proceeding interested persons may make such written submissions as they desire. Appropriate consideration will be given to any new or additional information submitted. The Secretary or his delegate also may at any time invite any person or persons to supply him orally with information or argument.

§ 53.33 Negative determination.

(a) *Notice of Tentative Negative Determination.* If it appears to the Secretary that on the basis of information before him a determination of sales at not less than fair value may be required, he will publish in the FEDERAL REGISTER a "Notice of Tentative Negative Determination," which will include a statement of the reasons upon which the tentative determination is based.

(b) *Opportunity to present views*—(1) *Written.* Interested persons may make such written submissions as they desire, within a period which will be specified in the notice, with respect to the contemplated action. Appropriate consideration will be given to any new or additional information or argument submitted.

(2) *Oral.* If any person believes that any information obtained by the Bureau of Customs in the course of the 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. Upon receipt of such a request, the Secretary will notify the person who supplied any information, the accuracy of which is questioned and such other person or persons, if any, as he in his discretion may deem to be appropriate. If the Secretary is satisfied that the circumstances so warrant, an opportunity will be afforded by the Secretary or his delegate for all such persons to appear, through their counsel or in person, accompanied by counsel if they so desire, to make known their respective points of view and to supply such further information or argument as may be of assistance in leading to a conclusion as to the accuracy of the information in question. The Secretary or his delegate may at any time invite any person or persons to supply him orally with information or argument.

(c) *Final determination.* As soon as possible thereafter, the Secretary will make a final determination and publish his determination in the FEDERAL REGISTER.

(d) *Negative determination after issuance of a withholding of appraisement notice.* The procedure specified in paragraphs (a), (b), and (c) of this section will not apply if the decision to issue a negative determination is made by the Secretary after a withholding of appraisement notice has been issued and

thereafter he has afforded interested parties an opportunity to be heard pursuant to the provisions of § 53.37. In lieu thereof a final negative determination will be published setting forth the statement of reasons.

§ 53.34 Withholding of appraisement.

(a) *Three-month period.* If the Commissioner determines during the course of his investigations that there are reasonable grounds to believe or suspect that any merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, then its constructed value) under the Antidumping Act, and if there is evidence on record concerning injury or likelihood of injury to or prevention of establishment of an industry of the United States, he shall publish notice of these facts in the FEDERAL REGISTER in a "Withholding of Appraisement Notice," indicating—

(1) That the belief or suspicion relates only to certain shippers or producers, if this is the case and that the investigation is limited to the transactions of such shippers or producers;

(2) The expiration date of the notice (which shall be no more than 3 months from the date of publication of the notice in the FEDERAL REGISTER, unless a longer period of withholding of appraisement has been requested by the importer and the exporter pursuant to paragraph (b) and has been approved by the Commissioner).

This withholding of appraisement notice will be issued concurrently with the Secretary's determination pursuant to § 53.35, unless appraisement is being withheld pursuant to paragraph (b) of this section.

(b) *Six-month period.* At any time prior to the issuance of the withholding of appraisement notice referred to in paragraph (a) of this section, importers and exporters concerned may request that the period of withholding of appraisement extend for a period longer than 3 months, but in no case longer than 6 months. Upon the receipt of such a request from importers and exporters concerned the Commissioner will decide whether appraisement should be withheld for a period longer than 3 months. If the Commissioner decides that a period of withholding of appraisement longer than 3 months is justified, he will publish a withholding of appraisement notice upon the same basis and containing information of the same type as is required by paragraph (a) of this section, except that the expiration date of the notice may be 6 months from the date of publication of the notice in the FEDERAL REGISTER.

(c) *Advice to District Directors of Customs.* The Commissioner shall advise all district directors of customs of his action. Upon receipt of such advice the district director of customs shall proceed to withhold appraisement in accordance with the pertinent provisions of § 53.48.

(d) *Notice issued before July 1, 1968.* The time limitations of this section do not apply to withholding of appraisement notices issued before July 1, 1968.

§ 53.35 Affirmative determination; general.

If it appears to the Secretary on the basis of the information before him that a determination of sales at less than fair value is required, unless the withholding of appraisement notice was issued pursuant to § 53.34(b), he will publish in the FEDERAL REGISTER his Determination of Sales at Less Than Fair Value. This determination will include

(a) An adequate description of the merchandise;

(b) The name of each country of exportation;

(c) The name of the supplier or suppliers, if practicable;

(d) The date of the receipt of the information in an acceptable form;

(e) Whether the appropriate basis of comparison is purchase price or exporter's sales price; and

(f) A statement of reasons upon which the determination is based.

§ 53.36 Affirmative determination; appraisement withheld pursuant to § 53.34(b).

If it appears to the Secretary on the basis of the information before him that a determination of sales at less than fair value is required, and if a withholding of appraisement notice has been issued pursuant to § 53.34(b), he will publish in the FEDERAL REGISTER his Determination of Sales at Less Than Fair Value within 3 months from the date of publication of such withholding of appraisement notice. This determination will contain information of the same type as required in § 53.35 (a) through (f).

§ 53.37 Affirmative determination—opportunity to present views.

As soon as possible after the publication of the withholding of appraisement notice if any person believes that for any reason the withholding action is in error, he may request that the Secretary of the Treasury afford him an opportunity to present his views in this regard. Upon receipt of such a request the Secretary will notify each person who supplied any information, relied upon in connection with the withholding action, and such other person or persons, if any, as he may deem to be appropriate. If the Secretary is satisfied that the circumstances so warrant, an opportunity will be afforded by the Secretary or his delegate for all interested persons to appear, through their counsel or in person, accompanied by counsel if they so desire, to make known their respective points of view and to supply such further information or argument as may be of assistance in a consideration of the matter. Unless for unusual reasons it is clearly impracticable, such meeting will be held within three weeks of the date of the publication of the notice of withholding, unless such notice was issued pursuant to § 53.34(b), when it shall be held within 5 weeks of such publication. Reasonable notice of the meeting will be given.

§ 53.38 Referral to U.S. Tariff Commission.

Whenever the Secretary makes a determination of sales at less than fair value he shall so advise the U.S. Tariff Commission.

§ 53.39 Revocation of determination of sales at less than fair value; determination of sales at not less than fair value.

If the Secretary is persuaded from information submitted or arguments received that his determination of sales at less than fair value was in error, and if the Tariff Commission has not yet issued a determination relating to injury, he will publish a notice of "Revocation of Determination of Sales at Less Than Fair Value; Determination of Sales at Not Less Than Fair Value," or, if appropriate, a notice of "Modification of Determination of Sales at Less Than Fair Value," which notice will state the reasons upon which it was based. He shall notify the Tariff Commission of his action.

§ 53.40 Dumping finding.

If the Tariff Commission determines that there is, or is likely to be, the injury contemplated by the statute, the Secretary of the Treasury will make the finding contemplated by section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), with respect to the involved merchandise.

§ 53.41 Modification or revocation of finding.

(a) *Application to modify or revoke.* An application for the modification or revocation of any finding made as provided for in § 53.40 may be submitted in writing to the Commissioner of Customs, together with detailed information concerning any change in circumstances or practice which has obtained for a substantial period of time, or other reasons, which the applicant believes will establish that the basis for the finding no longer exists with respect to all or any part of the merchandise covered thereby.

(b) *Modification or revocation by Secretary.* The Secretary of the Treasury may on his own initiative modify or revoke a finding of dumping.

(c) *Notice of modification or revocation of finding.* Notice of intent to modify or revoke a finding will be published by the Secretary in the FEDERAL REGISTER. Comments from interested parties will be given consideration if they are received within the period of time stated in the notice.

§ 53.42 Publication of determinations and findings.

Each determination made in accordance with §§ 53.33, 53.34, 53.35, and 53.36, whether such determination is in the affirmative or in the negative, and each finding made in accordance with § 53.40, will be published in the FEDERAL REGISTER, together with a statement of the reasons therefor.

§ 53.43 List of current findings.

The following findings of dumping are currently in effect:

FINDINGS OF DUMPING

Merchandise	Country	T.D.	Modified by
Portland cement, other than white, nonstaining portland cement.	Sweden	55369	
	Belgium	55428	
Portland gray cement	Portugal	55501	
Portland cement, other than white, nonstaining portland cement.	Dominican Republic.	55883	
Chromic acid	Australia	56130	
Steel reinforcing bars	Canada	56150	
Carbon steel bars and structural shapes.	Canada	56264	
Azobisformamide	Japan	56414	
Steel jacks	Canada	66-191	
Cast iron soil pipe	Poland	67-252	

Subpart D—Action by District Director of Customs

§ 53.48 Action by the District Director of Customs.

(a) *Appraisement withheld; notice to importer.* Upon receipt of advice from the Commissioner of Customs pursuant to § 53.34, the district director of customs shall withhold appraisement as to such merchandise entered, or withdrawn from warehouse, for consumption, after the date of publication of the "Withholding of Appraisement Notice," unless the Commissioner's Withholding of Appraisement Notice specifies a different effective date. Each district director of customs shall notify the importer, consignee, or agent immediately of each lot of merchandise with respect to which appraisement is so withheld. Such notice shall indicate (1) the rate of duty of the merchandise under the applicable item of the Tariff Schedules of the United States if known, and (2) the estimated margin of the special dumping duty that could be assessed. Upon advice of a finding made in accordance with § 53.40, the district director of customs shall give immediate notice thereof to the importer when any shipment subject thereto is imported after the date of the finding and information is not on hand for completion of appraisement of such shipment.

(b) *Request to proceed with appraisement.* If, before a finding of dumping has been made, or before a case has been closed without a finding of dumping, the district director of customs is satisfied by information furnished by the importer or otherwise that the purchase price or exporter's sales price, in respect of any shipment, is not less than foreign market value (or, in the absence of such value, than the constructed value), he shall so advise the Commissioner and request authorization to proceed with his appraisement of that shipment in the usual manner.

§ 53.49 Certificate of importer.

If a finding of dumping has been made, the district director of customs shall require the importer or his agent to file a certificate of the importer on the appropriate one of the following forms. A separate certificate shall be required for each shipment.

FORM 1

NONEXPORTER'S CERTIFICATE, ANTIDUMPING ACT, 1921

Port of _____.
Date _____, 19__.

Re: Entry No. _____, dated _____, 19__.
Import carrier: _____.
Arrived _____, 19__.

I certify that I am not the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry. I further certify that the merchandise was purchased for importation by _____ on _____, 19__, and that the purchase price is _____.

(Signed) _____

FORM 2

EXPORTER'S CERTIFICATE WHEN SALES PRICE IS KNOWN, ANTIDUMPING ACT, 1921

Port of _____.
Date _____, 19__.

Re: Entry No. _____, dated _____, 19__.
Import carrier: _____.
Arrived _____, 19__.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry; that the merchandise is sold or agreed to be sold at the price stated in the attached statement; and that, if any of such merchandise is actually sold at any price different from the price stated therefor in the attached statement, I will immediately notify the district director of customs of all the circumstances.

The merchandise was acquired by me in the following manner: _____
_____

and has been sold or agreed to be sold to _____ at _____.
(name and address) (price)

(Signed) _____

FORM 3

EXPORTER'S CERTIFICATE WHEN SALES PRICE IS NOT KNOWN ANTIDUMPING ACT, 1921

Port of _____.
Date _____, 19__.

Re: Entry No. _____, dated _____, 19__.
Import carrier: _____.
Arrived _____, 19__.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry, and that I have no knowledge as to any price at which such merchandise will be sold in the United States. I hereby agree that I will keep a record of the sales and will furnish the district director of customs within 30 days after the sale of any of such merchandise a statement of each selling price. I further agree that, if any of the merchandise has not been sold before the expiration of 6 months from the date of entry, I will so report to the district director of customs upon such expiration date.

The merchandise was acquired by me in the following manner: _____
_____

(Signed) _____

FORM 4

EXPORTER'S CERTIFICATE WHEN MERCHANDISE IS NOT, AND WILL NOT BE, SOLD ANTIDUMPING ACT, 1921

Port of _____.
Date _____, 19__.

Re: Entry No. _____, dated _____, 19__.
Import carrier: _____.
Arrived _____, 19__.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry, and that such merchandise has not been, and will not be, sold in the United States for the following reason: _____
_____

(Signed) _____

(Sec. 486, 46 Stat. 725, as amended; 19 U.S.C. 1486)

§ 53.50 Appraisement of merchandise covered by Form 4.

If an unqualified certificate on Form 4 is filed and the district director of customs is satisfied that no evidence can be obtained to contradict it, the shipment will be appraised without regard to the Antidumping Act.

§ 53.51 Appraisement when required certificate not filed.

If the importer fails to file an appropriate certificate within 30 days following notification by the district director of customs that a certificate is required under section 53.49, appraisement shall proceed upon the basis of the best information available.

§ 53.52 Reimbursement of dumping duties.

(a) *General.* In calculating purchase price or exporter's sales price as the case may be, there shall be deducted the amount of any special dumping duties which are, or will be paid by the manufacturer, producer, seller, or exporter, or which are, or will be, refunded to the importer by the manufacturer, producer, seller, or exporter, either directly or indirectly, but a warranty of nonapplicability of dumping duties entered into before the initiation of the investigation, will not be regarded as affecting purchase price or exporter's sales price if it was granted to an importer with respect to merchandise which was:

(1) Purchased, or agreed to be purchased, before publication of a Withholding of Appraisement Notice with respect to such merchandise; and

(2) Exported before a determination of sales at less than fair value is made.

(b) *Statement concerning reimbursement.* Before proceeding with appraisement of any merchandise with respect to which dumping duties are found to be due the district director of customs shall require the importer to file a written statement in the following form:

I hereby certify that I (have) (have not) entered into any agreement or understanding for the payment or for the refunding to me, by the manufacturer, producer, seller, or exporter of all or any part of the special dumping duties assessed upon the following importations of (commodity) from (country): (List entry numbers) which have been purchased on or after (date of publication of withholding in Federal Register or purchased before (same date) but exported on or after (date of determination of sales at less than fair value).

A certificate will be required for all merchandise that is unappraised on the date that the finding of dumping is issued. Thereafter, a separate certificate will be required for each additional shipment.

§ 53.53 Release of merchandise; bond.

When the district director of customs in accordance with § 53.34(c) has received a notice of withheld appraisement or when he has been advised of a finding provided for in § 53.40, and so long as such notice or finding is in effect, he shall withhold release of any merchandise of a class or kind covered by such notice or finding which is then in his custody or is thereafter imported, unless an appropriate bond is filed or is on file, as specified hereafter in § 53.54, or unless the merchandise covered by a specified entry will be appraised without regard to the Antidumping Act, 1921, as amended.

§ 53.54 Type of bond required.

(a) *General.* If the merchandise is of a class or kind covered by a notice of withheld appraisement provided for in § 53.48(a) or by a finding provided for in § 53.40, a single consumption entry bond covering the shipment, in addition to any other required bond, shall be furnished by the person making the entry or withdrawal, unless—

(1) A bond is required under paragraph (b) of this section; or

(2) In cases in which there is no such requirement the district director of customs is satisfied that the bond under which the entry was filed is sufficient. The face amount of any additional bond required under this paragraph shall be sufficient to assure payment of any special duty that may accrue by reason of the Antidumping Act, but in no case shall be for less than $100.

(b) *Bond on customs Form 7591.* If the merchandise is of a class or kind covered by a finding provided for in § 53.40 and the importer or his agent has filed a certificate on Form 3 (section 53.49), the bond required by section 208 of the Antidumping Act, 1921 (19 U.S.C. 167), shall be on customs Form 7591. In such case, a separate bond shall be required for each entry or withdrawal, and such bond shall be in addition to any other bond required by law or regulation. The record of sales required under the conditions of the bond of customs Form 7591 shall identify the entry covering the merchandise and show the name and address of each purchaser, each selling price, and the date of each sale. The face amount of such bond shall be equal to the estimated value of the merchandise covered by the finding.

§ 53.55 Conversion of currencies.

In determining the existence and amount of any difference between the purchase price or exporter's sales price and the foreign market value (or, in the absence of such value, the constructed value) for the purposes of §§ 53.2 through 53.5, or of section 201(b) or 202(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b), 161(a)), any necessary conversion of a foreign currency into its equivalent in U.S. currency shall be made in accordance with the provisions of section 522, Tariff Act of 1930, as amended (31 U.S.C. 372) and § 16.4 of this chapter, (a) as of the date of purchase or agreement to purchase, if the purchase price is an element of the comparison, or (b) as of the date of exportation, if the exporter's sales price is an element of the comparison.

§ 53.56 Dumping duty.

(a) *Rule for assessment.* Special dumping duty shall be assessed on all importations of merchandise, whether dutiable or free, as to which the Secretary of the Treasury has made public a finding of dumping, entered or withdrawn from warehouse, for consumption, not more than 120 days before the question of dumping was raised by or presented to the Secretary or his delegate, provided the particular importation has not been appraised prior to the publication of such finding, and the district director of customs has determined that the purchase price or exporter's sales price is less than the foreign market value or constructed value, as the case may be.

(b) *Entered value not controlling.* The fact that the importer has added on entry the difference between the purchase price or the exporter's sales price and the foreign market value or constructed value and the district director of customs has approved the resulting entered value shall not prevent the assessment of the special dumping duty.

§ 53.57 Notice to importer.

Before dumping duty is assessed, the district director of customs shall notify the importer, his consignee, or agent of the appraisement of the merchandise, as in the case of an advance in value. If the importer files an appeal for reappraisement, liquidation shall be suspended until the appeal for reappraisement is finally decided.

§ 53.58 Dumping duty; samples.

If the necessary conditions are present, the special dumping duty shall be assessed on samples imported for the purpose of taking orders and making sales in this country.

§ 53.59 Method of computing dumping duty.

If it appears that the merchandise has been purchased by a person not the exporter within the meaning of section 207, Antidumping Act, 1921 (19 U.S.C. 166), the special dumping duty shall equal the difference between the purchase price and the foreign market value on the date of purchase, or, if there is no foreign market value, between the purchase price and the constructed value, any foreign currency involved being converted into U.S. money as of the date of purchase or agreement to purchase. If it appears that the merchandise is imported by a person who is the exporter within the meaning of such section 207, the special dumping duty shall equal the difference between the exporter's sales price and the foreign market value on the date of exportation, or, if there is no foreign market value, between the exporter's sales price and the constructed value, any foreign currency involved being converted into U.S. money as of the date of exportation.

Subpart E—Antidumping Appeals and Protests

§ 53.64 Antidumping appeals and protests procedure.

Appeals for reappraisement, applications for reviews of reappraisements, and protests relating to the Antidumping Act, 1921, as amended, shall be made in the same manner as appeals, applications for review, and protests relating to ordinary customs duties.

These amendments shall become effective on July 1, 1968.

LESTER D. JOHNSON,
Commissioner of Customs.

Approved: _____

_____

Assistant Secretary.

For ready comparison the following parallel reference table shows where former §§ 14.6–14.13, 16.21, 16.22, and 17.9 appear in Part 53.

APPENDIX TO AMENDMENT OF ANTIDUMPING REGULATIONS

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in Part 53 to 19 CFR 14.6–14.13, 16.21, 16.22, and 17.9)

Part 53 Sections		*Part 14 Sections*
53.1	Scope	New.
	SUBPART A—FAIR VALUE	
53.2	Fair value; definition	14.7(a).
53.3	Fair value based on price in country of exportation; The usual test.	14.7(a)(1).
	(a) General.	
	(b) Restricted sales	Footnote 15 to Part 14, Example 1.
53.4	Fair value based on sales for exportation to countries other than the United States.	14.7(a)(2).
	(a) General.	
	(b) Twenty-five percent rule.	
	(c) Restricted sales	Footnote 15 to Part 14, Example 2.
53.5	Fair value based on constructed value	14.7(a)(3).
	(a) General	14.7(a)(3).
	(b) Merchandise from controlled economy country.	New.

APPENDIX TO AMENDMENT OF ANTIDUMPING REGULATIONS—Continued

Part 53 Sections		Part 14 Sections
	SUBPART A—FAIR VALUE—Continued	
53.6	Calculation of fair value	14.7(b).
53.7	Fair value; differences in quantities	14.7(b)(1).
	(a) General.	
	(b) Criteria for allowances.	
	(c) Price lists	Footnote 15 to Part 14, Example 4.
53.8	Fair value; circumstances of sale	14.7(b)(2).
	(a) General.	
	(b) Examples.	
	(c) Relation to market value.	
53.9	Fair value; similar merchandise	14.7(b)(3).
53.10	Fair value; offering price	14.7(b)(4).
51.11	Fair value; sales agency	14.7(b)(5).
53.12	Fair value; fictitious sales	14.7(b)(6).
53.13	Fair value; sales at varying prices	14.7(b)(7).
53.14	Fair value; quantities involved and differences in price	14.7(b)(8).
53.15	Fair value; revision of prices or other changed circumstances	14.7(b)(9).
	(a) Discontinuance of investigation.	
	(b) Notice.	
53.16	Fair value; shipments from intermediate country	New.
53.17—53.22	Reserved.	
	SUBPART B—AVAILABILITY OF INFORMATION	
53.23	Availability of information in antidumping proceedings	14.6a.
	(a) Information generally available	14.6a(a).
	(b) Requests for confidential treatment of information	14.6a(b).
	(c) Standards for determining whether information will be regarded as confidential	14.6a(c).
53.24	Reserved.	
	SUBPART C—PROCEDURE UNDER ANTIDUMPING ACT, 1921	
53.25	Suspected dumping; information from customs officer	14.6(a).
52.26	Suspected dumping; information from persons outside Customs Service	14.6(b).
53.27	Suspected dumping; nature of information to be made available.	14.6(b) and Paragraphs 2 and 3 Footnote 15 to Part 14.
53.28	Adequacy of information	14.6(c).
53.29	Initiation of antidumping proceeding; summary investigation.	14.6(d)(1)(i).
53.30	Antidumping proceeding notice	14.6(d)(1)(i).
53.31	Full scale investigation	14.6(d)(3)(i) and (ii).
	(a) Initiation of investigation.	
	(b) Termination of investigation.	
53.32	Determination as to fact or likelihood of sales at less than fair value.	14.8(a).
	(a) Fair value determination	14.8(a).
	(b) Submission of views	14.8(a).
53.33	Negative determination	14.8(a).
	(a) Notice of tentative negative determination.	14.8(a).
	(b) Opportunity to present views	14.8(a).
	(c) Final determination	14.8(a).
	(d) Negative determination after issuance of a withholding of appraisement notice.	New.

APPENDIX TO AMENDMENT OF ANTIDUMPING REGULATIONS—Continued

Part 53 Sections		Part 14 Sections
	SUBPART C—PROCEDURE UNDER ANTIDUMPING ACT, 1921—Continued	
53.34	Withholding of appraisement	14.6(e).
	(a) Three-month period	New.
	(b) Six-month period	New.
	(c) Advice to District Directors of Customs.	
	(d) Notice issued before July 1, 1968	New.
53.35	Affirmative determination; general	New.
53.36	Affirmative determination; appraisement withheld pursuant to § 53.34(b).	New.
53.37	Affirmative determination; opportunity to present views.	14.8(a).
53.38	Referral to U.S. Tariff Commission	14.8(a).
53.39	Revocation of determination of sales at less than fair value; determination of sales at not less than fair value.	New.
53.40	Dumping finding	14.8(b).
53.41	Modification or revocation of finding	14.12.
	(a) Application to modify or revoke.	
	(b) Modification or revocation by Secreary.	
	(c) Notice of modification or revocation of finding.	
53.42	Publication of determinations and findings	14.13(a).
53.43	List of current findings	14.13(b).
53.44–53.47	Reserved	
	SUBPART D—ACTION BY DISTRICT DIRECTOR OF CUSTOMS	
53.48	Action by the District Director of Customs	14.9(a).
	(a) Appraisement withheld; notice to importer.	14.9(a).
	(b) Request to proceed with appraisement	14.9(b).
53.49	Certificate of importer	14.9(c).
53.50	Appraisement of merchandise covered by Form 4.	14.9(d).
53.51	Appraisement when required certificate not filed.	14.9(e).
53.52	Reimbursement of dumping duties	14.9(f).
	(a) General	14.9(f).
	(b) Statement concerning reimbursement	New.
53.53	Release of merchandise; bond	14.10(a).
53.54	Type of bond required.	
	(a) General	14.10(b).
	(b) Bond on customs Form 7591	14.10(c).
53.55	Conversion of currencies	14.11.

		Part 16 Sections
53.56	Dumping duty.	
	(a) Rule for assessment	16.21(a) and Footnote 16 to Part 16.
	(b) Entered value not controlling	Footnote 16.
53.57	Notice to importer	16.21(b).
53.58	Dumping duty; samples	16.22.
53.59	Method of computing dumping duty	16.22.
53.60–53.63	Reserved.	

SUBPART E—ANTIDUMPING APPEALS AND PROTESTS

		Part 17 Sections
53.64	Antidumping appeals and protests procedure	17.9.

[F.R. Doc. 68-6596; Filed, May 31, 1968; 11:43 a.m.]