FEDERAL REGISTER

VOLUME 33 · NUMBER 121

Friday, June 21, 1968 • Washington, D.C.

Pages 9139–9244

PART I

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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.

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Correction

In F.R. Doc. 68–6990 appearing at page 8579 of the issue for Wednesday, June 12, 1968, make the following change: In the first table for item 949.90, opposite the country of origin, "Netherlands", and under "Condensed", the entry for "196,000 lbs" in airtight containers, should read "169,000 lbs".

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 550—PAY ADMINISTRATION (GENERAL)

Specific Exemptions

Section 550.505 is amended by adding a new paragraph (n) to allow an exception to the dual pay statute for certain employment as a counselor in connection with youth opportunity programs.

§ 550.505 **Specific exceptions.**

* * * * *

(n) Compensation for part-time or intermittent employment as a counselor in connection with summer youth opportunity programs in the Washington, D.C., metropolitan area.

(Sec. 9, Public Law 89-301; 79 Stat. 1118; E.O. 11257, 30 F.R. 14353, 3 CFR 1965 Supp.)

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

[F.R. Doc. 68-7378; Filed, June 20, 1968; 8:49 a.m.]

PART 550—PAY ADMINISTRATION (GENERAL)

Coverage

Section 550.701(b) is amended by adding a new subparagraph (1)(vi) which will provide entitlement to severance pay for Foreign Service employees serving under time-limited appointments whose statutory reemployment rights have expired.

§ 550.701 **Coverage.**

* * * * *

(b) *Employees.* (1) Except as provided by this paragraph and section 9(b) of the act, this subpart applies to each full-time and part-time employee of a department, with a regularly prescheduled tour of duty within each administrative workweek, to each seasonal employee with a regularly prescheduled tour of duty within each administrative workweek during the season for which he is employed, and to each hourly employee in the postal field service, who is serving (i) under a career or career-conditional appointment in the competitive service or under their equivalent in the excepted service; (ii) under an indefinite appointment in the competitive service made under the indefinite-appointment system that preceded the career-conditional appointment system; (iii) under an indefinite appointment without time limitation in the excepted service; (iv) under an overseas limited appointment without time limitation; (v) as a status quo employee including one who becomes an indefinite employee upon promotion, demotion, or reassignment; (vi) under a time-limited appointment in the Foreign Service to which the employee was assigned under a statutory authority that entitled him to reemployment in his former department, but whose right of reemployment has expired.

* * * * *

(5 U.S.C. 5595)

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

[F.R. Doc. 68-7377; Filed, June 20, 1968; 8:49 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 14]

PART 719—RECONSTITUTION OF FARMS, ALLOTMENTS, AND BASES

Miscellaneous Amendments

Basis and purpose. This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended, 7 U.S.C. 1281 et seq.), section 124 of the Soil Bank Act (7 U.S.C. 1812), section 602 of the Food and Agriculture Act of 1965 (7 U.S.C. 1838), and the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590 g-p). This amendment (1) provides that reconstitutions shall not be made if the primary purpose is to establish eligibility to transfer allotments subject to sale or lease or to obtain small farm benefits under a diversion program, (2) clarifies productivity guidelines for determining the land constituting a farm, (3) removes reference to the 1966 program year when determining the effective date of a reconstitution, (4) provides an exception to the rule governing the amount of allotment that a landowner may designate to a tract of land when a farm is reconstituted, (5) removes reference to January 31, 1966, date in connection with allocation of burley tobacco allotments by a landowner, (6) changes the period of preservation of cropland acreage established in vegetative cover, (7) removes the reference to December 31, 1964, when determining the date of displacement under eminent domain provisions, and (8) makes it clear that any pooled allotment subject to the provisions of transfer by sale, lease, or owner may be so transferred when pooled.

Since the determination of history acreage for allotment crops is impending, it is essential that this amendment be made effective as soon as possible. It is hereby determined and found that compliance with the notice, public procedure, and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall be effective upon publication in the FEDERAL REGISTER.

The regulations governing the Reconstitution of Farms, Allotments, and Bases, 29 F.R. 13370, as amended, are further amended as follows:

1. Section 719.3 is amended by changing paragraph (d)(6) to read as follows:

§ 719.3 **Farm constitution.**

* * * * *

(d) *Required reconstitutions.* * * *

(6) Notwithstanding any other provisions of this paragraph, no reconstitution shall be made if the county committee determines that the primary purpose of the request is to (i) establish eligibility to transfer allotments subject to sale or lease or (ii) obtain small farm benefits under a diversion program.

2. Section 719.4 is amended by changing paragraph (d) to read as follows:

§ 719.4 **Guides for determining the land constituting a farm.**

* * * * *

(d) *Productivity.* Combinations of tracts under different ownership shall not be permitted where the county committee determines that (1) one tract is primarily irrigated land and the other tract is primarily nonirrigated, or (2) the present productivity of the cropland on one tract differs substantially from the productivity of the other tract. Projected or proven farm yields may be considered in making this determination but they should not be the sole basis for such determination.

* * * * *

3. Section 719.7 is amended by changing paragraph (b)(1) to read as follows:

§ 719.7 **Reconstitution of farm allotments, history acreages, and farm bases.**

* * * * *

(b) *Effective date of reconstitutions.* * * *

(1) *Allotment crops.* The reconstitution shall be effective for an allotment crop for the current program year if such reconstitution is completed before such crop is planted and for farms having both fall seeded and spring seeded allotment crops (including feed grain base crops) may be made effective for the current program year even though the fall seeded crop has been planted, if the

county committee determines that no adverse effect to the program for the allotment crop involved will result from such reconstitution and the farm operator agrees by signing a request for the reconstitution.

* * * * *

4. Section 719.8 is amended by changing paragraph (j) (3) and paragraph (k) to read as follows:

§ 719.8 Rules for determining allotments and bases where reconstitution is made by division.

* * * * *

(j) *Allocation of allotments other than burley tobacco by land owner.* * * *

(3) The sum of the allotments and bases allocated to an individual tract shall not exceed the cropland in such tract: *Provided,* That in a case where the sum of the allotments and bases for the parent farm is in excess of the total cropland for the parent farm, the sum of the allotments and bases allocated to an individual tract may exceed the cropland in such tract to the extent of such excess.

* * * * *

(k) *Allocation of burley tobacco allotments as designated by landowner.* Burley tobacco allotments may be designated in the same manner as other crop allotments in paragraph (j) of this section where the ownership of a tract of land is transferred for nonagricultural uses.

5. Section 719.10 is amended to read as follows:

§ 719.10 Preservation of cropland and allotment acreage.

(a) *Definitions.* Notwithstanding the definitions in § 719.2, for the purposes of this section, the following terms shall have the following meanings:

(1) *Final acreage.* The actual crop acreage, plus any additional acreage considered planted to the crop under applicable commodity regulations.

(2) *Underplanted acreage.* The acreage by which the allotment for a commodity exceeds the final acreage of the commodity.

(b) *Preservation of cropland and acreage available for diversion credit—(1) CAP, CCP, CRP, GPCP, and RCP.* Cropland acreage established and maintained in vegetative cover under the Cropland Adjustment Program, Cropland Conversion Program, Conservation Reserve Program, Great Plains Conservation Program, and Regional Conservation Program, shall retain its cropland classification for the period of time the contract or agreement is in effect plus the period of time thereafter that the cover is maintained. Cropland acreage established in trees under one of the programs listed in this section shall retain its cropland classification for the period of time the contract or agreement is in effect plus an equal period thereafter provided the practice is maintained. All acreage under this subparagraph shall be available for allotment diversion credit to the extent of the underplanted acreage of an allotment crop where needed to protect the allotment history for such crop.

(2) *ACP and comparable practices carried out without Federal cost-sharing.* Cropland acreage established and maintained in vegetative cover (excluding trees) under the Agricultural Conservation Program or comparable practices carried out without Federal cost-sharing shall retain its cropland classification for the period of time that the cover is maintained. To qualify for allotment diversion credit under this subparagraph (2), the following conditions shall be met:

(i) Acreage must be in excess of the sum of the conserving base and diverted acreage requirements under other adjustment programs.

(ii) The practice must have been established after November 3, 1965, and carried out in accordance with good farming practices.

(iii) The producer must request preservation in the year in which the cover is established except that the county committee may accept a request in a later year if the producer establishes to the satisfaction of the county committee that the cover was established after November 3, 1965.

(c) *Termination of allotment diversion credit.* Acreage shall cease to be available for allotment diversion credit when:

(1) The permanent vegetation is destroyed or not properly maintained.

(2) The additional period of protection in the case of trees established under a conservation program listed in paragraph (b) of this section expires or the trees are destroyed.

(d) *Diversion credit for divided farms.* When a parent farm is reconstituted by division, future allotment diversion credit shall accrue to the farm or tract on which the vegetative cover is physically located.

(e) *Use of diversion credit.* The diversion credit determined under the provisions of this section for each underplanted allotment crop shall be considered as acreage devoted to the crop and shall be utilized in the establishment of future State, county, and farm acreage allotments under the provisions of the Agricultural Adjustment Act of 1938, as amended.

6. Section 719.11 is amended to change paragraphs (c), (e), and subparagraph (1) of paragraph (f) to read as follows:

§ 719.11 Pooling and transfer of farm acreage allotments and feed grain bases where the farm owner is displaced by an agency having the right of eminent domain.

* * * * *

(c) *Pooling where agency will not continue production of allotment or feed grain crops.* If an agency acquires a farm for any purpose other than for the continued production of allotment or feed grain crops, the commodity allotments and feed grain base for such farm shall be pooled upon the date of displacement. Pooled allotments or feed grain bases shall be available only for use in providing equitable allotments and feed grain bases for other farms owned or purchased by the displaced owner. The period of eligibility for making application for transfer of pooled allotments and feed grain bases shall be 3 years from the date of displacement. During such period of eligibility, acreage allotments and feed grain bases for the acquired farm shall be established in accordance with applicable commodity regulations and for purposes of establishing future allotments and feed grain bases, such allotments and feed grain bases shall be considered to have been fully planted.

* * * * *

(e) *Release of pooled allotment.* Notwithstanding the provisions of paragraph (c) of this section, during any year that the allotment is pooled and has not been transferred to another farm, the displaced owner may: (1) Release for 1 year at a time any part or all of such pooled allotment to the county committee for reapportionment to other farms in the same county having allotments for such commodity. Allotments may not be permanently released, or surrendered to the State committee for reapportionment to other counties. The reapportionment herein authorized shall be on the basis of the past acreage of the commodity, land, labor, and equipment available for the production of the commodity, crop-rotation practices, and soil and other physical facilities affecting the production of the commodity. The allotment so reapportioned shall not, for purposes of establishing future farm allotments, be regarded as planted on the farm to which the allotment was reapportioned; and (2) transfer any allotment commodity for which there is authorization to transfer by sale, lease, or owner on a permanent basis or for a stated period of time not to exceed the period for which such allotments remain in existence as pooled allotments.

(f) *Transfer from the pool—(1) Application by displaced owner.* The displaced owner shall file with the receiving county committee written application for transfer of allotment and feed grain base from the pool within 3 years after the date of displacement. The application shall contain a certification by the displaced owner that he has made no side agreement with any person for the purpose of obtaining an allotment or feed grain base from the pool, for a person other than himself. The displaced owner shall attach to the application all pertinent documents pertaining to his ownership or purchase of land and any leasing arrangements; as for example, the deed of trust or mortgage, warranty deed, note, sales agreement, and lease.

* * * * *

(Secs. 301(b), 375, 377, 378, 379, 52 Stat. 38, as amended, 52 Stat. 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 79 Stat. 1211, 7 U.S.C. 1301(b), 1375, 1377, 1378, 1379; sec. 602(g), 79 Stat. 1208, 7 U.S.C. 1838(g); sec. 124, 70 Stat. 198, 7 U.S.C. 1812; sec. 4, 49 Stat. 164, 16 U.S.C. 590d)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 14, 1968.

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

[F.R. Doc. 68-7365; Filed, June 20, 1968; 8:48 a.m.]

[Apricot Reg. 8]

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

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, 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 Washington Apricot Marketing Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of apricots, in the manner herein 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 the regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than June 24, 1968. A reasonable determination as to the supply of, and the demand for, such apricots must await the development of the crop and adequate information thereon was not available to the Washington Apricot Marketing Committee until it met on June 4, 1968; recommendation as to the need for, and the extent of, regulation of shipments of such apricots was made at the said meeting of the committee on June 4, 1968, after consideration of all available information relative to the supply and demand conditions for such apricots, at which time the recommendation and supporting information were submitted to the Department; necessary supplemental data for consideration in connection with the specifications of the provisions were not available until June 12, 1968; shipments of the current crop of such apricots are expected to begin on or about the effective date hereof; and this regulation should be applicable, insofar as practicable, to all shipments of such apricots in order to effectuate the declared policy of the act; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 922.308 Apricot Regulation 8.

(a) *Order.* (1) Apricot Regulation 7, as amended (§ 922.307, 32 F.R. 7582, 8518) is hereby terminated on June 24, 1968.

(2) During the period June 24, 1968, through June 30, 1969, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph.

(i) *Minimum grade and maturity requirements.* Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided,* That if such apricots are the Moorpark variety in open containers they are generally well matured; and

(ii) *Minimum size requirements.* Such apricots measure not less than 1⅝ inches in diameter: *Provided,* That apricots of the Blenheim, Blenril, and Tilton varieties when packed in unlidded containers may measure not less than 1¼ inches: *And provided further,* That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement.

(3) Nothwithstanding any other provision of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 *Assessments,* and of § 922.55 *Inspection and certification:*

(i) The shipment consists of apricots sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1966; "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that, with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent, by count, of such apricots in any container in such lot, at least 40 percent of the surface area of the fruit is at least as yellow as Shade 4 on the U.S. Standard Ground Color Chart for Apples and Pears in the Western States.

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

Dated: June 18, 1968.

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

[F.R. Doc. 68-7401; Filed, June 20, 1968; 8:51 a.m.]

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Reserve Fund

On June 1, 1968, notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 8229) regarding amendment to § 923.202 (23 F.R. 5377) of the marketing agreement and Order No. 923 (7 CFR Part 923) regulating the handling of sweet cherries grown in designated counties in Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all revelant matters presented, including the proposals set forth in such notice, it is hereby found and determined that the said amendment with respect to Reserve fund is in accordance with the provisions of said marketing agreement and order and will tend to effectuate the declared policy of the act, and said § 923.202 is hereby amended to 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.

It is hereby found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER, and for making it effective upon publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) this amendment will not require any special preparation by the committee, or by the handlers of sweet cherries; (2) the committee has unanimously recommended that excess funds in the amount of $2,335.88 from operations of the 1967–68 fiscal period be carried over as part of the reserve fund established in § 923.202; (3) a reserve fund in an amount not to exceed approximately one fiscal period's operational expenses is authorized by § 923.42; (4) such operational expenses have in recent years exceeded $10,000—the maximum currently permitted in such reserve; (5) such $10,000 limitation should be changed to permit the reserve fund

to reflect such increase in operational expenses and thereby avoid the cost and administrative problems that would otherwise be involved in refunding small amounts to handlers after a fiscal period; and (6) no useful purpose would be served by delaying the effective time beyond that hereinafter set forth.

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

Dated June 18, 1968, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 68-7402; Filed, June 20, 1968; 8:51 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1968 Crop Rice Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1968 Crop Rice Loan and Purchase Program

The General Regulations Governing Price Support for the 1964 and Subsequent Crops (Revision 1) (31 F.R. 5941) and the 1968 and Subsequent Crops Rice Loan and Purchase Program regulations (33 F.R. 8430) which contain regulations of a general nature with respect to price support operations are further supplemented for the 1968 crop of rice as follows:

Sec.
1421.325 Purpose.
1421.326 Availability.
1421.327 Maturity of loans.
1421.328 Support rates.

AUTHORITY: The provisions of this subpart issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 62 Stat. 1051, as amended, 1054, sec. 302, 72 Stat. 988; 15 U.S.C. 714c, 7 U.S.C. 1421, 1441.

§ 1421.325 Purpose.

This subpart contains additional program provisions which, together with the applicable provisions of the regulations specified in § 1421.300 of the 1968 and Subsequent Crop Rice Loan and Purchase Program regulations, and any amendments thereto, apply to loans and purchases for the 1968 crop rice.

§ 1421.326 Availability.

(a) *Loans.* Producers must request a loan on 1968 crop eligible rice on or before March 31, 1969.

(b) *Purchases.* Producers desiring to offer eligible rice not under loan for purchase must notify the ASCS county office on or before April 30, 1969, of their intent to sell.

§ 1421.327 Maturity of loans.

Unless demand is made earlier, loans on rice will mature on April 30, 1969.

§ 1421.328 Support rates.

The loan rate for rice placed under a loan other than a loan on rice stored commingled in an approved warehouse shall be the applicable basic support rate specified in paragraph (a) of this section adjusted as provided in paragraphs (c) and (d) of this section. The support rate for loans on rice stored commingled in an approved warehouse and for settlement of all loans and purchases shall be the applicable basic support rate specified in paragraph (a) of this section, adjusted in accordance with the provisions of this section and §§ 1421.310 and 1421.72.

(a) *Basic rates.* The basic support rate per 100 pounds of rice shall be computed as follows: Multiply the yield (in pounds per hundredweight) of head rice by the applicable value factor for head rice (as shown in the table below according to class or variety) and round the result to the nearest hundredth. Similarly, multiply the difference between the total yield and the head rice yield (in pounds per hundredweight) by the applicable value factor for broken rice and round the result to the nearest hundredth. Add the results (as rounded) of these two computations to obtain the basic loan or purchase rate per 100 pounds of rice and express such rate in dollars and cents.

VALUE FACTORS FOR HEAD AND BROKEN RICE [1]

Rough rice class	Head rice	Broken rice
	Cents per pound	
Long grains	8.12	4.00
Medium grains	6.92	4.00
Short grains	6.87	4.00

[1] These value factors may be changed. Such changes, if any, will be made by an amendment to this section issued shortly after Aug. 1, 1968.

(b) *Premium.* The basic support rate determined under paragraph (a) of this section shall be adjusted by the following premium:

	Cents per 100 pounds
Grade U.S. No. 1	10

(c) *Discounts.* The basic support rate determined under paragraph (a) of this section shall be adjusted by the following discount:

	Cents per 100 pounds
Grade U.S. No. 3	15
Grade U.S. No. 4	30
Grade U.S. No. 5	50

(d) *Location differentials.* For rice produced in the areas specified below discounts for location (to adjust for transportation costs of moving the rice to an area where competitive milling facilities are available) shall be applied to the basic support rate determined under paragraph (a) of this section and shall be in addition to any adjustment under paragraph (b) or (c) of this section: *Provided, however,* That if such rice is transported and stored in a rice producing area where no location differential is applicable, no discount for location shall be applied.

DIFFERENTIAL TABLE

Area	*Discount per 100 pounds*
State of Florida	$1.01
Imperial County, Calif., and adjacent counties in Arizona and California	1.00
States of North Carolina and South Carolina	.97
Counties of Holt, Lewis, Lincoln, Marion, Pike, and St. Charles in Missouri and Adams in Illinois	.65
Counties of Lafayette, Little River, and Miller in Arkansas; Bowie in Texas; McCurtain in Oklahoma and Bossier Parish in Louisiana	.255

Effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on June 14, 1968.

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

[F.R. Doc. 68-7366; Filed, June 20, 1968; 8:48 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 442.5]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart D—Economic Opportunity Cooperative Loans

DEMONSTRATION PROJECTS

Subpart D of Part 1823, Title 7, Code of Federal Regulations (32 F.R. 9011) is amended by adding a new § 1823.99 reading as follows:

§ 1823.99 Demonstration projects.

Where an applicant's facilities and services to be financed with a loan under this subpart involve special features which in the opinion of the Administrator warrant designation of such facilities and services as a demonstration project, the Administrator may make such designation. A loan to finance a demonstration project may be made without regard to the provisions of this subpart or other provisions of this chapter upon special terms and conditions prescribed or authorized by the Administrator of the FHA. Such special terms and conditions shall be such as in the judgment of the Administrator are advisable for carrying out the purposes of the particular loan in a manner consistent with section 303 and other applicable provisions of the Economic Opportunity Act of 1964.

(Sec. 602, 78 Stat. 528, 42 U.S.C. 2942; Order Director Office of Economic Opportunity, 29 F.R. 14764, Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650)

This amendment is effective June 17, 1968, in accordance with a corresponding

amendment of FHA Instruction 442.5 approved on that date by the Secretary of Agriculture and the Acting Director of the Office of Economic Opportunity.

Dated: June 18, 1968.

HOWARD BERTSCH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 68-7403; Filed, June 20, 1968; 8:51 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter II—Coast Guard, Department of Transportation

[CGFR 67-71]

PART 11-6—FOREIGN PURCHASES

Subpart 11-6.1—Buy American Act—Supply and Service Contracts

EVALUATION OF BIDS AND PROPOSALS

Correction

In F.R. Doc. 68-6796 appearing at page 8487 in the issue of Saturday, June 8, 1968, the following corrections should be made in § 11-6.104-4:

1. In paragraph (c), the sixth line under the center heading "Example A" should read: "Bid—Small is out because it is not the low".

2. In paragraph (d) (1), the third line should read "§ 11-6.103-50 shall be evaluated on a".

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 68-WE-38]

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

Alteration of Control Zone

On May 2, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 6722) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Tucson, Ariz. (Tucson International Airport), control zone. Interested persons were given 30 days in which to submit written comments, suggestions, or objections.

No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 GMT, August 22, 1968.

Issued in Los Angeles, Calif., on June 13, 1968.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (33 F.R. 2130) the Tucson, Ariz. (Tucson International Airport), control zone is amended to read as follows:

TUCSON, ARIZ. (TUCSON INTERNATIONAL AIRPORT)

Within a 5-mile radius of Tucson International Airport (latitude 32°07'05" N., longitude 110°56'32" W.); within 2 miles each side of the Tucson VORTAC 273° radial extending from the 5-mile radius zone to 14 miles west of the VORTAC; within 2 miles each side of the extended centerline of Runway 12L extending from the 5-mile radius zone to 5 miles southeast of the lift-off end of Runway 12L; within 2 miles northeast and 2.5 miles southwest of the extended centerline of Runway 30R extending from the 5-mile radius zone to 15.5 miles northwest of the lift-off end of Runway 30R, and within 2 miles southeast and 3 miles northwest of the extended centerline of Runway 21 extending from the 5-mile radius zone to 6.5 miles southwest of the lift-off end of Runway 21, excluding the portion subtended by a chord drawn between the points of INT of the Tucson International Airport 5-mile radius zone with the Davis-Monthan AFB 5-mile radius zone.

[F.R. Doc. 68-7361; Filed, June 20, 1968; 8:47 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8945, Amdt. 95-168]

PART 95—IFR ALTITUDES

Miscellaneous Changes

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of The Federal Aviation Regulations is amended, effective July 25, 1968 as follows:

1. By amending Subpart C as follows:

Section 95.47 *Green Federal airway 7* is amended to read in part:

From, to, and MEA

*Koyuk INT, Alaska; Galena, Alaska, LF/RBN; 6,000. *6,000—MCA Koyuk INT, eastbound.

Galena, Alaska, LF/RBN; Galtan INT, Alaska; 5,800.

Section 95.612 *Blue Federal airway 12* is amended to read in part:

McGrath, Alaska, LFR; Galena, Alaska, LF/RBN; *6,000. *5,500—MOCA.

Galena, Alaska, LF/RBN; Kotzebue, Alaska, LF/RBN; *6,000. *5,300—MOCA.

Section 95.626 *Blue Federal airway 26* is amended to read in part:

Anchorage, Alaska, LFR; Willow INT, Alaska; 2,500.

Willow INT, Alaska; Talkeetna, Alaska, LF/RBN; 4,800.

Section 95.1001 *Direct routes—United States* is amended by adding:

Greenhead INT, Fla.; Marianna, Fla., VOR; *2,000. *1,600—MOCA.

Panama Routes

V-8:

Taboga, Republic of Panama, VOR; Zulu—4; 3,000.

V-9:

Taboga, Republic of Panama, VOR; Quebec—4; 3,000.

Section 95.6002 *VOR Federal airway 2* is amended to read in part:

*Spokane, Wash., VOR; Rockford DME Fix, Wash.; eastbound, 9,000; westbound, 6,500. *5,200—MCA Spokane VOR, eastbound.

Section 95.6004 *VOR Federal airway 4* is amended to read in part:

Salinas, Kans., VOR; Custer INT, Kans.; *3,000. *2,800—MOCA.

Custer INT, Kans.; Maple Hill INT, Kans., *3,000. *2,700—MOCA.

Section 95.6006 *VOR Federal airway 6* is amended to read in part:

Solberg, N.J., VOR; Amboy INT, N.J.; 2,000.

Section 95.6007 *VOR Federal airway 7* is amended to read in part:

Central City, Ky., VOR; Cairo INT, Ky.; 2,500.

Section 95.6009 *VOR Federal airway 9* is amended to read in part:

Meramec INT, Mo.; St. Louis, Mo., VOR; *2,000. *2,000—MOCA.

Section 95.6011 *VOR Federal airway 11* is amended to read in part:

Augusta INT, Ind., via E alter.; *Jasper INT, Ind., via E alter.; **3,700. *3,700—MRA. **2,000—MOCA.

Jasper INT, Ind., via E alter.; Scotland, Ind., VOR via E alter.; *2,700. *2,000—MOCA.

Section 95.6012 *VOR Federal airway 12* is amended to read in part:

Ogden, Utah, VOR; *Corinne INT, Utah; northbound, 11,000; southbound, 7,600. *13,000—MRA.

Section 95.6016 *VOR Federal airway 16* is amended to read in part:

Mineral Wells, Tex., VOR; Aledo INT, Tex.; *3,000. *2,500-MOCA.

Aledo INT, Tex.; Dallas, Tex., VOR; 2,500.

Mineral Wells, Tex., VOR via S alter.; Lucas INT, Tex., via S alter.; *3,000. *2,700—MOCA.

Lucas INT, Tex., via S alter.; Dallas, Tex., VOR via S alter.; 2,000.

Section 95.6025 *VOR Federal airway 25* is amended to read in part:

San Luis Obispo, Calif., VOR via W alter.; Paso Robles, Calif., VOR via W alter.; 5,000.

Section 95.6030 *VOR Federal airway 30* is amended to read in part:

Coopersburg INT, Pa.; Adams INT, N.J.; 2,700.
Adams INT, N.J.; Rocky Hill INT, N.J.; 2,300.

Section 95.6033 *VOR Federal airway 33* is amended to read in part:

Philipsburg, Pa., VOR; Keating, Pa., VOR; 4,000.

Section 95.6039 *VOR Federal airway 39* is amended to read in part:

Brandy INT, Va., via E alter.; Nokesville INT, Va., via E alter.; *5,000. *1,500—MOCA.

Section 95.6046 *VOR Federal airway 46* is amended to read in part:

Beach INT, N.Y.; Hampton, N.Y., VOR; 2,000.
Hampton, N.Y., VOR; Nantucket, Mass., VOR; 2,500.

Section 95.6050 *VOR Federal airway 50* is amended to read in part:

Capital, Ill., VOR; Latham INT, Ill.; 2,600.
Latham INT, Ill.; Decatur, Ill., VOR; 2,400.

Section 95.6053 *VOR Federal airway 53* is amended to read in part:

Indianapolis, Ind., VOR; Jackson INT, Ind.; *2,600. *2,200—MOCA.
Jackson INT, Ind.; Westpoint, Ind., VOR; *2,500. *2,000—MOCA.

Section 95.6060 *VOR Federal airway 60* is amended to read in part:

Albuquerque, N. Mex., VOR; Otto, N. Mex., VOR; 12,000.
Albuquerque, N. Mex., VOR via S alter.; Otto, N. Mex., VOR via S alter.; 10,000.

Section 95.6071 *VOR Federal airway 71* is amended to read in part:

Kansas City, Mo., VOR; New Market INT, Mo.; *2,500. *2,300—MOCA.

Section 95.6101 *VOR Federal airway 101* is amended to read in part:

Ogden, Utah, VOR; Blue Creek INT, Utah; 9,400.
Blue Creek INT, Utah; Malta INT, Idaho; 11,400.

Section 95.6113. *VOR Federal airway 113* is amended to read in part:

San Luis Obispo, Calif., VOR; Paso Robles, Calif., VOR; 5,000.

Section 95.6128 *VOR Federal airway 128* is amended to read in part:

Westpoint, Ind., VOR; Jackson INT, Ind.; *2,500. *2,000—MOCA.
Jackson INT, Ind.; Indianapolis, Ind., VOR; *2,600. *2,200—MOCA.

Section 95.6139 *VOR Federal airway 139* is amended to read in part:

Willards INT, Md.; Sea Isle, N.J., VOR; *2,500. *1,700—MOCA.
Int, 124° M rad, Kennedy VOR and 236° M rad, Hampton VOR; Beach INT, N.Y.; *5,000. *1,500—MOCA.
Beach INT, N.Y.; Hampton, N.Y., VOR; 2,000.

Section 95.6147 *VOR Federal airway 147* is amended to read in part:

Philadelphia, Pa., ILS loc.; Ardmore INT, Pa.; 2,000.
Ardmore INT, Pa.; Pottstown, Pa., VOR; *2,400. *2,000—MOCA.

Section 95.6165 *VOR Federal airway 165* is amended to read in part:

*Redmond, Oreg., VOR; Elkhorn DME Fix, Oreg.; 12,500. *9,000—MCA Redmond VOR, northwestbound.

Section 95.6168 *VOR Federal airway 168* is amended to read in part:

Scottsbluff, Nebr., VOR; Snake INT, Nebr.; *6,000. *5,500—MOCA.

Section 95.6188 *VOR Federal airway 188* is amended to read in part:

Williamsport, Pa., VOR; Sweet Valley INT, Pa.; 4,500.
Sweet Valley INT, Pa.; Thornhurst, Pa., VOR; 4,000.

Section 95.6212 *VOR Federal airway 212* is amended to read in part:

Coco INT, La.; Alexandria, La., VOR; *1,800. *1,700—MOCA.

Section 95.6223 *VOR Federal airway 223* is amended to read in part:

Brandy INT, Va.; Nokesville INT, Va.; *5,000. *1,500—MOCA.

Section 95.6226 *VOR Federal airway 226* is amended to read in part:

Williamsport, Pa., VOR; Sweet Valley INT, Pa.; 4,500.
Sweet Valley INT, Pa.; Thornhurst, Pa., VOR; 4,000.

Section 95.6227 *VOR Federal airway 227* is amended to read:

Indianapolis, Ind., VOR; Jackson INT, Ind.; *2,600. *2,200—MOCA.
Jackson INT, Ind.; Lafayette, Ind., VOR; *2,600. *2,000—MOCA.

Section 95.6230 *VOR Federal airway 230* is amended to read in part:

Shark INT, Calif.; Salinas, Calif., VOR; *5,000. *4,100—MOCA.
Salinas, Calif., VOR; San Benito INT, Calif.; *6,000. *5,500—MOCA.

Section 95.6241 *VOR Federal airway 241* is amended to read in part:

Edd INT, Ala., via W alter.; Midway INT, Ala., via W alter.; *3,000. *2,400—MOCA.

Section 95.6265 *VOR Federal airway 265* is amended to read in part:

Philipsburg, Pa., VOR; Keating, Pa., VOR; 4,000.

Section 95.6275 *VOR Federal airway 275* is amended to read in part:

Cincinnati, Ohio, VOR via W alter.; Bath INT, Ind., via W alter.; *2,800. *2,100—MOCA.
Bath INT, Ind., via W alter.; Richmond, Ind., VOR via W alter.; 2,800.

Section 95.6288 *VOR Federal airway 288* is amended to read in part:

Lucin, Utah, VOR; *Corinne INT, Utah; **13,000. *13,000—MRA. **10,000—MOCA.

Section 95.6308 *VOR Federal airway 308* is amended to read in part:

Int, 124° M rad, Kennedy VOR and 236° M rad, Hampton VOR; Beach INT, N.Y.; *5,000. *1,500—MOCA.
Beach INT, N.Y.; Hampton, N.Y., VOR; 2,000.

Section 95.6336 *VOR Federal airway 336* is amended to read in part:

*Quincy INT, Wash.; Ephrata, Wash., VOR; 5,000. *6,500—MCA Quincy INT, southwestbound.

Section 95.6433 *VOR Federal airway 433* is amended to read in part:

Rocky Hill INT, N.J.; Amboy INT, N.J.; 2,000.
Amboy INT, N.J.; La Guardia, N.Y., VOR; 2,500.

Section 95.6438 *VOR Federal airway 438* is amended to read in part:

*Skilak INT, Alaska; Naptowne INT, Alaska; **2,500. *4,000—MCA Skilak INT, southbound. **2,300—MOCA.
Naptowne INT, Alaska; Anchorage, Alaska, VOR; *2,000. *1,900—MOCA.

Section 95.6474 *VOR Federal airway 474* is amended to read in part:

Hampton INT, Pa.; Delroy INT, Pa.; 2,700.
Delory INT, Pa.; Paradise INT, Pa.; *2,700. *2,500—MOCA.

Section 95.6493 *VOR Federal airway 493* is amended to read in part:

Livingston, Tenn., VOR; Lexington, Ky., VOR; 3,500.

Section 95.6524 *VOR Federal airway 524* is amended to read in part:

Scottsbluff, Nebr., VOR; North Platte, Nebr., VOR; *7,000. *6,200—MOCA.

Section 95.7088 Jet Route No. 88 is amended to delete:

From, To, MEA, and MAA

Oakland, Calif., VORTAC; Ukiah, Calif., VORTAC; 18,000; 45,000.
Ukiah, Calif., VORTAC; Medford, Oreg., VORTAC; 18,000; 45,000.

Section 95.7125 Jet Route No. 125 is added to read:

Kodiak, Alaska, VORTAC; Anchorage, Alaska, VORTAC; 18,000; 45,000.

Section 9.7502 Jet Route No. 502 is amended by adding:

United States-Canadian border; Neah Bay, Wash., RBN; 18,000; 45,000.
Neah Bay, Wash., RBN; Hoquiam, Wash., VORTAC; 18,000; 45,000.
Hoquiam, Wash., VORTAC; Medford, Oreg., VORTAC; #22,000; 45,000. #MEA is established with a gap in navigation signal coverage.
Medford, Oreg., VORTAC; Ukiah, Calif., VORTAC; 18,000; 45,000.
Ukiah, Calif. VORTAC; Oakland, Calif., VORTAC; 18,000; 45,000.

2. By amending subpart D as follows:

Section 95.8003 *VOR Federal airway changeover points:*

Airway segment: From; to—Changeover point: Distance; from

V–436 is amended to delete:
Homer, Alaska, VOR via E alter.; Kenai, Alaska, VOR via E alter.; 33; Homer.
V–580 is amended to delete:
John Day, Oreg., VOR; Boise, Idaho, VOR; 63; Boise.

This amendment is made under the authority of sections 307 and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510).

Issued in Washington, D.C., on June 13, 1968.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 68–7282; Filed, June 20, 1968; 8:45 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8929, Amdt. 601]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending § 97.11 of Subpart B to amend low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
Thousand Oaks Int	Woodland Int	Direct	5000	T-dn%	300–1	300–1	300–1#
Twin Lakes Int	Woodland Int	Direct	5000	C-d*	900–1½	900–1¼	900–1½
LAX VOR	BUR ILS LOM	Direct	4000	C-n*	900–2	900–2	900–2
Woodland Int	BUR ILS LOM (final)	Direct	2800	S-dn-7	600–1	600–1	600–1
				A-dn	900–2	900–2	900–2

Radar available.
Procedure turn S side of crs, 256° Outbnd, 076° Inbnd, 4000′ within 10 miles.
Minimum altitude over facility on final approach crs 2800′ at BUR ILS LOM.
Crs and distance, facility to airport, 076°—5.6 miles LOM to LIM; 076°—0.4 miles LIM to airport.¢
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at BUR ILS LIM, make immediate right-climbing turn direct to LOM, climb via 256° bearing LOM to 4000′ within 10 miles of LOM or, when directed by ATC, (1) turn right, climb heading 105° to intercept and proceed via VNY R 096° to El Monte Int at 4500′. Positive radar crs monitor required on alternate missed approach.
NOTE: ADF and VOR receivers required for execution of this approach.
AIR CARRIER NOTES: (1) Reduction in visibility by sliding scale not authorized below ¾ mile for takeoff Runways 7, 15, 33, and for landing minimums. (2) Reduction in visibility by sliding scale not authorized for circling minimums.
¢Procedure requires use of both BUR ILS outer compass locator and inner compass locator.
#200-½ authorized for takeoff on Runway 25 only.
*Circling not authorized NE of airport between extended centerlines of Runways 15/33 and 7/25. Runway 25—Intercept approach centerline within 2 miles.
%Northbound and southbound (270° clockwise through 240°) IFR departures: Must comply with published Burbank SID's.
MSA within 25 miles of facility: 000°–090°—8500′; 090°–180°—5100′; 180°–270°—4100′; 270°–360°—6000′.

City, Burbank; State, Calif.; Airport name, Hollywood-Burbank; Elev., 775′; Fac. Class., LOM; Ident., BU; Procedure No. 1, Amdt. 3; Eff. date, 11 July 68; Sup. Amdt. No. 2; Dated, 13 Aug. 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
FIM VORTAC	Chatsworth Int	FIM, R 100°	5000	T-dn%	300–1	300–1	300–1#
Sherwood Int	Chatsworth Int	VTU, R 057°	5000	C-d¢	900–1½	900–1½	900–1½
				C-n¢	900–2	900–2	900–2
Twin Lakes Int	Chatsworth Int	Direct	5000	S-dn-7*	500–¾	500–¾	500–¾
Chatsworth Int	VNY VOR (final)	Direct	3000	A-dn	900–2	900–2	900–2

Radar available.
Procedure turn not authorized.
Minimum altitude over facility on final approach crs, 3000′.
Crs and distance, facility to airport, 089°—6.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.3 miles after passing VNY VOR, turn right, climb to VNY VOR, then via R 255° to Susana Int at 4500′ or, when directed by ATC, turn right, climb heading 105° to intercept and proceed via VNY R 096° to El Monte Int at 4500′. Positive radar crs monitor required on alternate missed approach.
AIR CARRIER NOTES: Sliding scale prohibited below ¾ mile for takeoff on Runways 7, 15, 33, and for straight-in minimums. Sliding scale not authorized for circling minimums.
*500-1 required for 4-engine turbojet or when ALS inoperative.
%Northbound and southbound (270° clockwise through 240°) IFR departures: Must comply with published Burbank SID's.
¢Circling not authorized NE of airport between extended centerlines of Runways 15/33 and 7/25. Runway 25—Intercept approach centerline within 2 miles.
#200-½ authorized for takeoff on Runway 25 only.
MSA within 25 miles of facility: 000°–090°—8600′; 090°–180°—5100′; 180°–270°—4100′; 270°–360°—6100′.

City, Burbank; State, Calif.; Airport name, Hollywood-Burbank; Elev., 775′; Fac. Class., L-BVOR; Ident., VNY; Procedure No. 1, Amdt. 1; Eff. date, 11 July 68; Sup. Amdt. No. Orig.; Dated, 25 June 66

2. By amending § 97.11 of Subpart B to delete low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

Kenai, Alaska—Kenai Municipal, LFR 1, Amdt. 11, 27 Mar. 1965 (established under Subpart C).
Dallas, Tex.—Dallas Love Field, NDB (ADF) Runway 31L, Orig., 27 May 1967 (established under Subpart C).
Dallas, Tex.—Dallas Love Field, ADF 3, Amdt. 4, 23 July 1966 (established under Subpart C).
Miami, Fla.—New Tamiami, NDB (ADF) Runway 9L, Amdt. 1, 14 Oct. 1967 (established under Subpart C).
Tallahassee, Fla.—Tallahassee Municipal, NDB (ADF) Runway 36, Amdt. 8, 28 Oct. 67 (established under Subpart C).
Kenai, Alaska—Kenai Municipal, VOR 1, Amdt. 2, 27 Mar. 1965 (established under Subpart C).
Palacios, Tex.—Municipal, VOR 1, Amdt. 5, 1 June 1963 (established under Subpart C).
Tallahassee, Fla.—Tallahassee Commercial, VOR–1, Orig., 25 Nov. 1967 (established under Subpart C).
Tallahassee, Fla.—Tallahassee Municipal, VOR Runway 18, Orig., 28 Oct. 1967 (established under Subpart C).

3. By amending § 97.11 of Subpart B to cancel low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

Dallas, Tex.—Dallas Love Field, ADF 1, Amdt. 7, 20 Aug. 1966, canceled effective 11 July 1968.
Dallas, Tex. Dallas Love Field, ADF 4, Amdt. 1, 5 June 1965, canceled effective 11 July 1968.
Tuscaloosa, Ala.—Van De Graaff, VOR 1, Amdt. 11, 13 Nov. 1965, canceled effective 11 July 1968.

4. By amending § 97.13 of Subpart B to delete terminal very high frequency omnirange (TerVOR) procedures as follows:

Dallas, Tex.—Dallas Love Field, TerVOR–18, Amdt. 10, 19 Dec. 1964 (established under Subpart C).
Dallas, Tex.—Dallas Love Field, TerVOR–36, Amdt. 1, 5 June 1965 (established under Subpart C).

5. By amending § 97.17 of Subpart B to amend instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Ventura VOR	ILS W crs	057°–16.9 miles	5000	T–dn%	300–1	300–1	300–1
Saugus Int	LOM	Direct	5600	C–d*	900–1½	900–1½	900–1½
Fillmore VOR	Woodland Int	Direct	5000	C–n*	900–2	900–2	900–2
Int LAX VOR, R 276° and Lake Hughes VOR, R 170°.	Woodland Int	Direct	5000	S–dn–7**	300–¾	300–¾	300–¾
Twin Lakes Int	Woodland Int	Direct	5000	A–dn	900–2	900–2	900–2
Woodland Int	LOM (final)	Direct	2800				

Radar available.
Procedure turn S side of crs, 256° Outbnd, 076° Inbnd, 4000′ within 10 miles of LOM. Beyond 10 miles not authorized.
Minimum altitude at glide slope interception Inbnd, 2800′.
Altitude of glide slope and distance to approach end of runway at OM, 2738′—6.1 miles; at MM, 1355′—1.3 miles; at inner compass locator, 924′—0.4 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make immediate right-climbing turn to 4000′ on W crs BUR ILS within 10 miles W of LOM or, when directed by ATC, turn right, climb heading 105° to intercept and proceed via VNY R 096° to El Monte Int at 4500′. Positive radar crs monitor required on alternate missed approach.
Other change: Deletes transition from Malibu Int.
CAUTION: High terrain NE and E of airport.
AIR CARRIER NOTES: Sliding scale prohibited below ¾ mile for takeoff on Runways 7, 15, 33, and for straight-in landing minimums. Sliding scale not authorized for circling minimums.
NOTES: (1) Nonstandard installation. Localizer antenna at approach end of runway.
% Northbound and southbound (270° clockwise through 240°) IFR departures: Must comply with published Burbank SID's.
# 200–½ authorized for takeoff on Runway 25 only.
* Circling not authorized NE of airport between extended centerlines of Runways 15/33 and 7/25. Runway 25—Intercept approach centerline within 2 miles.
** For minimums of 300–¾, all components of ILS must be utilized. If glide slope not received, then minimums of 400–1 apply.

City, Burbank; State, Calif.; Airport name, Hollywood-Burbank; Elev., 775′; Fac. Class., ILS; Ident., I–BUR; Procedure No. ILS–7, Amdt. 22: Eff. date, 11 July 68; Sup. Amdt. No. 21; Dated, 25 June 66

6. By amending § 97.17 of Subpart B to delete instrument landing system (ILS) procedures as follows:

Dallas, Tex.—Dallas Love Field, ILS–13L, Amdt. 12, 20 Aug. 1966 (established under Subpart C).
Dallas, Tex.—Dallas Love Field, LOC (BC) Runway 13R, Orig., 23 Sept. 1967 (established under Subpart C).
Dallas, Tex.—Dallas Love Field, ILS Runway 31L, Orig., 27 May 1967 (established under Subpart C).
Dallas, Tex.—Dallas Love Field, ILS–31R, Amdt. 12, 4 Dec. 1965 (back crs) (established under Subpart C).
Tallahassee, Fla.—Tallahassee Municipal, LOC (BC) Runway 18, Amdt. 5, 28 Oct. 1967 (established under Subpart C).
Tallahassee, Fla.—Tallahassee Municipal, ILS Runway 36, Amdt. 9, 28 Oct. 1967 (established under Subpart C).

7. By amending § 97.19 of Subpart B to amend radar procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
		Within.			Surveillance approach		
342°	007°	30 miles	7000	T–dn%	300–1	300–1	*300–1
007°	080°	30 miles	10,500	C–d#	900–1½	900–1½	900–1½
080°	210°	30 miles	3000	C–n#	900–2	900–2	900–2
210°	270°	30 miles	4000	S–dn–7**	500–1	500–1	500–1
270°	342°	30 miles	6000	A–dn	900–2	900–2	900–2

Radar transitions and vectoring using Burbank Radar authorized in accordance with approved patterns.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, make immediate right-climbing turn, climb on W crs BUR ILS to 5000′ within 10 miles W of LOM or, when directed by ATC, turn right, climb heading 105° to intercept and proceed via VNY R 096° to El Monte Int at 4500′. Positive radar crs monitor required on alternate missed approach.

AIR CARRIER NOTE: Sliding scale below ¾ mile prohibited for takeoffs on Runways 7, 15, 33, and for straight-in landing minimums. Sliding scale not authorized for circling minimums.

*200–½ authorized for takeoff on Runway 25 only.
**500–¾ authorized except for 4-engine turbojet with operative ALS.
#Circling not authorized NE of airport between extended centerlines of Runways 15/33 and 7/25. Runway 25—Intercept approach centerline within 2 miles.
%Northbound and southbound (270° clockwise through 240°) IFR departures; Must comply with published Burbank SID's.
CAUTION: 2000′ terrain 2.2 miles NE of airport rising to 3126′ approximately 3.5 miles ENE of airport.

City, Burbank; State, Calif.; Airport name, Hollywood-Burbank; Elev., 775′; Fac. Class. and Ident., Burbank Radar; Procedure No. 1, Amdt. 6; Eff. date, 11 July 68; Sup. Amdt. No. 5; Dated, 25 June 66

8. By amending § 97.19 of Subpart B to delete radar procedures as follows:

Dallas, Tex.—Dallas Love Field, ASR 1, Amdt. 11, 27 Mar. 1965 (established under Subpart C).

9. By amending § 97.21 of Subpart C to establish low or medium frequency range (L/MF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LFR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 1.7 miles after passing KE LFR.
ENA VOR	KE LFR	Direct	1700	Climb to 1700′ on S crs of KE LFR within 15 miles.
Swanson DME Fix	North crs KE LFR (NOPT)	220° heading 3.5 miles	1700	Supplementary charting information: Antenna 185′, 0.8 mile SW Runway 01. Antenna 140′, 0.4 mile SW Runway 01.

Procedure turn W side of crs, 009° Outbnd, 189° Inbnd, 1700′ within 10 miles of KE LFR.
FAF, KE LFR. Final approach crs, 188°. Distance FAF to MAP, 1.7 miles.
Minimum altitude over KE LFR, 800′.
MSA: NE—2000′; SE—3000′; SW—1300′; NW—1500′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	500	1	408	560	1	468	560	1½	468	660	2	568
A	Standard.			T 2-eng. or less—Standard.			T over 2-eng.—Standard.					

City, Kenai; State, Alaska; Airport name, Kenai Municipal; Elev., 92′; Facility, KE; Procedure No. LFR Runway 19, Amdt. 12; Eff. date, 11 July 68; Sup. Amdt. No. LFR 1 Amdt. 11; Dated, 27 Mar. 65

10. By amending § 97.23 of Subpart C to establish very high frequency omnirange (VOR) and very high frequency-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MLS, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.8 miles after passing Highline Int.
DAL VORTAC	ADS VOR (NOPT)	Direct	2100	Climb to 2000', left turn, direct to DAL VORTAC.
GSW VORTAC	ADS VOR	Direct	2200	
De Soto Int	ADS VOR	Direct	2100	Supplementary charting information: TDZ elevation, 480'.
Lavon Int	ADS VOR	Direct	2100	
Garza Int	ADS VOR (NOPT)	Direct	2100	
Fitch Int	ADS VOR	Direct	2100	
Red Oak Int	ADS VOR	Direct	2100	

Procedure turn E side of crs, 359° Outbnd, 179° Inbnd, 2100' within 10 miles of ADS VOR.
FAF, Highline Int. Final approach crs, 179°. Distance FAF to MAP, 3.8 miles.
Minimum altitude over ADS VOR, 2000'; over Highline Int, 1500'.
MSA: 160°–250°—3400'; 250°–160°—2300'.
NOTE: ASR.
#Dual VOR equipment required.
*RVR 24, Runways 13L and 31L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-18#	880	1	400	880	1	400	880	1	400	880	1	400
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C#	920	1	435	1000	1	515	1000	1½	515	1080	2	595
A	Standard.			T 2-eng. or less—Standard.*			T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485'; Facility, ADS; Procedure No. VOR Runway 18, Amdt. 11; Eff. date, 11 July 68; Sup. Amdt. No. Ter VOR-18, Amdt. 10; Dated, 19 Dec. 64

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.1 miles after passing Golf Int.
GSW VORTAC	Golf Int	Direct	2800	Climb to 2000' direct to ADS VOR or climb to 2000', right turn, direct to DAL VORTAC.
DAL VORTAC	Golf Int	Direct	2800	Supplementary charting information: TDZ elevation, 478'.

Procedure turn E side of crs, 179° Outbnd, 359° Inbnd, 2800' within 10 miles of Golf Int.
FAF, Golf Int. Final approach crs, 359°. Distance FAF to MAP, 3.1 miles.
Minimum altitude over Golf Int, 1600'.
NOTE: ASR.
#Dual VOR equipment required.
*RVR 24, Runways 13L and 31L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-36#	880	1	402	880	1	402	880	1	402	880	1	402
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C#	920	1	435	1000	1	515	1000	1½	515	1080	2	595
A	Standard.			T 2-eng. or less—Standard.*			T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485'; Facility, ADS; Procedure No. VOR Runway 36, Amdt. 2; Eff. date, 11 July 68; Sup. Amdt. No. Ter VOR-36, Amdt. 1; Dated, 5 June 65

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 2.8 miles after passing ENA VOR.
KE LFR	ENA VOR	Direct	1700	Climb to 1700′ on R 186° ENA VOR within 15 miles.
Swanson DME Fix	R 006°, VOR (NOPT)	220° heading 3.5 miles	1700	Supplementary charting information: Antenna 185′, 0.8 mile SW of airport, Antenna 140′, 0.4 mile SW of airport. LFR antenna 228′, 1.7 miles N of airport.

Procedure turn W side of crs, 006° Outbnd, 186° Inbnd, 1700′ within 10 miles of ENA VOR.
FAF, ENA VOR. Final approach crs, R 186°. Distance FAF to MAP, 2.8 miles.
Minimum altitude over ENA VOR, 800′; over KE LFR, 480′.
MSA: 000°–090°—2000′; 090°–180°—3000′; 180°–270°—1300′; 270°–360°—1500′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-19	480	1	388	480	1	388	480	1	388	480	1	388
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	500	1	408	560	1	468	560	1½	468	660	2	568
VOR/LFR Minimums:												
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-19	400	1	308	400	1	308	400	1	308	400	1	308
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Kenai; State, Alaska; Airport name, Kenai Municipal; Elev., 92′; Facility, ENA; Procedure No. VOR Runway 19, Amdt. 3; Eff. date, 11 July 68; Sup. Amdt. No. VOR 1, Amdt. 2; Dated, 27 Mar. 65

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.3 miles after passing PSX VORTAC.
VCT VOR	Lolita Int	Direct	1500	Climb to 1500′ on R 120° PSX VORTAC within 15 miles.
Lolita Int	PSX VORTAC (NOPT)	Direct	1000	Supplementary charting information: 150′ tower 2 miles SE of field.

Procedure turn W side of crs, 300° Outbnd, 120° Inbnd, 1500′ within 10 miles of PSX VORTAC.
FAF, PSX VORTAC. Final approach crs, 120°. Distance FAF to MAP, 3.3 miles.
Minimum altitude over PSX VORTAC, 1000′.
MSA within 25 miles of PSX VORTAC: 000°–360°—1500°.
NOTE: MIRL Runways 13/31 only.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13	380	1	367	380	1	367	380	1	367	380	1	367
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	420	1	407	480	1	467	480	1½	467	580	2	567
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—standard.					

City, Palacios; State, Tex.; Airport name, Municipal; Elev., 13′; Facility, PSX; Procedure No. VOR Runway 13, Amdt. 6; Eff. date, 11 July 68; Sup. Amdt. No. VOR 1, Amdt. 5; Dated, 1 June 63

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 9.6 miles after passing ENA VOR.
Swanson DME Fix	R 006°, ENA VOR (NOPT)	220° heading 3.5 miles	1700	Turn right climbing to 1700' on R 126° to ENA VOR.
KE LFR	ENA VOR	Direct	1700	Supplementary charting information: 494' tower 3.4 miles NW of airport. 300' hills 0.3 mile S of airport.

Procedure turn W side of crs, 006° Outbnd, 186° Inbnd, 1700' within 10 miles of ENA VOR.
FAF, ENA VOR. Final approach crs, R 126°. Distance FAF to MAP, 9.6 miles.
Minimum altitude over ENA VOR, 800'.
MSA: 000°–090°—2000'; 090°–180°—3000'; 180°–270°—1300'; 270°–360°—1500'.
NOTES: (1) Use Kenai altimeter setting. (2) All maneuvering for circling approach to be conducted N of airport.
%When departing Runway 07 turn left after takeoff; departing Runway 25 turn right after takeoff.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	780	1	673	780	1	673	780	1½	673	840	2	733
A	Standard.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%					

City, Soldotna; State, Alaska; Airport name, Soldotna; Elev., 107'; Facility, ENA; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 11 July 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: TLH VORTAC.
				Climb to 2000' on R 173° and return to TLH VORTAC or, when directed by ATC, proceed direct to TL NDB at 2000'.

Procedure turn W side of crs, 353° Outbnd, 173° Inbnd, 2000' within 5 miles of TLH VORTAC.
Final approach crs, 173°.
MSA: 000°–090°—2300'; 090°–180°—1600'; 180°–270°—1900'; 270°–360°—1700'.
NOTES: (1) Use Tallahassee, Fla., altimeter setting. (2) Sod runways.
*Instrument operations limited to Category A aircraft and daylight hours only.

DAY AND NIGHT MINIMUMS

Cond.	A			B	C	D
	MDA	VIS	HAA	VIS	VIS	VIS
C*	700	2	543	NA	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.*		T over 2-eng.	

City, Tallahassee; State, Fla.; Airport name, Tallahassee Commercial; Elev., 157'; Facility, TLH; Procedure No. VOR-1, Amdt. 1; Eff. date, 11 July 68; Sup. Amdt. No. Orig.; Dated, 25 Nov. 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 8.7 miles after passing TLH VORTAC.
Creek Int	TLH VORTAC	Direct	2000	Climb to 2000′ direct to TL NDB (OM) or, when directed by ATC, climb to 2000′, right turn, direct to TLH VORTAC.
TL NDB (OM)	TLH VORTAC	Direct	2000	
R 288°, TLH VORTAC clockwise	R 353°, TLH VORTAC	8-mile Arc TLH, R 339° lead radial.	2000	
R 088°, TLH VORTAC counter-clockwise	R 353°, TLH VORTAC	8-mile Arc TLH, R 007° lead radial.	2200	Supplementary charting information: Depict GEF R 261° passing through TLH R 173°, 5-mile DME Fix. TDZ elevation, 81′.
8-mile Arc	TLH VORTAC (NOPT)	R 353°	2000	

Procedure turn W side of crs, 353° Outbnd, 173° Inbnd, 2000′ within 10 miles of TLH VORTAC.
FAF, TLH VORTAC. Final approach crs, 173°. Distance FAF to MAP, 8.7 miles.
Minimum altitude over TLH VORTAC, 2000′; over R 261°, GEF/5-mile DME R 173° TLH, 700′.
MSA: 000°–090°—2300′; 090°–180°—1600′; 180°–270°—1900′; 270°–360°—1700′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-18	700	¾	619	700	¾	619	700	¾	619	700	1	619
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	700	1	619	700	1	619	700	1½	619	700	2	619
	VOR/DME Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-18	500	¾	419	500	¾	419	500	¾	419	500	1	419
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	500	1	419	540	1	459	540	1½	459	640	2	559
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Tallahassee; State, Fla.; Airport name, Tallahassee Municipal; Elev., 81′; Facility, TLH; Procedure No. VOR Runway 18, Amdt. 1; Eff. date, 11 July 68; Sup. Amdt. No. Orig.; Dated, 28 Oct. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.6 miles after passing TCL VORTAC.
Oak Grove Int	TCL VORTAC (NOPT)	Direct	2100	Climb to 2100′, R 238°, TCL VORTAC.
OKW VOR	TCL VORTAC, R 058°	Via 14-mile Arc TCL R 068° lead radial.	2100	Supplementary charting information: Water tank 362′ 10,500′ NE of runway 22 threshold, slightly NW of runway centerline extended. This is location of DME step-down fix. Final approach crs intercepts runway centerline 3000′ from threshold.
14-mile Arc	TCL VORTAC (NOPT)	R 058°	1400	

Procedure turn N side of crs, 058° Outbnd, 238° Inbnd, 2100′ within 10 miles of TCL VORTAC.
FAF, TCL VORTAC. Final approach crs, 238°. Distance FAF to MAP, 3.6 miles.
Minimum altitude over TCL VORTAC, 1400′; over 2.3-mile DME, 620′.
MSA: 000°–180°—2100′; 180°–270°—1900′; 270°–360°—1700′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-22	620	1	456	620	1	456	620	1	456	620	1	456
	VOR/DME Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-22	560	1	396	560	1	396	560	1	396	560	1	396
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	680	1	511	680	1	511	680	1½	511	740	2	571
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Tuscaloosa; State, Ala.; Airport name, Van De Graaff; Elev., 169′; Facility, TCL; Procedure No. VOR Runway 22, Amdt. Orig.; Eff. date, 11 July 68

11. By amending § 97.25 of Subpart C to establish localizer (LOC) and localizer-type directional aid (LDA) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes			Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.1 miles after passing Elm Fort Int.
			Climb to 2000′ on LOC crs 128° within 20 miles or climb to 2000′, left turn, direct to Dallas VORTAC. Supplementary charting information: Depict Quarry VHF INT as stepdown fix. TDZ elevation, 475′.

Procedure turn not authorized. Approach crs (profile) starts at Elm Fork Int.
FAF, Elm Fork Int. Final approach crs, 128°. Distance FAF to MAP, 6.1 miles.
Minimum altitude over Elm Fork Int, 1700′; over Quarry Int, 900′.
#Radar required.
*RVR 24, Runways 13L and 31L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13R	900	¾	425	900	¾	425	900	¾	425	900	1	425
	LOC/VOR Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13R	840	¾	365	840	¾	365	840	¾	365	840	1	365
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	920	1	435	1000	1	515	1000	1½	515	1080	2	595
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485′; Facility, I-LVF; Procedure No. LOC (BC) Runway 13R, Amdt. 1; Eff. date, 11 July 68; Sup. Amdt. No. Orig.; Dated, 23 Sept. 67

Terminal routes			Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.2 miles after passing Ross Ave Int.
Argyle Int	Fair Park Int	Direct	2200	Climb to 2000′ on LOC crs 308° within 20 miles or climb to 2000′, right turn, direct to Dallas VORTAC. Supplementary charting information: Depict DDA. NDB as stepdown fix. TERPs par. 289 7:1 descent applied to Ross Ave Int and 1049′ building 24,500′ from threshold, 4800′ left of centerline. TDZ elevation, 485′.
Kleberg Int	Fair Park Int (NOPT)	Direct	2000	

Procedure turn S side of crs, 128° Outbnd, 308° Inbnd, 2000′ within 10 miles of Ross Ave Int.
FAF, Ross Ave Int. Final approach crs, 308°. Distance FAF to MAP, 3.2 miles.
Minimum altitude over Fair Park Int, 2000′; over Ross Ave Int, 1500′; over DDA NDB, 1000′.
NOTE: ASR.
*RVR 24, Runways 31L and 13L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31R	1000	¾	515	1000	¾	515	1000	¾	515	1000	1	515
	LOC/NDB Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31R	880	¾	395	880	¾	395	880	¾	395	880	1	395
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1000	1	515	1000	1	515	1000	1½	515	1080	2	595
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485′; Facility, I-DAL; Procedure No. LOC (BC) Runway 31R, Amdt. 13; Eff. date, 11 July 68; Sup. Amdt. No. ILS-31R, Amdt. 12 (back crs); Dated, 4 Dec. 65

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	Map: 6 miles after passing Joseph Int.
GEF VOR	Joseph Int	Direct	2000	Climb to 1600′ on the S crs of the ILS LOC.
TL NDB (OM)	Joseph Int	Direct	2000	
Reno Int	Havana Int	Direct	2000	
Havana Int	Joseph Int (NOPT)	Direct	1700	

Procedure turn W side of crs, 358° Outbnd, 178° Inbnd, 2000′ within 10 miles of Joseph Int.
FAF, Joseph Int. Final approach crs, 178°. Distance FAF to MAP, 6 miles.
Minimum altitude over Joseph Int, 1700′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-18	500	¾	419	500	¾	419	500	¾	419	500	1	419
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	500	1	419	540	1	459	540	1½	459	640	2	559
A	Standard		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Tallahassee; State, Fla.; Airport name, Tallahassee Municipal; Elev., 81′; Facility, I-TLH; Procedure No. LOC (BC) Runway 18, Amdt. 6; Eff. date, 11 July 68; Sup Amdt No. 5; Dated, 28 Oct. 67

12. By amending § 97.27 of Subpart C to establish nondirectional beacon (automatic direction finder) (NDB/ADF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	Map: 4.1 miles after passing DA LOM.
DAL VORTAC	DA LOM	Direct	2200	Climb to 2000′ on bearing 128° within 15 miles or climb to 2000′ left turn direct to Dallas VORTAC.
GSW VORTAC	DA LOM	Direct	2200	
ADS VOR	DA LOM	Direct	2200	
Fair Park Int	DA LOM	Direct	2200	Supplementary charting information: TDZ elevation: Runway 13L, 483′; Runway 13R, 475′.
Kleberg Int	DA LOM	Direct	2200	

Procedure turn N side of crs, 308° Outbnd, 128° Inbnd, 2200′ within 10 miles of DA LOM.
FAF, DA LOM. Final approach crs, 13L—128°, 13R—135°. Distance FAF to MAP, 13L—4.1 miles, 13R—4.2 miles.
Minimum altitude over DA LOM, 1800′.
MSA: 160°-250°—3400′; 250°-160°—2300′.
NOTE: ASR.
*RVR 24, Runways 13L and 31L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13L	880	RVR 40	397	880	RVR 40	397	880	RVR 40	397	880	RVR 50	397
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13R	880	1	405	880	1	405	880	1	405	880	1	405
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	920	1	435	1000	1	515	1000	1½	515	1080	2	595
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485′; Facility, DA; Procedure No. NDB (ADF) Runway 13L/13R, Amdt. Orig.; Eff. date, 11 July 68

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.9 miles after passing LV LOM.
DAL VORTAC	LV LOM	Direct	2000	Climb to 2200′ on bearing 308° within 15 miles or climb to 2000′, right turn, direct to Dallas VORTAC.
GSW VORTAC	LM LOM	Direct	2000	
ADS VOR	LV LOM	Direct	2000	
Forest Int	LV LOM (NOPT)	Direct	2000	Supplementary charting information: Depict Central LF INT as stepdown fix. Depict 1049′ building 23,300′ from threshold, 1800′ left of centerline. TDZ elevation, 475′.
Hutchins Int	LV LOM (NOPT)	Direct	2000	

Procedure turn S side of crs, 128° Outbnd, 308° Inbnd, 2000′ within 10 miles of LV LOM.
FAF, LV LOM. Final approach crs, 308°. Distance FAF to MAP, 4.9 miles.
Minimum altitude over LV LOM, 2000′; over Central LF INT, 1500′.
MSA: 000°–180°—2200′; 180°–270°—3400′; 270°–360°—2300′.
NOTE: ASR.
*RVR 24, Runways 31L and 13L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31L	1500	RVR 50	1025	1500	RVR 50	1025	1500	RVR 60	1025	1500	1¼	1025
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1500	1	1015	1500	1	1015	1500	1¼	1015	1500	2	1015
	NDB/VOR Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31L	1160	RVR 40	685	1160	RVR 40	685	1160	RVR 50	685	1160	RVR 50	685
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1160	1	675	1160	1	675	1160	1¼	675	1160	2	675
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485′; Facility, LV; Procedure No. NDB (ADF) Runway 31L, Amdt. 1; Eff. date, 11 July 68; Sup. Amdt. No Orig.; Dated, 27 May 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.2 miles after passing Ross Ave Int.
DAL VORTAC	DDA NDB	Direct	2000	Climb to 2200′ on bearing 308° within 20 miles or climb to 2000′, right turn, direct to Dallas VORTAC.
GSW VORTAC	DDA NDB	Direct	2000	
ADS VOR	DDA NDB	Direct	2000	
Kleberg Int	Fair Park Int (NOPT)	DDA BRG 128°	2000	Supplementary charting information: Depict DDA NDB as stepdown fix. TV tower 858′, 18,200′ from threshold, 5600′ left of runway centerline. TDZ elevation, 485′.

Procedure turn S side of crs, 128° Outbnd, 308° Indbnd, 2000′ within 10 miles of Ross Ave Int.
FAF, Ross Ave Int. Final approach crs, 308°. Distance FAF to MAP, 3.2 miles.
Minimum altitude over Fair Park Int, 2000′; over Ross Ave Int, 1500′; over DDA NDB, 1040′.
NOTE: ASR.
*RVR 24, Runways 31L and 13L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31R	940	1	455	940	1	455	940	1	455	940	1	455
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	940	1	455	1000	1	515	1000	1¼	515	1080	2	595
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485′; Facility, DDA; Procedure No. NDB (ADF) Runway 31R, Amdt. 5; Eff. date, 11 July 68; Sup. Amdt. No. ADF 3, Amdt. 4; Dated, 23 July 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.4 miles after passing PRR NDB.
MIA VORTAC	PRR NDB	Direct	1600	Climb to 1600', left turn, direct to PRR NDB and hold.
BSY VOR	PRR NDB	Direct	2000	
MF RBN/LOM	PRR NDB	Direct	1600	Supplementary charting information: Hold SW, 1-minute left turns, 052° Inbnd. TDZ elevation, 9'.

Procedure turn N side of crs, 232° Outbnd, 052° Inbnd, 1600' within 10 miles of PRR NDB.
FAF, PRR NDB. Final approach crs, 062°. Distance FAF to MAP, 5.4 miles.
Minimum altitude over PRR NDB, 1600'.
MSA: 000°–270°—2000'; 270°–360°—1600'.
NOTES: (1) Radar vectoring. (2) Tamiami Tower operating 0700–2300. (3) Use Miami International altimeter setting when control zone not effective.
*Circling and straight-in MDA increased 60' when control zone not effective.
**Straight-in visibility increased to 1¼ miles when control zone not effective.
#Night operations authorized for 9L and 27R only.
##Alternate minimums not authorized when control zone not effective.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L*#	460	1	451	460	1	451	460	1	451	460	**1	451
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C*#	480	1	471	480	1	471	480	1½	471	560	2	551
A	Standard.##		T 2-eng. or less—Standard.#				T over 2-eng.—Standard.#					

City, Miami; State, Fla.; Airport name, New Tamiami; Elev., 9'; Facility, PRR; Procedure No. NDB (ADF) Runway 9L, Amdt. 2; Eff. date, 11 July 68; Sup. Amdt. No. 1; Dated, 14 Oct. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: Over MOR NDB.
Tampico Int	MOR NDB	Direct	3000	Climbing right turn to 3000' direct to MOR NDB and hold.
White Pine Int	MOR NDB	Direct	3000	
Piedmont Int	MOR NDB	Direct	3000	Supplementary charting information: Hold SW, 1-minute right turns, 069° Inbnd.
TYS VORTAC	MOR NDB	Direct	3000	

Procedure turn S side of crs, 240° Outbnd, 060° Inbnd, 2700' within 10 miles of MOR NDB.
Final approach crs, 060°.
MSA: 000°–090°—4200'; 090°–180°—4600'; 180°–360°—4000'.
NOTE: Use TYS altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C	2180	2	881	2180	2	881	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Not authorized.	

City, Morristown; State, Tenn.; Airport name, Moore-Murrell; Elev., 1299'; Facility, MOR; Procedure No. NDB (ADF) Runway 5, Amdt. Orig.; Eff. date, 11 July 68

Terminal routes				Missed approach
From—	To—	Via	Minimum altitude (feet)	MAP: 4.1 miles after passing TL NDB/OM.
TLH VORTAC	TL NDB (OM)	Direct	1800	Climb to 2000' on crs 358° or, when directed by ATC, climb to 2000', left turn, direct to TL NDB.
Creek Int	TL NDB (OM)	Direct	1800	
Newport Int	TL NDB (OM)	Direct	1800	
Teresa Int	Ivan Int	Direct	1800	Supplementary charting information: TDZ elevation, 61'.
Ivan Int	TL NDB (OM) (NOPT)	Direct	1200	
Cody Int	TL NDB (OM)	Direct	1800	
GEF VOR	TL NDB (OM)	Direct	1800	

Procedure turn E side of crs, 178° Outbnd, 358° Inbnd, 1300' within 10 miles of TL NDB (OM).
FAF, TL NDB (OM). Final approach crs, 358°. Distance FAF to MAP, 4.1 miles.
Minimum altitude over TL NDB, 1200'.
MSA: 000°–090°—2300'; 090°–180°—1400'; 180°–360°—1900'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-36	480	¾	419	480	¾	419	480	¾	419	480	1	419
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	480	1	399	540	1	459	540	1½	459	640	2	559
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Tallahassee; State, Fla.; Airport name, Tallahassee Municipal; Elev., 81'; Facility, TL; Procedure No. NDB(ADF) Runway 36, Amdt. 9; Eff. date, 11 July 68; Sup. Amdt. No. 8; Dated, 28 Oct. 67

13. By amending § 97.27 of Subpart C to amend nondirectional beacon (automatic direction finder) (NDB/ADF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MLS, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.5 miles after passing TE LOM.
Chatham NDB	TE LOM	Direct	2000	Climb straight ahead to 1000'. Then climbing left turn to 2000' direct to Paterson Int/NDB and hold.
Paterson NDB	TE LOM	Direct	1900	
Morristown Int	TE LOM	Direct	2000	
EW LOM	TE LOM (NOPT)	Direct	1400	Supplementary charting information: Hold NE, 1-minute right turns, Inbnd crs, 211°. 693' tower 1.4 miles N of airport.

Procedure turn N side of crs, 239° Outbnd, 059° Inbnd, 1900' within 10 miles of TE LOM.
FAF, TE LOM. Final approach crs, 059°. Distance FAF to MAP, 3.5 miles.
Minimum altitude over TE LOM, 1400'.
MSA: 000°–180°—2600'; 180°–270°—2000'; 270°–360°—2900'.
NOTES: (1) Radar vectoring. (2) Inoperative table does not apply to ALS Runway 6.
CAUTION: Teterboro OM and Newark OM at approximately same geographic location and signals are simultaneously keyed to indicate one OM serving two ILS systems.
%Runways 1, 6, 19, 24, IFR departures must comply with published Teterboro SID's.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D	
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT		VIS
S-06	740	1	733	740	1	733	740	1¼	733		
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA		NA
C	740	1	733	1000	1½	993	1000	1¾	993		
A	1000–2.		T 2-eng. or less—Runway 6, 300–1; Runway 24, 300–1; Runway 1, 700–1; Runway 19, 500–1.%				T over 2-eng.—Runway 6, 300–1; Runway 24, 300–1; Runway 1, 700–1; Runway 19, 500–1.%				

City, Teterboro; State, N.J.; Airport name, Teterboro; Elev., 7'; Facility, TE LOM; Procedure No. NDB (ADF) Runway 6, Amdt. 6; Eff. date, 11 July 68; Sup. Amdt. No. 5; Dated, 30 May 68

14. By amending § 97.29 of Subpart C to establish instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 683'. LOC 4.1 miles after passing DA LOM.
DAL VORTAC	DA LOM	Direct	2200	Climb to 2000' on LOC (BC) 128° within 20 miles or climb to 2000', left turn direct to Dallas VORTAC.
GSW VORTAC	DA LOM	Direct	2200	
ADS VOR	DA LOM	Direct	2200	
Fair Park Int	DA LOM	Direct	2200	Supplementary charting information: TDZ elevation, 483'.
Kleberg Int	DA LOM	Direct	2200	
Argyle Int	Lewisville Int	Direct	2000	
Lewisville Int	DA LOM (NOPT)	Direct	1800	

Procedure turn N side of crs, 308° Outbnd, 128° Inbnd, 2200' within 10 miles of DA LOM.
FAF, DA LOM. Final approach crs, 128°. Distance FAF to MAP, 4.1 miles.
Minimum glide slope interception altitude, 1800'. Glide slope altitude at OM, 1783'; at MM, 711'.
Distance to runway threshold at OM, 4.1 miles; at MM, 0.6 mile.
MSA: 160°–250°—3400'; 250°–160°—2300'.
NOTES: (1) ASR. (2) Glide slope unusable below 677'.
*RVR 24, Runways 13L and 31L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-13L	683	RVR 24	200	683	RVR 24	200	683	RVR 24	200	683	RVR 24	200
LOC	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13L	840	RVR 24	357	840	RVR 24	357	840	RVR 24	357	840	RVR 40	357
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	920	1	435	1000	1	515	1000	1½	515	1080	2	595
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485'; Facility I-DAL; Procedure No. ILS Runway 13L, Amdt. 13; Eff. date, 11 July 68; Sup. Amdt. No. ILS-13L, Amdt. 12; Dated, 20 Aug. 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 675′. LOC 4.9 miles after passing LV LOM.
DAL VORTAC	LV LOM	Direct	2000	Climb to 2200′ on LOC (BC) 308° within 15 miles or climb to 2000′, right turn, direct to Dallas VORTAC.
GSW VORTAC	LV LOM	Direct	2000	
ADS VOR	LV LOM	Direct	2000	
Forest Int	LV LOM (NOPT)	Direct	2000	Supplementary charting information: Depict Central VHF INT as stepdown fix for LOC S-31L. Depict 1049′ building 23,300′ from threshold, 1800′ left of centerline. TDZ elevation, 475′.
Hutchins Int	LV LOM (NOPT)	Direct	2000	

Procedure turn S side of crs, 128° Outbnd, 308° Inbnd, 2000′ within 10 miles of LV LOM.
FAF, LV LOM. Final approach crs, 308°. Distance FAF to MAP, 4.9 miles.
Minimum altitude over Central VHF INT, 1500′.
Minimum glide slope interception altitude, 2000′. Glide slope altitude at OM, 2000′; at MM, 687′.
Distance to runway threshold at OM, 4.9 miles; at MM, 0.6 mile.
MSA: 000°–180°—2200′; 180°–270°—3400′; 270°–360°—2300′.

NOTE: ASR.
*RVR 24, Runways 31L and 13L.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-31L	675	RVR 18	200	675	RVR 18	200	675	RVR 18	200	675	RVR 20	200
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	920	1	435	1000	1	515	1000	1½	515	1080	2	595
LOC	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31L	1500	RVR 50	1025	1500	RVR 50	1025	1500	RVR 60	1025	1500	1½	1025
	LOC/VOR Minimums:											
LOC	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31L	1120	RVR 40	645	1120	RVR 40	645	1120	RVR 50	645	1120	RVR 50	645
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1120	1	635	1120	1	635	1120	1½	635	1120	2	635
A	Standard.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485′; Facility, I-LVF; Procedure No. ILS Runway 31L, Amdt. 1; Eff. date, 11 July 68; Sup. Amdt. No. Orig.; Dated, 27 May 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: ILS DH 261′; LOC 4.1 miles after passing NDB/OM.
TLH VORTAC	TL NDB (OM)	Direct	1800	Climb to 2000′ on N crs of ILS and proceed to TLH VORTAC or, when directed by ATC, climb to 2000′, right turn, to crs 090° and intercept TLH VORTAC R 127° to Cody Int. Supplementary charting information: TDZ elevation, 61′.
GEF VOR	TL NDB (OM)	Direct	1800	
Creek Int	TL NDB (OM)	Direct	1800	
Newport Int	TL NDB (OM)	Direct	1800	
Teresa Int	Ivan Int	Direct	1800	
Cody Int	TL NDB (OM)	Direct	1800	
Ivan Int	TL NDB (OM) (NOPT)	Direct	1200	

Procedure turn E side of crs, 178° Outbnd, 358° Inbnd, 1300′ within 10 miles of TL NDB (OM).
FAF, TL NDB (OM). Final approach crs, 358°. Distance FAF to MAP, 4.1 miles.
Minimum glide slope interception altitude, 1200′. Glide slope altitude at OM, 1200′; at MM, 251′.
Distance to runway threshold at OM, 4.1 miles, at MM, 0.6 mile.
MSA: 000°–090°—2300′; 090°–180°—1400′; 180°–360°—1900′.

NOTE: Glide slope unusable below 160′.
#Category D 700–2.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT	DH	VIS	HAT
S-36	261	½	200	261	½	200	261	½	200	261	½	200
LOC	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-36	440	½	379	440	½	379	440	½	379	440	¾	379
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	460	1	379	540	1	459	540	1½	459	640	2	559
A	Standard.#		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Tallahassee; State, Fla.; Airport name, Tallahassee Municipal; Elev., 81′; Facility, I-TLH; Procedure No. ILS Runway 36, Amdt. 10; Eff. date, 11 July 68; Sup. Amdt. No. 9; Dated, 28 Oct. 67

15. By amending § 97.31 of Subpart C to establish precision approach radar (PAR) and airport surveillance radar (ASR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approach minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at Pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
												ASR Runways 31L and 31R: Intermediate approach fix 5 miles from threshold 2000'. Descent aircraft to MDA after FAF. ASR Runways 31L and 31R FAF 3 miles from threshold 1500'. Minimum altitude over 1.3-mile Radar Fix on final approach crs 1000'. TDZ elevation: Runway 31L—475'; Runway 31R—485'.

"As established by DAL ASR minimum altitude vectoring chart".
*Missed approach: Climb to 3200' on runway heading within 10 miles or climb to 2000', right turn, direct to DAL VORTAC.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-31R	880	¾	395	880	¾	395	880	¾	395	880	¾	395
S-31L	880	RVR 40	405	880	RVR 40	405	880	RVR 40	405	880	RVR 40	405
	MDA	VIS	HAA	MDA	LIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	920	1	435	1000	1	515	1000	1¼	515	1080	2	595
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485'; Facility, DAL ASR; Procedure No. ASR-1, Amdt. 12; Eff. date, 11 July 68; Sup. Amdt. No. ASR 1, Amdt. 11; Dated, 27 Mar. 65

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)										Notes
From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	
												Descend aircraft to MDA after FAF. *ASR Rwy 13R. *ASR Rwy 13L. *ASR Rwy 18. #ASR Rwy 36. FAF 5 miles from threshold 2000'. TDZ elevation: Runway 13R—475'; Runway 13L—483'; Runway 18—480'; Runway 36—478'.

"As established by DAL ASR minimum altitude vectoring chart".
Missed approach:
*Climb to 2000' on runway heading within 10 miles or climb to 2000', left turn, direct to DAL VORTAC.
#Climb to 2000' on runway heading within 10 miles or climb to 2000', right turn, direct to DAL VORTAC.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-13R	880	¾	405	880	¾	405	880	¾	405	880	¾	405
S-13L	880	RVR 24	397	880	RVR 24	397	880	RVR 24	397	880	RVR 40	397
S-18	880	1	400	880	1	400	880	1	400	880	1	400
S-36	880	1	402	880	1	402	880	1	402	880	1	402
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	920	1	435	1000	1	515	1000	1¼	515	1080	2	595
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Dallas; State, Tex.; Airport name, Dallas Love Field; Elev., 485'; Facility, DAL ASR; Procedure No. ASR-2, Amdt. Orig.; Eff. date, 11 July 68

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on June 6, 1968.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 68-6899; Filed, June 20, 1968; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8546]

PART 13—PROHIBITED TRADE PRACTICES

Brondabrooke Publishers, Inc., et al.

Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1395 *Connections* and arrangements with others; § 13.1455 *Individual or private business as press or news affiliate.*

(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) [Modified order to cease and desist, Brondabrooke Publishers, Inc., et al., New York, N.Y., Docket 8546, May 23, 1968]

In the Matter of Brondabrooke Publishers, Inc., a Corporation, Joseph Harrow and Harry Brenner, Individually and as Officers of Said Corporation; and Max Strier, Individually and as Advertising Manager of Said Corporation

Order reopening and modifying a cease and desist order issued October 11, 1963, 28 F.R. 12092, prohibiting a publisher from misrepresenting that his newspaper was affiliated with a labor union by adding a proviso that as a defense in any enforcement proceeding, respondent, Joseph Harrow, may show that the newspaper "The New Jersey Teamsters News" is in fact labor union affiliated.

The modified order to cease and desist, is as follows:

It is ordered, That this proceeding be, and it hereby is, reopened.

It is further ordered, That as to respondent Joseph Harrow, the order to cease and desist entered herein October 11, 1963, be, and it hereby is, modified by adding to paragraph 1 thereof the following proviso:

Provided, however, That in any enforcement proceeding instituted hereunder in connection with the representation that the newspaper known as "The New Jersey Teamsters News" is endorsed by or affiliated with a labor union, it shall be a defense for respondent Joseph Harrow to establish that said newspaper is endorsed by or affiliated with Joint Council No. 73, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

Issued: May 23, 1968.

By the Commission.

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

[F.R. Doc. 68-7349; Filed, June 20, 1968; 8:46 a.m.]

[Docket No. C-1342]

PART 13—PROHIBITED TRADE PRACTICES

Hemca, Inc., and Marvin J. Hutcheson

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.85 *Government approval, action, connection or standards;* 13.85-45 Inspection; § 13.155 *Prices;* 13.155-10 Bait; § 13.185 *Refunds, repairs, and replacements.* Subpart—Concealing, obliterating or removing law required and informative marking: § 13.520 *Quality, grade or qualities.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misbranding or mislabeling: § 13.1295 *Quality or grade.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1635 *Government inspection;* § 13.1647 *Guarantees;* § 13.1725 *Refunds;* Misrepresenting oneself and goods—Prices: § 13.1779 *Bait.*

(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, Hemca, Inc., et al., Grand Prairie, Tex., Docket C-1342, May 24, 1968]

In the Matter of Hemca, Inc., a Corporation, and Marvin J. Hutcheson, Individually and as an Officer of Said Corporation

Consent order requiring a Grand Prairie, Tex., franchiser of retail meat stores to cease using bait advertising in the sale of its meat products, misrepresenting the weight loss due to cutting and trimming, misbranding meat which is below U.S.D.A. grade standards, and furnishing its licensees with means of deception.

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

It is ordered, That respondents Hemca, Inc., a corporation, and its officers, and Marvin J. Hutcheson, individually and as an officer of said corporation and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of meat and other food products, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination by means of U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any advertisement which represents directly or by implication:

(a) That any products are offered for sale, when the purpose of such representations is not to sell the offered products, but to obtain prospects for the sale of other products at higher prices.

(b) That any product is offered for sale when such an offer is not a bona fide offer to sell such product.

(c) That any product is guaranteed unless the nature, conditions and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

2. Disseminating, or causing the dissemination of any advertisement by means of U.S. mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which fails to clearly and conspicuously indicate:

(a) That beef sides, hindquarters, and other untrimmed pieces of meat offered for sale are sold subject to weight loss due to cutting, dressing, and trimming;

(b) That the price charged for such meat is based on the weight before cutting, dressing, and trimming occurs;

(c) The average percentage of weight loss of such meat due to cutting, dressing, and trimming.

3. Disseminating, or causing the dissemination of any advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which fails to clearly and conspicuously include:

(1) When U.S. Department of Agriculture graded meat is advertised which is below the grade of "USDA Good", the statement "This meat is of a grade below U.S. Prime, U.S. Choice, and U.S. Good."

(2) When meat not graded by U.S. Department of Agriculture is advertised:

(a) The statement "This meat has not been graded by the United States Department of Agriculture" and,

(b) If such meat is a portion of the total meat offered, a statement indicating the portion which is ungraded, and the percentage, by weight, of the total meat offered.

4. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly the purchase of any meat or other food product in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph 1 of this order or fails to comply with the affirmative requirements of paragraphs 2 and 3 hereof.

5. Discouraging the purchase of, or disparaging in any manner, or encouraging, instructing or suggesting that others discourage or disparage, any meat or other food products which are advertised or offered for sale in advertisements, disseminated or caused to be disseminated by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act.

6. Supplying or placing in the hands of any franchised dealer, distributor, licensee, or any salesman or agent thereof, sales manuals, brochures, advertising mats, or any other advertising, or sales aid materials for the purpose of inducing or which are likely to induce, directly or indirectly, the purchase of meat or other food products in commerce, as "commerce" is defined in the Federal Trade

Commission Act, and which contain any of the false, misleading or deceptive representations prohibited in this order, or which are designed for use, or could be used, to carry out or enhance the practices prohibited in this order.

7. Failing to deliver a copy of this order to cease and desist to all operating divisions of the corporate respondent and to all officers, managers, and salesmen, both present and future, of each franchised dealer, distributor, and licensee; and to any other person now engaged or who becomes engaged in the sale of meat or other food products as respondents' agent, representative, or employee; and to secure a signed statement from each of said persons acknowledging receipt of a copy thereof.

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 24, 1968.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 68-7350; Filed, June 20, 1968; 8:46 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT

Filing of Visa Petition

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER on May 21, 1968 (33 F.R. 7498), pursuant to section 553 of Title 5 of the United States Code and in which there were set out the terms of a proposed amendment to § 204.1(a) relating to the filing of visa petitions. Representations which were received concerning the proposed rule of May 21, 1968, have been considered. The proposed rule as set out below is hereby adopted:

Paragraph (a) *Relative* of § 204.1 *Petition* is amended by adding the following sentence at the end thereof: "Notwithstanding the fact that the beneficiary may be a native of an independent foreign country of the Western Hemisphere or of the Canal Zone, a petition to accord the beneficiary classification as an immediate relative under section 201 (b) of the Immigration and Nationality Act (including an immediate relative referred to in section 21(e) of the Act of October 3, 1965) shall be filed when the beneficiary is the parent of a United States citizen who is at least 21 years of age, or is the spouse or child of a United States citizen."

The basis and purpose of the above-prescribed rule is to provide for the filing of a visa petition to accord immediate relative status for a beneficiary who is a native of an independent foreign country of the Western Hemisphere or of the Canal Zone on or after July 1, 1968.

This order shall be effective on July 1, 1968. Compliance with the provisions of section 553 of Title 5 of the United States Code (Public Law 89-554, 80 Stat. 383), as to delayed effective date, is unnecessary in this instance because the amendment is an interpretative rule.

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

Dated: June 17, 1968.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 68-7364; Filed, June 20, 1968; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Artificially Red-Dyed Yellow Varieties of Sweetpotatoes

In the FEDERAL REGISTER of March 5, 1968 (33 F.R. 4144), a statement of policy was proposed under which artificially red-dyed yellow varieties of sweetpotatoes would be deemed adulterated within the meaning of section 402(b) of the Federal Food, Drug, and Cosmetic Act and would be subject to appropriate regulatory action.

In response to the proposal, comments (20) were submitted by consumers, associations of sweetpotato growers, individual growers, an agricultural consultant, a farming equipment company, members of Congress, and State authorities. Of these, four favored the policy as proposed, seven recommended that it be expanded to apply to all varieties of sweetpotatoes, and four recommended that it be expanded to apply to all varieties of sweetpotatoes and to white (Irish) potatoes.

Eight of the comments included information indicating that the practice of artificially coloring sweetpotatoes deceives consumers not only as to the variety but also as to the quality of potatoes.

Five of the comments were adverse to the proposal as follows: (1) Objected but gave no reason; (2) stated that a dye is useful to restore the natural coloring of the potato that is removed during the washing process; (3) stated that a dye increases the sale of potatoes; (4) stated that prohibition of such use of dye will result in great loss to the sweetpotato industry; and (5) stated that such use of dye permits the packer to pack a standard and uniform product from potatoes that are naturally different in outward appearance.

The Commissioner of Food and Drugs concludes that:

A. Those who commented adversely on the proposal did not provide sufficient information to support their contentions.

B. Sufficient information is lacking at this time to support an expansion of the proposed policy to cover all sweet and white potatoes.

C. The proposal should be adopted as set forth below.

Accordingly, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402(b), 701(a), 52 Stat. 1046-47, 1055; 21 U.S.C. 342(b), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 3:

§ 3.69 Artificially red-dyed yellow varieties of sweetpotatoes.

(a) It has been the practice of some growers, packers, and distributors of yellow varieties of sweetpotatoes to artificially color the skins of such potatoes with a red dye. Surveys made by the Food and Drug Administration and letters received by the Administration from consumers reveal that this practice can deceive those persons who prefer the naturally red varieties of sweetpotatoes. Also, representatives of the red sweetpotato industry have alleged that some consumers refuse to purchase any red sweetpotatoes since they cannot distinguish between the naturally red ones and those artificially colored with red dye.

(b) The Food and Drug Administration concludes, therefore, that yellow varieties of sweetpotatoes artificially colored with a red dye are adulterated within the meaning of section 402(b) of the Federal Food, Drug, and Cosmetic Act.

(c) The Food and Drug Administration will consider appropriate regulatory action regarding such adulterated sweetpotatoes shipped in interstate commerce if the act of adulterating the potatoes occurs after 90 days following the date of publication of this statement of policy in the FEDERAL REGISTER.

(Secs. 402(b), 701(a), 52 Stat. 1046-47, 1055; 21 U.S.C. 342(b), 371(a))

Dated: June 14, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-7393; Filed, June 20, 1968; 8:50 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

1-Methoxycarbonyl-1-Propen-2-yl Dimethylphosphate and Its Beta Isomer

No comments were received in response to the notice published in the FEDERAL REGISTER of April 17, 1968 (33

F.R. 5884), proposing establishment of a tolerance of 1 part per million for residues of the insecticide 1-methoxycarbonyl-1-propen-2-yl dimethlphosphate and its beta isomer in or on parsley. Also, no requests were received to refer the proposal to an advisory committee. Accordingly, the Commissioner of Food and Drugs concludes that the proposed amendment should be adopted.

Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and delegated to the Commissioner (21 CFR 2.120), § 120.157 is amended by adding "parsley" to the paragraph "1.0 part per million * * *" which as changed reads as follows:

§ 120.157 1-Methoxycarbonyl-1-propen-2-yl dimethylphosphate and its beta isomer; tolerances for residues.

* * * * *

1.0 part per million in or on alfalfa, artichokes, broccoli, brussels sprouts, cabbage, cauliflower, celery, cherries, clover, collards, corn forage, garden beets (including tops), kale, mustard greens, parsley, peaches, pea vines, plums, raspberries, sorghum forage, sorghum grain, spinach, strawberries, turnip tops.

* * * * *

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

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

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: June 13, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-7394; Filed, June 20, 1968; 8:50 a.m.]

Title 22—FOREIGN RELATIONS

Chapter VI—U.S. Arms Control and Disarmament Agency

PART 601—CONDUCT OF EMPLOYEES

PART 603—STATEMENT OF ORGANIZATION

Miscellaneous Amendments

Paragraph (b) of § 601.735-13 is deleted in its entirety and paragraph (c) is redesignated paragraph (b); footnote 1 to paragraph 4 of § 601.735-35 having been superseded by the amended text of § 601.735-31 is deleted in its entirety; the heading and text of § 601.735-31 are revised to clarify general policy with regard to teaching, lecturing or writing.

§ 601.735-13 Outside employment and other activities.

* * * * *

(b) It is further required that:

(1) The employee's performance in his ACDA position not be adversely affected by the outside work.

(2) The employee's outside work not reflect discredit on the Government or on ACDA.

(3) The employee shall not accept a fee, compensation, gift, payment of expense, or any other thing or monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest.

* * * * *

§ 601.735-31 General policy.

* * * * *

Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, this part, or the agency regulations. 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 Commission or Board of Examiners for the Foreign Service, that depends on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the agency head gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

* * * * *

§ 601.735-35 Writing for publication.

* * * * *

(4) The Public Affairs Adviser shall be responsible for making a final determination on the propriety of publication and, if publication is approved, on the extent of attribution or nonattribution to the Agency, the adequacy of the disclaimer if attribution is made, and the propriety of an honorarium or other form of remuneration if this factor is involved. The Public Affairs Adviser shall obtain the approval of the Office of the General Counsel on the acceptance of an honorarium and may seek the General Counsel's recommendation on other pertinent matters.

* * * * *

(E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104; E.O. 11408 of Apr. 25, 1968, 33 F.R. 6459)

These amendments were approved by the Civil Service Commission on May 21, 1968, to be effective upon publication in the FEDERAL REGISTER.

Part 603 is amended to reflect the dissolution of the Disarmament Advisory Staff. Section 603.13 is revoked in its entirety; §§ 603.5(b) and 603.14 are amended to delete reference to the Disarmament Advisory Staff; and § 603.21 is amended to reflect the addition of responsibilities formerly under the Disarmament Advisory Staff. Part 603 is amended as set out below.

§ 603.5 Organization.

* * * * *

(b) The Agency's program responsibilities are primarily discharged through four bureaus—International Relations Bureau, Weapons Evaluation and Control Bureau, Science and Technology Bureau, and Economics Bureau—each of which is headed by an Assistant Director appointed by the President with the advice and consent of the Senate. The staff element participating in the policy formulation process is the Office of the General Counsel. Other organizational units with staff responsibilities are the Office of the Public Affairs Adviser, and the Executive Staff.

* * * * *

§ 603.13 [Reserved]

§ 603.14 Research Council.

The Council, composed of a Chairman designated by the Director; the heads of the Bureaus of Weapons Evaluation and Control, International Relations, Science and Technology, and Economics; and the heads of the Offices of the General Counsel and the Executive Director.

* * * * *

§ 603.21 The Executive Director.

* * * * *

(e) Serves as the Chairman of the Agency Research Council, responsible for promoting and coordinating the comprehensive and balanced program of research needed by the Government for arms control and disarmament policy formulation.

(f) Serves as or designates the Chairman of the Agency Program Planning Staff, responsible for developing a multiyear financial and program plan to assure that results commensurate with costs ensue from Agency research activities.

(g) Formulates and implements policies and supervisory procedures covering procurement by the Agency to assure uniform application in contractor selection and contract actions.

(h) In collaboration with the Office of the General Counsel and with the project officers of the Bureaus assigned responsibility for contract research projects, prepares Agency contracts for approval and execution by the Director.

(i) Provides reference and information support to all organizational components of the Agency, including such services as the acquisition, storage, retrieval and dissemination of technical information covering all facets of arms control and disarmament.

(j) Prepares reference aids to support research, including bibliographies, information abstracts and extracts, technical accession lists, summaries, indexes, digests, and cataloging services.

(k) Provides a technical library service.

(l) Plans the development, implementation and administration of an information indexing and retrieval program for technical inquiry response.

(m) Administers a records management program, including mail and messenger service.

(n) Monitors information service contracts and reimbursable agreements.

(o) Provides direct support to both internal and external research activities through the development and maintenance of information profiles, continuing direct liaison with other information resources and assistance with identifying and selecting appropriate information for contractor use.

(p) Makes available information to the public pursuant to the Freedom of Information Act.

(q) Revises schedule of fees, or otherwise determines user charges for general Agency application, for information made public under the Freedom of Information Act.

(Sec. 41, 75 Stat. 631, 22 U.S.C. 2581)

These amendments to Part 603 of Title 22 of the Code of Federal Regulations shall become effective as of the date of publication in the FEDERAL REGISTER.

The foregoing amendments to Parts 601 and 603 are approved.

WILLIAM C. FOSTER,
Director.

JUNE 14, 1968.

[F.R. Doc. 68-7328; Filed, June 20, 1968; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6958]

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

Investment Credit Provisions

On March 20, 1968, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 46 and 48 of the Internal Revenue Code of 1954, relating to the investment credit, was published in the FEDERAL REGISTER (33 F.R. 4742). No objection to the rules proposed having been received during the 30-day period prescribed in the notice, the amendment of the regulations as proposed is hereby adopted.

(Secs. 38(b) (76 Stat. 963; 26 U.S.C. 38(b)) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)

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

Approved: June 13, 1968.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 3 of the Act of November 8, 1966 (Public Law 89-800, 80 Stat. 1508), relating to suspension of the investment credit; section 3 of the Act of June 13, 1967 (Public Law 90-26, 81 Stat. 57), relating to restoration of the investment credit; section 201 of the Act of November 13, 1966 (Public Law 89-809, 80 Stat. 1539); and section 2(a) of the Act of December 27, 1967 (Public Law 90-225, 81 Stat, 731), such regulations are amended as follows:

PARAGRAPH 1. Section 1.46 is amended by revising subsections (a)(2) and (b)(1), and deleting subsection (b)(3), of section 46 and by revising the historical note. These revised provisions read as follows:

§ 1.46 Statutory provisions; amount of credit.

SEC. 46. *Amount of credit*—(a) *Determination of amount.* * * *

(2) *Limitation based on amount of tax.* Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed—

(A) So much of the liability for tax for the taxable year as does not exceed $25,000, plus

(B) For taxable years ending on or before the last day of the suspension period (as defined in section 48(j)), 25 percent of so much of the liability for tax for the taxable year as exceeds $25,000, or

(C) For taxable years ending after the last day of such suspension period, 50 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

In applying subparagraph (C) to a taxable year beginning on or before the last day of such suspension period and ending after the last day of such suspension period, the percent referred to in such subparagraph shall be the sum of 25 percent plus the percent which bears the same ratio to 25 percent as the number of days in such year after the last day of the suspension period bears to the total number of days in such year. The amount otherwise determined under this paragraph shall be reduced (but not below zero) by the credit which would have been allowable under paragraph (1) for such taxable year with respect to suspension period property but for the application of section 48(h)(1).

* * * * *

(b) *Carryback and carryover of unused credits*—(1) *Allowance of credit.* If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the limitation provided by subsection (a)(2) for such taxable year (hereinafter in this subsection referred to as "unused credit year"), such excess shall be—

(A) An investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

(B) An investment credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by section 38 for such years, except that such excess may be a carryback only to a taxable year ending after December 31, 1961. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

* * * * *

(3) [Repealed]

* * * * *

[Sec. 46 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 201(d)(4), Rev. Act 1964 (78 Stat. 32); sec. 3, Act of Nov. 8, 1966 (Public Law 89-800, 80 Stat. 1514); sec. 2(a), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731)]

PAR. 2. Section 1.46-1 is amended by revising paragraphs (b), (d), (e), (f)(1), (f)(6), and so much of (f)(8) as follows example (1) thereof. These revised provisions read as follows:

§ 1.46-1 Determination of amount.

* * * * *

(b) *Limitation based on amount of tax*—(1) *In general.* Notwithstanding the amount of the credit earned for the taxable year, under section 46(a)(2) the credit allowed by section 38 for the taxable year is limited to—

(i) If the liability for tax (as defined in paragraph (c) of this section) is $25,000 or less, the liability for tax; or

(ii) If the liability for tax is more than $25,000, then

(*a*) For a taxable year ending on or before March 9, 1967, the first $25,000 of the liability for tax plus 25 percent of

the liability for tax in excess of $25,000, and

(b) For a taxable year ending after March 9, 1967, the first $25,000 of the liability for tax plus 50 percent of the liability for tax in excess of $25,000.

However, such $25,000 amount may be reduced in the case of certain married individuals filing separate returns (see paragraph (e) of this section); corporations which are members of an affiliated group (see paragraph (f) of this section); trusts and estates (see paragraph (c) of § 1.48–6); and organizations to which section 593 applies, regulated investment companies or real estate investment trusts subject to taxation under subchapter M, chapter 1 of the Code, and cooperative organizations described in section 1381(a) (see § 1.46–4). The excess of the credit earned for the taxable year over the limitation described in this paragraph for such taxable year is an unused credit which may be carried back or forward to other taxable years in accordance with § 1.46–2.

(2) *Transitional rule.* In applying subparagraph (1)(ii)(b) of this paragraph to a taxable year beginning on or before March 9, 1967, and ending after such date, the percent referred to in such subparagraph shall be the sum of 25 percent and a portion of 25 percent. The portion shall be determined by multiplying 25 percent by a fraction, the numerator of which is the number of days in such taxable year after March 9, 1967, and the denominator of which is the total number of days in such year. For example: Assume that corporation X has a taxable year beginning January 1, 1967, and ending December 31, 1967. For such year, the percent referred to in subparagraph (1)(ii)(b) is 45.342 percent, that is, 25 percent plus 20.342 percent (25 percent multiplied by 297/365).

(3) *Adjustment for suspension period property.* Under section 46(a)(2), the amount of the limitation based on amount of tax otherwise determined under such section is reduced (but not below zero) by an amount equal to the credit which would have been earned for the taxable year with respect to suspension period property (as defined in section 48(h)(2)) but for the application of section 48(h)(1). The reduction described in the preceding sentence shall be made only for the taxable year in which such suspension period property is placed in service (within the meaning of paragraph (d) of § 1.46–3).

* * * * *

(d) *Examples.* The application of paragraphs (a), (b), and (c) of this section may be illustrated by the following examples:

Example (1). X Corporation's qualified investment for its taxable year ending December 31, 1963, is $2,050,000. X's credit earned for the taxable year is $143,500 (7 percent of $2,050,000). X's income tax for such year, computed without regard to credits against tax or tax imposed by section 531 or 541, is $190,000. Such amount includes $5,000 resulting from the application of section 47. X is allowed under section 33 a foreign tax credit of $50,000. X's liability for tax is computed as follows:

Liability for tax		
Income tax (including increase in tax under section 47, but before credits and section 531 or 541 tax)		$190,000
Less:		
Increase in tax resulting from application of section 47	$5,000	
Foreign tax credit	50,000	
		55,000
Liability for tax		135,000

Under section 46(a)(2), X's limitation based on amount of tax for the taxable year is $52,500 ($25,000 plus 25 percent of $110,000). X Corporation's credit allowed by section 38 for the taxable year therefore is $52,500. X has an unused credit for the year of $91,000 ($143,500 less $52,500) which it may carry back or over to other taxable years in accordance with § 1.46–2.

Example (2). Assume the same facts as in example (1), except that X Corporation's taxable year is the fiscal year ending June 30, 1968. X's credit allowed by section 38 for such taxable year is limited to $80,000 ($25,000 plus 50 percent of $110,000), and its unused credit for such year is $63,500 ($143,500 less $80,000).

Example (3). Assume the same facts as in example (2). Assume further that X Corporation places in service on July 1, 1967, a machine which is suspension period property, and that the credit earned by X with respect to the machine for the taxable year would have been $5,000 but for the provisions of section 48(h)(1). Under section 46(a)(2) the limitation otherwise determined ($80,000) is reduced by the $5,000 credit that X would have earned with respect to the machine but for section 48(h)(1). Thus, the credit allowed X Corporation for the taxable year is $75,000, and X's unused credit for such year is $68,500 ($143,500 less $75,000).

Example (4). Assume the same facts as in example (3), except that the credit earned by X Corporation with respect to the machine would have been $90,000 but for the provisions of section 48(h)(1). X's credit allowed for the taxable year is zero, since the limitation otherwise determined ($80,000) is reduced (but not below zero) by the $90,000 credit that X would have earned with respect to the machine. Therefore, X's unused credit for such year is $143,500.

(e) *Married individuals.* If a separate return is filed by a husband or wife, the limitation based on amount of tax under paragraph (b) of this section shall be computed by substituting a $12,500 amount for the $25,000 amount in applying paragraph (b)(1) of this section. However, this reduction of the $25,000 amount to $12,500 applies only if the taxpayer's spouse is entitled to a credit under section 38 for the taxable year of such spouse which ends with, or within, the taxpayer's taxable year. The taxpayer's spouse is entitled to a credit under section 38 either because of investment made in qualified property for such taxable year of the spouse (whether directly made by such spouse or whether apportioned to such spouse, for example, from an electing small business corporation, as defined in section 1371(b)), or because of an investment credit carryback or carryover to such taxable year. The determination of whether an individual is married shall be made under the principles of section 143 and the regulations thereunder.

(f) *Apportionment of $25,000 amount among members of an affiliated group—*(1) *In general.* In determining the limitation based on amount of tax under section 46(a)(2) in the case of an affiliated group (as defined in subparagraph (5) of this paragraph), the $25,000 amount specified in such section shall be reduced for each member of the group by apportioning $25,000 among the members of the group. The apportionment of the $25,000 amount shall be made for the taxable year of each such member ending with, or within which falls, the last day of the taxable year of the common parent and, except as otherwise provided in this paragraph, shall be made among those corporations which are members of the affiliated group on such last day.

* * * * *

(6) *Affiliated group filing a consolidated return.* In the case of an affiliated group whose members join in filing a consolidated return for a taxable year, see § 1.1502–3(a)(3). If some members of an affiliated group join in filing a consolidated return and other members of such group do not join (such as a corporation exempt from taxation under section 501), then, unless a consent is timely filed apportioning the $25,000 amount among the group filing the consolidated return and the other members of the affiliated group, each member of the affiliated group (including each member which joins in filing the consolidated return) shall be treated as a separate corporation for purposes of equally apportioning the $25,000 amount under subparagraph (2)(iii) of this paragraph. In such case, the limitation based on amount of tax for the group filing the consolidated return shall be computed by substituting for the $25,000 amount the total of the amounts apportioned to each corporation which joins in filing the consolidated return. If the group filing the consolidated return and the other members of the affiliated group adopt an apportionment plan, the group filing the consolidated return shall be treated as a single member for the purpose of applying subparagraph (2)(i) of this paragraph. Thus, for example, only one consent, executed by the common parent, to the apportionment plan is required for the group filing the consolidated return. If any member of the affiliated group which joins in the filing of the consolidated return is an organization to which section 593 applies or a cooperative organization described in section 1381(a), see paragraph (a)(3)(ii) of § 1.1502–3.

* * * * *

(8) *Examples.* * * *

Example (2). Assume the same facts as in example (1), except that P's taxable year ends March 31, 1968 (on which date it owns all the outstanding stock of S) and that S's taxable year ends June 30, 1968. The limitation based on amount of tax for such taxable years is computed using 50 percent rather than 25 percent.

Example (3). F, a domestic corporation exempt from taxation under section 501, files a return for its taxable year ending December 31, 1963, on which date it owns all the stock of P, a domestic corporation. P files a consolidated return as a common parent for its fiscal year ending June 30, 1964, with its two wholly owned domestic subsidiaries, S and A. The membership of the affiliated group is ascertained as of the close of December 31, 1963, the last day of the taxable year of the common parent, F, and accordingly consists of F, P, S, and A. No consent to an apportionment plan is filed. Therefore, each member is apportioned $6,250 of the $25,000 amount ($25,000 divided equally among the four members). The limitation based on amount of tax for the affiliated group filing the consolidated return (P, S, and A) for the year ending June 30, 1964 (the consolidated taxable year within which December 31, 1963, falls) is computed by using $18,750 instead of the $25,000 amount. The $18,750 is arrived at by adding together the $6,250 amounts apportioned to P, S, and A. If, however, F files a timely consent, it may apportion the entire $25,000 amount to the group filing the consolidated return (P, S, and A).

Example (4). P, a domestic corporation filing income tax returns on a calendar-year basis, owns all the stock of S, T, and U, all domestic corporations. S, T, and U file separate returns on a calendar-year basis. On June 30, 1963, S is liquidated, and therefore has a short taxable year beginning January 1, 1963, and ending June 30, 1963. S does not waive its right to its equal portion of the $25,000 amount. For such short taxable year, the $25,000 amount shall be reduced for S to $6,250 ($25,000 divided by 4, the number of corporations in the affiliated group at the close of S's short taxable year). The total amount apportionable to the members of the affiliated group of which P is the common parent for their taxable years ending December 31, 1963, is $18,750 ($25,000 minus the $6,250 apportioned to S for its short taxable year ending June 30, 1963). The $18,750 amount may be apportioned according to an apportionment plan or, if a plan is not timely filed, will be apportioned equally among P, T, and U.

PAR. 3. Section 1.46–2 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 1.46–2 Carryback and carryover of unused credit.

(a) *Allowance of unused credit as carryback or carryover*—(1) *In general.* Section 46(b)(1) provides for carrybacks and carryovers of any unused credit. An unused credit is the excess of the credit earned for the taxable year (as defined in paragraph (a) of § 1.46–1) over the limitation based on amount of tax for such taxable year (as determined under paragraph (b) of § 1.46–1). Subject to the limtion contained in paragraph (b) of this section, an unused credit shall be added to the amount allowable as a credit under section 38 for the years to which the unused credit can be carried. The year with respect to which an unused credit arises shall be referred to in this section as the "unused credit year".

(2) *Taxable years to which unused credit may be carried.* Except as provided in subparagraphs (3) and (4) of this paragraph, an unused credit shall be an investment credit carryback to each of the 3 taxable years preceding the unused credit year and an investment credit carryover to each of the 7 taxable years succeeding the unused credit year, except that an unused credit shall be a carryback only to taxable years ending after December 31, 1961. An unused credit must be carried first to the earliest of the 10 taxable years to which it may be carried, and then to each of the other 9 taxable years (in order of time) to the extent that the unused credit may not be added (because of the limitation contained in paragraph (b) of this section) to the amount allowable as a credit under section 38 for a prior taxable year.

(3) *Fifth taxable year following unused credit year ending on or before December 31, 1966.* If the fifth taxable year following the unused credit year ends on or before December 31, 1966, then the unused credit shall be an investment credit carryover to each of the 5 taxable years succeeding such unused credit year.

(4) *Property used predominantly in a possession of the United States.* The amount of any investment credit carryback to any taxable year ending on or before December 31, 1965, shall be determined without regard to section 48(a)(2)(B)(vii), relating to property used predominantly in a possession of the United States. See paragraph (g)(2)(vii) of § 1.48–1. For example: Assume that corporation X, a calendar year taxpayer, places in service during 1968 property described in section 48(a)(2)(B)(vii); that X's unused credit for 1968 is $10,000; and that, but for the application of section 48(a)(2)(B)(vii), X's unused credit for 1968 would have been $7,000. X's investment credit carryback from 1968 to 1965 is limited to $7,000, and X's 1968 carryback to 1966 is $3,000 plus any portion of the $7,000 carried back to 1965 which was not allowed as a credit for such year.

(b) *Limitation on allowance of unused credit.* The amount of the unused credit from any particular unused credit year which may be added to the amount allowable as a credit under section 38 for any of the 3 preceding or 7 succeeding taxable years to which such credit may be carried shall not exceed the amount by which the limitation based on amount of tax for such preceding or succeeding taxable year exceeds the sum of (1) the credit earned for such preceding or succeeding year, and (2) other unused credits carried to such preceding or succeeding year which are attributable to unused credit years prior to the particular unused credit year. Thus, in determining the amount, if any, of an unused credit from a particular unused credit year which shall be added to the amount allowable as a credit for any preceding or succeeding taxable year, the credit earned for such preceding or succeeding taxable year, plus any unused credits originating in taxable years prior to a particular unused credit year, shall first be applied against the limitation based on amount of tax for such preceding or succeeding taxable year. To the extent the limitation based on amount of tax for the preceding or succeeding year exceeds the sum of the credit earned for such year and other unused credits attributable to years prior to the particular unused credit year, the unused credit from the particular unused credit year shall be added to the amount allowable as a credit under section 38 for such preceding or succeeding year. To the extent that an unused credit cannot be added for a particular preceding or succeeding taxable year because of the limitation contained in this paragraph, such unused credit shall be available as a carryback or carryover to the next succeeding taxable year to which it may be carried.

(c) *Effect of net operating loss carryback from a taxable year ending on or before July 31, 1967.* If the effect of a net operating loss carryback from a taxable year ending on or before July 31, 1967, is to create an unused credit (as defined in paragraph (a)(1) of this section), such unused credit shall not be treated as an investment credit carryback. However, the full amount of the unused credit so arising shall be available for use as an investment credit carryover for the 7 taxable years (5 taxable years in a case in which paragraph (a)(3) of this section applies) following the unused credit year. Thus, assume that a calendar-year taxpayer has a credit earned for 1965 of $25,000 and a liability for tax of the same amount. If in 1966 such taxpayer has a net operating loss which he carries back to 1965 thereby fully eliminating his taxable income and liability for tax for 1965, then the $25,000 credit earned (no longer allowable for 1965) becomes an unused credit which, although it may not be treated as an investment credit carryback, shall be carried forward to each of the subsequent years to which it may be carried. On the other hand, if his net operating loss arose in 1967 rather than in 1966, then the $25,000 unused credit for 1965 would be an investment credit carryback to each of the 3 taxable years preceding 1965 and an investment credit carryover to each of the subsequent years to which it may be carried.

* * * * *

PAR. 4. Section 1.46–4 is amended by revising paragraph (a), paragraph (b)(1), subdivision (ii) of the example in paragraph (b)(3), paragraph (c)(1), and subdivision (ii) of the example in paragraph (c)(3). These revised provisions read as follows:

§ 1.46–4 Limitations with respect to certain persons.

(a) *Mutual savings institutions.* In the case of an organization to which section 593 applies (that is, a mutual savings bank, a cooperative bank, or a domestic building and loan association)—

(1) The qualified investment with respect to each section 38 property shall be 50 percent of the amount otherwise determined under § 1.46–3, and

(2) The $25,000 amount specified in section 46(a)(2), relating to limitation based on amount of tax, shall be reduced by 50 percent of such amount.

For example, if a domestic building and loan association places in service on January 1, 1963, new section 38 property with a basis of $30,000 and an estimated useful

life of 6 years, its qualified investment for 1963 with respect to such property computed under § 1.46–3 is $20,000 (66⅔ percent of $30,000). However, under this paragraph such amount is reduced to $10,000 (50 percent of $20,000). If an organization to which section 593 applies is a member of an affiliated group (as defined in section 46(a)(5)), the $25,000 amount specified in section 46(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.46–1 before such amount is further reduced under this paragraph.

(b) *Regulated investment companies and real estate investment trusts.* (1) In the case of a regulated investment company or a real estate investment trust subject to taxation under subchapter M, chapter 1 of the Code—

(i) The qualified investment with respect to each section 38 property otherwise determined under § 1.46–3, and

(ii) The $25,000 amount specified in section 46(a)(2), relating to limitation based on amount of tax,

shall be reduced to such person's ratable share of each such amount. If a regulated investment company or a real estate investment trust is a member of an affiliated group (as defined in section 46(a)(5)), the $25,000 amount specified in section 46(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.46–1 before such amount is further reduced under this paragraph.

* * * * *

(3) * * *

Example. * * *

(ii) Under this paragraph, corporation X's qualified investment for the taxable year 1964 with respect to such property is $2,000, computed as follows: (*a*) $20,000 (qualified investment under § 1.46–3), multiplied by (*b*) $10,000 (taxable income), divided by (*c*) $100,000 (taxable income plus the deduction for dividends paid). For 1964, the $25,000 amount specified in section 46(a)(2) is reduced to $2,500.

(c) *Cooperatives.* (1) In the case of a cooperative organization described in section 1381(a)—

(i) The qualified investment with respect to each section 38 property otherwise determined under § 1.46–3, and

(ii) The $25,000 amount specified in section 46(a)(2), relating to limitation based on amount of tax,

shall be reduced to such cooperative's ratable share of each such amount. If a cooperative organization described in section 1381(a) is a member of an affiliated group (as defined in section 46(a)(5)), the $25,000 amount specified in section 46(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.46–1 before such amount is further reduced under this paragraph.

* * * * *

(3) * * *

Example. * * *

(ii) Under this paragraph, cooperative X's qualified investment for the taxable year 1964 with respect to such property is $2,000, computed as follows: (*a*) $20,000 (qualified investment under § 1.46–3), multiplied by (*b*) $10,000 (taxable income), divided by (*c*) $100,000 (taxable income plus the sum of the deductions allowed under sections 1382(b), 1382(c), and 522(b)(1)(B)). For 1964, the $25,000 amount specified in section 46(a)(2) is reduced to $2,500.

PAR. 5. Section 1.48 is amended by revising clauses (i), (v), and (vi) of, and adding a new clause (vii) to, section 48(a)(2)(B), and by revising the historical note. These added and revised provisions read as follows:

§ 1.48 Statutory provisions; definitions; special rules.

Sec. 48 *Definitions; special rules*—(a) *Section 38 property.* * * *

(2) *Property used outside the United States.* * * *

(B) *Exceptions.* * * *

(i) Any aircraft which is registered by the Administrator of the Federal Aviation Agency and which is operated to and from the United States or is operated under contract with the United States;

* * * * *

(v) Any container of a U.S. person which is used in the transportation of property to and from the United States;

(vi) Any property (other than a vessel or an aircraft) of a U.S. person which is used for the purpose of exploring for, developing, removing, or transporting resources from the outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented; 43 U.S.C., sec. 1331); and

(vii) Any property which is owned by a domestic corporation (other than a corporation entitled to the benefits of section 931 or 934(b)) or by a U.S. citizen (other than a citizen entitled to the benefits of section 931, 932, 933, or 934(c)) and which is used predominantly in a possession of the United States by such a corporation or such a citizen, or by a corporation created or organized in, or under the law of, a possession of the United States.

* * * * *

[Sec. 48 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 203 (a) (1) and (3)(A), (b), and (c), Rev. Act 1964 (78 Stat. 33, 34); sec. 201(a), Act of Nov. 13, 1966 (Public Law 89–809, 80 Stat. 1575, 1576); sec. 3, Act of June 13, 1967 (Public Law 90–26, 81 Stat. 58)]

PAR. 6. Section 1.48–1 is amended by revising subdivisions (i) and (vi) of paragraph (g)(2) and by adding a new subdivision (vii) immediately after subdivision (vi) of such paragraph. These revised and added provisions read as follows:

§ 1.48–1 Definition of section 38 property.

* * * * *

(g) *Property used outside the United States.* * * *

(2) *Exceptions.* * * *

(i) Any aircraft which is registered by the Administrator of the Federal Aviation Agency, and which (*a*) is operated, whether on a scheduled or nonscheduled basis, to and from the United States, or (*b*) is placed in service by the taxpayer during a taxable year ending after March 9, 1967, and is operated under contract with the United States: *Provided*, That use of the aircraft under the contract constitutes its principal use outside the United States during the taxable year. The term "to and from the United States" is not intended to exclude an aircraft which makes flights from one point in a foreign country to another such point, as long as such aircraft returns to the United States with some degree of frequency;

* * * * *

(vi) Any property (other than a vessel or an aircraft) of a U.S. person which is used for the purpose of exploring for, developing, removing, or transporting resources from the outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented; 43 U.S.C., sec. 1331). Thus for example, offshore drilling equipment may be section 38 property; and

(vii) Any property placed in service after December 31, 1965 which (*a*) is owned by a domestic corporation (other than a corporation entitled to the benefits of section 931 or 934(b)) or by a United States citizen (other than a citizen entitled to the benefits of section 931, 932, 933, or 934(c)), and (*b*) is used predominantly in a possession of the United States during the taxable year by such a corporation or such a citizen, or by a corporation created or organized in, or under the law of, a possession of the United States. Thus, property placed in service after December 31, 1965, which is owned by a domestic corporation not entitled to the benefits of section 931 or 934(b), which is leased to a corporation organized under the laws of a U.S. possession, and which is used by such lessee predominantly in a possession of the United States may qualify as section 38 property. However, property which is owned by a corporation not entitled to the benefits of section 931 or 934(b) but which is leased to a domestic corporation entitled to such benefits would not qualify as section 38 property. The determination of whether property is used predominantly in a possession of the United States during the taxable year shall be made under principles similar to those described in subparagraph (1) of this paragraph. For example, if a machine is placed in service in a possession of the United States on July 1, 1966, by a calendar year taxpayer and if it is physically located in such a possession during more than 50 percent of the period beginning on July 1, 1966 and ending on December 31, 1966, then such machine shall be considered used predominantly in a possession of the United States during the taxable year 1966.

* * * * *

PAR. 7. Section 1.48–6 is amended by revising paragraph (c) and subparagraph (3) of the example in paragraph (e). These revised provisions read as follows:

§ 1.48–6 Estates and trusts.

* * * * *

(c) *Limitation based on amount of tax.* In the case of an estate or trust, the $25,000 amount specified in section 46(a)(2), relating to limitation based on amount of tax, shall be reduced for the taxable year to—

(1) $25,000, multiplied by

(2) The qualified investment with respect to the total bases of new section

38 properties plus the qualified investment with respect to the total cost of used section 38 properties, apportioned to such estate or trust under paragraph (a) of this section, divided by

(3) The qualified investment with respect to the total bases of all new section 38 properties plus the qualified investment with respect to the total cost of all used section 38 properties, apportioned among such estate or trust and its beneficiaries.

For purposes of subparagraph (3) of this paragraph, cost of used section 38 property shall not be considered as apportioned to any beneficiary to the extent that such cost is not taken into account by such beneficiary in computing qualified investment in used section 38 property.

* * * * *

(e) *Example.* * * *

Example. * * *

(3) In the case of XYZ Trust, the $25,000 amount specified in section 46(a)(2) is reduced to $12,500, computed as follows: (i) $25,000, multiplied by (ii) $39,000 (qualified investment apportioned to the trust), divided by (iii) $78,000 (total qualified investment apportioned among such trust ($39,000), beneficiary A ($23,400), and beneficiary B ($15,600)).

[F.R. Doc. 68-7183; Filed, June 20, 1968; 8:45 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER C—AGE DISCRIMINATION IN EMPLOYMENT

PART 860—INTERPRETATIONS

Pursuant to authority in the Age Discrimination in Employment Act of 1967 (29 U.S.C. 620), 5 U.S.C. 301, and in Secretary's Orders No. 10-68 and No. 11-68, there is hereby added to 29 CFR Chapter V, Subchapter C, a new part numbered 860 entitled "Interpretations", to read as set forth below.

These are interpretative rules, and are thus exempt from section 4 (a) and (c) of the Administrative Procedure Act (5 U.S.C. 533 (a) and (c)). I do not believe such procedure or delay will serve a useful purpose here. Accordingly, these rules will be effective immediately.

The new Part 860 reads as follows:

Sec.

AUTHORITY: The provisions of this part are issued under 81 Stat. 602; 29 U.S.C. 620, 5 U.S.C. 301, Secretary's Order No. 10-68, and Secretary's Order No. 11-68.

§ 860.1 Purpose of this part.

This part is intended to provide an interpretative bulletin on the Age Discrimination in Employment Act of 1967 like Subchapter B of this title relating to the Fair Labor Standards Act of 1938. Such interpretations of this Act are published to provide "a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" (Skidmore v. Swift & Co., 323 U.S. 134, 138). These interpretations indicate the construction of the law which the Department of Labor believes to be correct, and which will guide it in the performance of its administrative and enforcement duties under the Act unless and until it is otherwise directed by authoritative decisions of the Courts or concludes, upon reexamination of an interpretation, that it is incorrect.

§ 860.91 Discrimination within the age bracket of 40-65.

(a) Although section 4 of the Act broadly makes unlawful various types of age discrimination by employers, employment agencies, and labor organizations, section 12 limits this protection to individuals who are at least 40 years of age but less than 65 years of age. Thus, for example it is unlawful in situations where this Act applies, for an employer to discriminate in hiring or in any other way by giving preference because of age to an individual 30 years old over another individual who is within the 40-65 age bracket limitation of section 12. Similarly, an employer will have violated the Act, in situations where it applies, when one individual within the age bracket of 40-65 is given job preference in hiring, assignment, promotion or any other term, condition, or privilege of employment, on the basis of age, over another individual within the same age bracket.

(b) Thus, if two men apply for employment to which the Act applies, and one is 42 and the other 52, the personnel officer or employer may not lawfully turn down either one on the basis of his age; he must make his decision on the basis of other factors, such as the capabilities and experience of the two individuals. The Act, however, does not restrain age discrimination between two individuals 25 and 35 years of age.

§ 860.92 Help wanted notices or advertisements.

(a) Section 4(e) of the Act prohibits "an employer, labor organization, or employment agency" from using printed or published notices or advertisements indicating any preference, limitation, specification, or discrimination, based on age.

(b) When help wanted notices or advertisements contain terms and phrases such as "age 25 to 35," "young," "boy," "girl," or others of a similar nature which indicate a preference for a particular age, range of ages, or for a young age group, such a term or phrase discriminates against the employment of older persons and is in violation of the Act, unless it comes within one of the exceptions, such as the one discussed in § 860.102.

(c) However, help wanted notices or advertisements which include a term or phrase such as "college graduate," or other educational requirement, or specify a minimum age less than 40, such as "not under 18," or "not under 21," are not prohibited by the statute.

(d) The use of the phrase "state age" in help wanted notices or advertisements is not, in itself, a violation of the statute. But because the request that an applicant state his age may tend to deter older applicants or otherwise indicate a discrimination based on age, employment notices or advertisements which include the phrase "state age," or any similar term, will be closely scrutinized to assure that the request is for a permissible purpose and not for purposes proscribed by the statute.

(e) There is no provision in the statute which prohibits an individual seeking employment through advertising from specifying his own age.

§ 860.102 Bona fide occupational qualifications.

(a) Section 4(f)(1) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to take any action otherwise prohibited under subsections (a), (b), (c), or (e) of this section where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business * * *"

(b) Whether occupational qualifications will be deemed to be "bona fide" and "reasonably necessary to the normal operation of the particular business", will be determined on the basis of all the pertinent facts surrounding each particular situation. It is anticipated that this concept of a bona fide occupational qualification will have limited scope and application. Further, as this is an exception it must be construed narrowly, and the burden of proof in establishing that it applies is the responsibility of the employer, employment agency, or labor organization which relies upon it.

(c) The following are illustrations of possible bona fide occupational qualifications.

(d) Federal statutory and regulatory requirements which provide compulsory age limitations for hiring or compulsory retirement, without reference to the individual's actual physical condition at the terminal age, when such conditions are clearly imposed for the safety and convenience of the public. This exception would apply, for example, to airline pilots within the jurisdiction of the Federal Aviation Agency. Federal Aviation Agency regulations do not permit airline pilots to engage in carrier operations, as pilots, after they reach age 60.

(e) A bona fide occupational qualification will also be recognized in certain special, individual occupational circumstances, e.g., actors required for youthful or elderly characterizations or roles, and persons used to advertise or promote the sale of products designed for, and directed to appeal exclusively to, either youthful or elderly consumers.

§ 860.103 **Differentiations based on reasonable factors other than age.**

(a) Section 4(f)(1) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to take any action otherwise prohibited under subsections (a), (b), (c), or (e) of this section * * * where the differentiation is based on reasonable factors other than age; * * *"

(b) No precise and unequivocal determination can be made as to the scope of the phrase "differentiation based on reasonable factors other than age." Whether such differentiations exist must be decided on the basis of all the particular facts and circumstances surrounding each individual situation.

(c) It should be kept in mind that it was not the purpose or intent of Congress in enacting this Act to require the employment of anyone, regardless of age, who is disqualified on grounds other than age from performing a particular job. The clear purpose is to insure that age, within the limits prescribed by the Act, is not a determining factor in making any decision regarding hiring, dismissal, promotion or any other term, condition or privilege of employment of an individual.

(d) The reasonableness of a differentiation will be determined on an individual, case by case basis, not on the basis of any general or class concept, with unusual working conditions given weight according to their individual merit.

(e) Further, in accord with a long chain of decisions of the Supreme Court of the United States with respect to other remedial labor legislation, all exceptions such as this must be construed narrowly, and the burden of proof in establishing the applicability of the exception will rest upon the employer, employment agency or labor union which seeks to invoke it.

(f) Where the particular facts and circumstances in individual situations warrant such a conclusion, the following factors are among those which may be recognized as supporting a differentiation based on reasonable factors other than age:

(1)(i) Physical fitness requirements based upon preemployment or periodic physical examinations relating to minimum standards for employment: *Provided, however,* That such standards are reasonably necessary for the specific work to be performed and are uniformly and equally applied to all applicants for the particular job category, regardless of age.

(ii) Thus, a differentiation based on a physical examination, but not one based on age, may be recognized as reasonable in certain job situations which necessitate stringent physical requirements due to inherent occupational factors such as the safety of the individual employees or of other persons in their charge, or those occupations which by nature are particularly hazardous: For example, iron workers, bridge builders, sandhogs, underwater demolition men, and other similar job classifications which require rapid reflexes or a high degree of speed, coordination, dexterity, endurance, or strength.

(iii) However, a claim for a differentiation will not be permitted on the basis of an employer's assumption that every employee over a certain age in a particular type of job usually becomes physically unable to perform the duties of that job. There is medical evidence, for example, to support the contention that such is generally not the case. In many instances, an individual at age 60 may be physically capable of performing heavy-lifting on a job, whereas another individual of age 30 may be physically incapable of doing so.

(2) Evaluation factors such as quantity or quality of production, or educational level, would be acceptable bases for differentiation when, in the individual case, such factors are shown to have a valid relationship to job requirements and where the criteria or personnel policy establishing such factors are applied uniformly to all employees, regardless of age.

(g) The foregoing are intended only as examples of differentiations based on reasonable factors other than age, and do not constitute a complete or exhaustive list or limitation. It should always be kept in mind that even in situations where experience has shown that most elderly persons do not have certain qualifications which are essential to those who hold certain jobs, some may have them even though they have attained the age of 60 or 64, and thus discrimination based on age is forbidden.

(h) It should also be made clear that a general assertion that the average cost of employing older workers as a group is higher than the average cost of employing younger workers as a group will not be recognized as a differentiation under the terms and provisions of the Act, unless one of the other statutory exceptions applies. To classify or group employees solely on the basis of age for the purpose of comparing costs, or for any other purpose, necessarily rests on the assumption that the age factor alone may be used to justify a differentiation—an assumption plainly contrary to the terms of the Act and the purpose of Congress in enacting it. Differentials so based would serve only to perpetuate and promote the very discrimination at which the Act is directed.

Signed at Washington, D.C., this 18th day of June 1968.

BEN P. ROBERTSON,
Acting Administrator.

[F.R. Doc. 68-7404; Filed, June 20, 1968; 8:51 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 9—SERVICEMEN'S GROUP LIFE INSURANCE

Administrative Decisions

In § 9.22, former paragraph (b) is amended and redesignated paragraph (d) and new paragraphs (b) and (c) are added so that the amended and added material reads as follows:

§ 9.22 **Administrative decisions.**

* * * * *

(b) When a determination is required on a claim that a member who waived coverage, or whose coverage was terminated by absence without leave in excess of 31 days, or who forfeited the right to be covered for one of the offenses listed in § 9.34 (and who was restored to active duty under conditions which, in effect, resulted in a remission of the sentence) was in fact insured, or that a member who elected to be insured in the amount of $5,000 was insured for $10,000 and there is no record of an application to be insured as required by § 9.8.

(1) The person making the claim will be required to submit all evidence available concerning the member's actions and intentions with respect to Servicemen's Group Life Insurance.

(2) Request will be made to the member's uniformed service and any other likely source of information considered necessary, for whatever evidence in the form of copies of payroll or personnel records, statements of persons having knowledge of the facts, etc., is essential to a decision in the matter.

Based on the evidence obtained, a formal determination will be made as to whether the member involved is deemed to have applied to be insured, or to be insured for $10,000 in lieu of $5,000. The determination will include a finding as to the member's health status for insurance purposes based on the evidence available.

(c) In making the determination required under paragraph (b) of this section, the following will be considered:

(1) The possibility that due to widespread geographic distribution, inadequate means of communication and the nature of the group insurance program, members may not be adequately and accurately informed, especially in time of war or military emergency, about the detailed requirements for obtaining insurance protection.

(2) Payroll deductions made without objection by the member, following waiver or termination of coverage, representing premiums for insurance or additional insurance, may, by virtue of continuity or the circumstances surrounding their initiation, be indicative that the member did apply. Such deductions without a formal application of

record may be considered as evidence that the member's application was not in proper form or misplaced. They may also be considered as evidence that an application was not made solely because of erroneous or incomplete counseling or absence of counseling on the part of the responsible personnel of the uniformed service.

(d) Questions for determination under this section as well as those involving coverage of groups and classes of members and other questions are properly referable to the Director, Insurance Service. Authority to make any determinations required under this section is delegated to the Chief Benefits Director and/or the Director, Insurance Service.

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective the date of approval.

Approved: June 17, 1968.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 68-7370; Filed, June 20, 1968; 8:48 a.m.]

PART 2—DELEGATIONS OF AUTHORITY

Chief Benefits Director, Director of Insurance Service

In Part 2, § 2.85 is added to read as follows:

§ 2.85 Chief Benefits Director and/or Director, Insurance Service authorized to make any determinations required under § 9.22 of this chapter relative to Servicemen's Group Life Insurance.

This delegation of authority is identical to § 9.22(d) of this chapter.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 68-7371; Filed, June 20, 1968; 8:48 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 131—FIRST CLASS

PART 158—UNDELIVERABLE MAIL

I. Paragraph (a) of § 131.2 is revised to include changes made by Public Law 90-206.

§ 131.2 Classification.

(a) *Description.*

(1) First-class mail consists of mailable:

(i) Postal cards.

(ii) Post cards.

(iii) Matter wholly or partially in writing or typewriting, except authorized additions to second-, third- and fourth-class mail provided by §§ 132.4(g)(1), 132.4(g)(2), 134.6, and 135.5 of this chapter and written or typewritten matter listed in §§ 135.2(a)(4) and 135.2(a)(5) of this chapter.

(iv) Matter closed against postal inspection.

(2) Examples of first-class matter:

(i) Handwritten or typewritten matter, including identical copies prepared by automatic typewriter and manifold or carbon copies of such matter. Handwritten or typewritten matter does not include matter produced by computers.

(ii) Autograph albums containing writing.

(iii) Notebooks or blank books containing written or typewritten entries or stenographic or shorthand notes.

(iv) Blank printed forms filled out in writing such as notices, certificates, and checks either canceled or uncanceled.

(v) Printed price lists containing written figures changing individual items.

(vi) Printed cards or letters bearing a written date, where the date is not the date of the card but gives information as to when something will occur or has occurred.

(vii) Printed matter such as receipts, orders and printed letters not sent in identical terms to several persons that by having a signature attached, are converted into personal communications. This does not apply to Christmas or similar printed greeting cards. See §§ 134.2(a)(2) and 134.2(a)(3) of this chapter.

(3) The following provisions are applicable to matter closed against postal inspection:

(i) The Postmaster General may prescribe the manner of wrapping and securing mail not charged with first-class postage so that the contents of the mail may be easily examined. He shall charge the first-class rate of postage on all matter which cannot be examined easily (39 U.S.C. 4058(a)).

(ii) To ascertain whether the proper rate of postage has been paid, postmasters may examine second-class mail and remove the wrappers and envelopes from other mail not bearing first-class postage if it can be done without destroying them (39 U.S.C. 4058(b)).

(iii) Matter closed against inspection includes mail of any class so wrapped as not to be easily examined, except second-, third- or fourth-class matter sealed subject to postal inspection. See §§ 126.2(e), 134.8, and 135.7 of this chapter.

(4) A bill is a request for payment of a definite sum of money claimed to be owing by the addressee either to the sender or to a third party. The mere assertion of an indebtedness in a definite sum combined with a demand for payment is sufficient to constitute the message a bill.

Generally, a statement of account is the assertion of the existence of a debt in a definite amount owned by the addressee either to the sender or to a third party but which does not necessarily contain a request or a demand for payment. The amount may be immediately due or may become due after a certain time or upon demand or billing at a later date.

A bill or statement of account must present the particulars of an indebtedness with sufficient definiteness to inform the debtor of the amount he is required to pay to acquit himself of the debt. However, neither a bill nor a statement of account need state the precise amount if it contains sufficient information to enable the debtor to determine the exact amount of the claim asserted.

A bill or statement of account is not the less a bill or statement of account merely because the amount claimed is not in fact owing or may not be legally collectible.

* * * * *

NOTE: The corresponding Postal Manual section is 131.21.

II. In § 158.2 *Treatment by classes,* make the following changes:

§ 158.2 [Amended]

A. Paragraph (a) is amended to state that first-class mail, weighing not more than 13 ounces, except postal and post cards, is returned to sender without additional charge.

(a) *First-class mail.*

First-class mail weighing not more than 13 ounces, except postal and post cards, is returned to the sender, if known, without additional charge. See paragraph (f) of this section for mail weighing over 13 ounces. Only postal and post cards that bear the sender's address and request for return, are returned and postage at the card rate is collected on delivery to the sender. Any postage due because of failure to fully prepay postage the time of mailing will be collected from the sender when the undeliverable mail is returned. When first-class mail bearing the words "Address Correction Requested" is forwarded to a new address, the sender will be notified on Form 3547, Notice to Mailer of Correction in Address, of the new address of the addressee and a charge of 10 cents will be collected upon delivery of the form.

* * * * *

NOTE: The corresponding Postal Manual section is 158.21.

B. Paragraph (f) is amended to state that airmail weighing 7 ounces or less and priority mail will be returned by the same transportation as first-class mail at no additional cost.

(f) *Airmail.*

Airmail weighing 7 ounces or less and priority mail (heavy pieces) will be returned by the same transportation as first-class mail at no additional charge. Priority mail (heavy pieces) includes all mail weighing over 7 ounces which has postage prepaid thereon at the rates provided by § 136.1(b) of this chapter.

* * * * *

NOTE: The corresponding Postal Manual section is 158.26.

As the foregoing amendments do not affect substantive rights, advance notice, public rule making procedures, or a delayed effective date are necessary.

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

TIMOTHY J. MAY,
General Counsel.

JUNE 17, 1968.

[F.R. Doc. 68-7359; Filed, June 20, 1968; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4447]

[Nevada 051759]

NEVADA

Revocation of Air Navigation Site Withdrawal

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. The departmental order of August 20, 1928, withdrawing the following described land as Air Navigation Site Withdrawal No. 8, is hereby revoked:

MOUNT DIABLO MERIDIAN

T. 14 S., R. 68 E.,
Sec. 8, SW¼NE¼.

The area described contains 40 acres in Clark County.

The land is located northeast of Moapa, Nev., near U.S. Highway 91. Vegetation consists of a sparse cover of desert shrubs and annuals.

2. At 10 a.m. on July 20, 1968, the land shall be open to operation of the public land laws generally, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law and procedures. All valid applications received at or prior to 10 a.m. on July 20, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land has been open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nev.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

JUNE 14, 1968.

[F.R. Doc. 68-7353; Filed, June 20, 1968; 8:47 a.m.]

[Public Land Order 4448]

[Oregon 013683]

OREGON

Withdrawal for Proposed Reclamation Project

By virtue of the authority contained in section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the proposed Umpqua River Project:

WILLAMETTE MERIDIAN

T. 29 S., R. 7 W.,
Sec. 17, SW¼NW¼;
Sec. 20, NW¼NE¼;
Sec. 21, lot 1.
T. 29½ S., R. 7 W.,
Sec. 32, lots 6 and 10.
T. 30 S., R. 7 W.,
Sec. 5, NW¼NE¼SW¼ and NE¼NW¼SW¼;
Sec. 6, lot 1.

The areas described aggregate 210.58 acres in Douglas County.

2. The use and administration of the lands affected by this order will become subject to the provisions of the reclamation laws (act of June 17, 1902, supra, as amended and supplemented), including the use of the lands under lease, license, or permit, at such time as the Umpqua River Project is authorized by the Congress.

3. Pending authorization of the project, this withdrawal does not alter the applicability of the public land laws governing the use of the public lands under lease, license, or permit, or the disposal of their mineral or vegetative resources other than under the mining laws, subject to the condition that such use or disposition will not be inconsistent with the reclamation laws and the purpose for which the lands are withdrawn.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

JUNE 14, 1968.

[F.R. Doc. 68-7354; Filed, June 20, 1968; 8:47 a.m.]

[Public Land Order 4449]

[Idaho 1637]

IDAHO

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

CHALLIS NATIONAL FOREST

BOISE MERIDIAN

Phi Kappa Recreation Area

T. 6 N., R. 19 E., unsurveyed,
Sec. 9, SE¼SW¼, SW¼SE¼;
Sec. 16, NW¼NE¼, N½NW¼, more particularly described as beginning at corner No. 1, a red stained and treated post, 3 inches in diameter, 4½ feet above ground, located N. 49°04′ W., approximately 484 feet from the confluence of Summit Creek and Phi Kappa Creek.

From corner No. 1, by metes and bounds, S. 73°34′ W., 1,132.10 feet, S. 28°14′ W., 552.82 feet, S. 55°49′ W., 396.54 feet, S. 58°56′ W., 2,323.33 feet; S. 33°29′ E., 162.79 feet, N. 87°06′ E., 1,414.90 feet, N. 61°42′ E., 1,139.92 feet, N. 29°01′ E., 472.54 feet, N. 04°01′ E., 441.75 feet, N. 73°06′ E., 428.07 feet, N. 32°16′ E., 916.21 feet to corner No. 1, the place of beginning.

The area described contains 59.32 acres in Custer County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

JUNE 14, 1968.

[F.R. Doc. 68-7355; Filed, June 20, 1968; 8:47 a.m.]

[Public Land Order 4450]

[Anchorage 058836]

ALASKA

Withdrawal for Administrative Site

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved as a site for the maintenance of a Federal Aviation Administration air navigation facility:

DILLINGHAM

Beginning at corner No. 11 of U.S.S. 2013, which lies 8°45′53″ W., 192.73 feet from USCGS station "Kanakanak" the true point of beginning of this description; thence N. 15°39′ E. (N. 15°44′ E., Call) 1,000 feet along the 11–12 line of U.S.S. 2013; N. 74°21′ W., 1,500 feet; S. 45°00′ W., 3,000 feet; south, 2,033.79 feet; east, 4,582.99 feet to corner No. 10 of U.S.S. 2013; N. 24°47′ W. (N. 24°42′ W., Call) 3,072.32 feet to corner No. 11 of U.S.S. 2013, the true point of beginning of this description.

Containing approximately 303 acres.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. However, leases, licenses or permits will be issued only if the Federal Aviation Administration finds that the proposed use of the lands will not interfere with the proper operations of its facilities on the lands.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

JUNE 14, 1968.

[F.R. Doc. 68-7356; Filed, June 20, 1968; 8:47 a.m.]

[Public Land Order 4451]

[New Mexico 4349]

NEW MEXICO

Addition to National Forest

By virtue of the authority contained in the act of July 9, 1962 (76 Stat. 140; 43 U.S.C. 315g–l), it is ordered as follows:

Subject to valid rights, the following described lands, acquired in an exchange made pursuant to section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, are hereby added to and made a part of the Carson National Forest and hereafter shall be subject to all laws and regulations applicable to said national forest:

NEW MEXICO PRINCIPAL MERIDIAN

T. 26 N., R. 10 E.,
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½.

The areas described aggregate 630.44 acres in Taos County.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

JUNE 14, 1968.

[F.R. Doc. 68–7357; Filed, June 20, 1968; 8:47 a.m.]

Title 45—PUBLIC WELFARE

Chapter VII—Commission on Civil Rights

PART 701—ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Staff Organization and Field Offices

Sections 701.12 and 701.13 of Part 701 of Chapter VII of Title 45 of the Code of Federal Regulations are revised to read as follows:

§ 701.12 Staff organization.

(a) Pursuant to section 105(a) of the Act, the staff of the Commission consists of a Staff Director, appointed by the President by and with the advice and consent of the Senate, and of such other personnel as the Commission may appoint within the limitations of its appropriation.

(b) The staff organization of the Commission is as follows:

(1) *Office of the Staff Director.* Under the general direction of the Commission the Office of the Staff Director plans the agency work program; directs, supervises, and coordinates the work of divisions and offices; reports plans, work programs, and activities of the agency to the Commission; represents the agency in relationships with Executive Office of the President, the Congress, other Federal agencies, the press, national civil rights organizations, other private and public State and local groups and the general public; and manages the administrative affairs of the agency.

(2) *Office of General Counsel.* The Office of General Counsel plans and conducts hearings to investigate and obtain information about civil rights denials; conducts studies and prepares reports in areas within the jurisdiction of the Commission, particularly in the areas of the administration of justice and voting; receives complaints alleging denials of civil rights, refers these to Federal agencies having jurisdiction and follows up on action taken; drafts or reviews proposals for legislative and executive action in civil rights and prepares testimony on civil rights legislation; reviews all agency publications for legal sufficiency; provides in-house legal counsel to the agency; and drafts and negotiates all agency contracts.

(3) *Office of Federal Programs.* The Office of Federal Programs conducts appraisals of Federal laws, policies, administration and programs; maintains liaison with Federal agencies on civil rights policies, administration, and programs; provides clearinghouse services and prepares clearinghouse publications in areas related to Federal programs; provides technical assistance on civil rights matters related to Federal programs to other Commission units and to public and private groups and individuals.

(4) *Office of Race and Education.* The Office of Race and Education plans and conducts studies of the extent and causes of and remedies for problems of equal educational opportunity, primarily those in urban areas; and provides clearinghouse information and services to other Commission units and to public and private groups and individuals on matters relating to equal educational opportunity.

(5) *Information Office.* The Information Office prepares and disseminates information about the Commission and its studies and publications through various techniques of communication; prepares or assists in the preparation of clearinghouse publications; edits and prepares for printing all Commission publications, including hearing transcripts and reports; maintains liaison with the news media; writes speeches and coordinates speaking engagements of Commission staff; maintains informational liaison with public and private groups and individuals interested in civil rights.

(6) *Office of Business Administration.* The Office of Business Administration provides administrative services to the agency in the areas of personnel, financial management, management analysis, procurement, space, travel, reproduction, mail and messenger services.

(7) *Field Services Division.* The Field Services Division plans and directs field programs of the Commission; organizes, supervises, and plans work programs of investigations, meetings, conferences, and reports for State Advisory Committees to the Commission which are located in each State and the District of Columbia; assists other Commission units in carrying out hearings, meetings, studies, and clearinghouse functions in the field; maintains liaison with public and private organizations and individuals interested in civil rights at the regional, State, and local levels.

(8) *Research Division.* The Research Division plans and conducts or stimulates studies to advance basic knowledge about the extent, causes, and socio-economic consequences of civil rights denials; maintains a Technical Information Center for the storage, retrieval, and dissemination of information related to civil rights problems and minority groups; prepares clearinghouse materials; provides technical research assistance to other Commission units and to public and private groups and individuals.

§ 701.13 Field offices.

The Commission has established field offices at:

Federal Office Building, 167 North Main Street, Memphis, Tenn.
1428 New Federal Building, 219 South Dearborn Street, Chicago, Ill.
U.S. Courthouse and Federal Building, Suite 1739, 312 North Spring Street, Los Angeles, Calif.

(Secs. 101–06, 71 Stat. 634–36, as amended; 42 U.S.C. 1975–1975e)

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

JOHN A. HANNAH,
Chairman.

[F.R. Doc. 68–7368; Filed, June 20, 1968; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 18, 25]

TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Notice of Proposed Amendment of Customs Regulations Relating to Transportation of Customs Bonded Merchandise by Private Carrier

Notice is hereby given that it is proposed to promulgate regulations under section 551, Tariff Act of 1930, as amended (19 U.S.C. 1551). Public Law 90–240, approved January 2, 1968, amended section 551 to permit the Secretary of the Treasury, in his discretion, to designate a private carrier, upon application, as a carrier of bonded merchandise, subject to such regulations and to such special terms and conditions as the Secretary may prescribe to safeguard the revenues of the United States with respect to the transportation of bonded merchandise. It is proposed to provide for the designation of private carriers to transport customs bonded merchandise imported by such carriers between customs districts for delivery to their own customs bonded warehouses without formally entering and paying the import duties on goods at the port of first arrival.

Accordingly, it is proposed to amend the Customs Regulations as set forth in tentative form below:

§ 18.1 [Amended]

The first sentence of paragraph (a), the footnote thereto, and paragraph (c) of § 18.1 is amended to read as follows:

Merchandise to be transported from one port to another in the United States in bond, except as provided for in paragraph (b), shall be delivered to a common carrier, contract carrier, or private carrier bonded for that purpose, but such merchandise delivered to a common carrier or contract carrier may be transported with the use of the facilities of other bonded or nonbonded carriers.[1] * * *

* * * * *

[1] Under such regulations and subject to such terms and conditions as the Secretary of the Treasury shall prescribe—

(1) Any common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route for the transportation of merchandise in the United States,

(2) Any contract carrier authorized to operate as such by any agency of the United States, and

(3) Any freight forwarder authorized to operate as such by any agency of the United States,

upon application, may, in the discretion of the Secretary, be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued. A private carrier, upon application, may, in the discretion of the Secretary, be designated under the preceding sentence as a carrier of bonded merchandise, subject to such regulations and, in the case of each applicant, to such special terms and conditions as the Secretary may prescribe to safeguard the revenues of the United States with respect to the transportation of bonded merchandise by such applicant. (19 U.S.C. 1551.)

(c) (1) A common carrier, contract carrier, or freight forwarder of merchandise may be authorized to receive merchandise for transportation in bond provided there is filed with the district director of customs concerned:

(i) A bond on customs Form 3587 in a sum to be determined by the district director, accompanied by the fee prescribed by § 24.12 of this chapter;

(ii) In the case of a common carrier, a certified extract of its charter showing that it is authorized to engage in common carriage, and a statement that it is operating or intends to operate as a common carrier. No such extract or statement need be submitted by a railroad, steamship, or airline company generally known to be engaged in common carriage;

(iii) In the case of a contract carrier, a certificate from the appropriate agency of the United States showing that the carrier is authorized to operate as a contract carrier by that agency, and a statement showing that it is operating or intends to operate as a contract carrier;

(iv) In the case of a freight forwarder, a certificate from the appropriate agency of the United States showing that the applicant is authorized to operate as a freight forwarder by that agency, and a statement showing that it is operating or intends to operate as a freight forwarder.

(2) A private carrier of merchandise may be authorized to receive merchandise for transportation in bond provided:

(i) The private carrier is the proprietor of a customs bonded warehouse;

(ii) The merchandise to be transported has been imported by the private carrier;

(iii) The merchandise is to be transported from the port of importation to the private carrier's customs bonded warehouse for physical deposit;

(iv) There is filed with the district director of customs for the district in which the private carrier's customs bonded warehouse is located a bond on customs Form 3588 in a sum to be determined by the district director accompanied by the fee prescribed by § 24.12 of this chapter. If the private carrier is the proprietor of customs bonded warehouses in two or more customs districts to which imported merchandise will be transported, the carrier shall file the bond with the district director for one of such districts, accompanied by a statement showing the location of each such warehouse and an additional copy of the bond for each additional district.

* * * * *

Section 18.2 is amended to add a new paragraph (d) to read:

§ 18.2 **Receipt by carrier; manifest.**

* * * * *

(d) In addition to the foregoing, any entry for immediate transportation presented at the port of arrival for merchandise to be transported in bond by private carrier shall be accompanied by a commercial invoice setting forth the particulars of the merchandise and a statement in the following form verified by the district director of customs of the district in which is located the warehouse to which the merchandise is to be carried:

The undersigned hereby requests permission to transport under the provisions of his carrier's bond, dated _____, on file at the port of _____, the merchandise described in the attached invoice from the port of _____ to his warehouse located at _____.

_____
(Warehouse Proprietor and Carrier)

_____
(Date)

Invoice and statement verified:

_____
(District Director)

_____
(Date)

(80 Stat. 379, R.S. 251, secs. 551, 624, 46 Stat. 742, as amended, 759; 5 U.S.C. 301, 19 U.S.C. 66, 1551, 1624)

Subparagraph (1) of paragraph (a) of § 25.4 is amended to read as follows:

§ 25.4 **Bonds approved by collectors; form and execution.**

(a) * * *

(1) Bonds for the carriage of merchandise:

(i) Carrier's bond, customs Form 3587, for common carriers, contract carriers, and freight forwarders, in an amount to be determined by the district director of customs.

(ii) Private carrier's bond, customs Form 3588, in an amount to be determined by the district director of customs.

* * * * *

(R.S. 251, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1623, 1624)

Prior to the issuance of the proposed amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, in time to be received not later than 30 days from the date of

publication of this notice in the FEDERAL REGISTER. No hearing will be held.

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

Approved: June 11, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-7372; Filed, June 20, 1968; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 68-WE-54]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Battle Mountain, Nev., transition area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the General Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The VOR approach procedure for Lander County Airport, Nev., has been revised to conform to criteria outlined in United States Standard for Terminal Instrument Procedures (TERPS). The revised procedure incorporates 15 NM DME arc transitions to final approach course from the Battle Mountain VORTAC 231° and 246° M radials and lowers the approach minimum 100 feet. The amended transition area is required to provide controlled airspace protection for aircraft executing prescribed instrument approach, departure, and holding procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (33 F.R. 2147) the description of the Battle Mountain, Nev., transition area is amended to read as follows:

BATTLE MOUNTAIN, NEV.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Lander County Airport (latitude 40°35'-55" N., longitude 116°52'25" W.), and within 8 miles northwest and 5 miles southeast of the Battle Mountain VORTAC 218° radial extending from the VORTAC to 17.5 miles southwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded on the north by a line 5 miles north of and parallel to the Battle Mountain VORTAC 264° and 084° radials, on the west and southwest by an arc of a 23-mile radius circle centered on Battle Mountain VORTAC extending counterclockwise from the north edge of V-6N to a line 6 miles southeast of and parallel to the Battle Mountain VORTAC 218° radial, on the southeast by a line 6 miles southeast of and parallel to the Battle Mountain VORTAC 218° radial, on the east by longitude 116°50'30" W., and that airspace within 9 miles north and 6 miles south of the Battle Mountain 077° and 257° radials extending from 18.5 miles east to 7 miles west of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on June 13, 1968.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 68-7362; Filed, June 20, 1968; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-WE-50]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would designate a transition area for Salyer Farms Airport, Corcoran, Calif.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

A revised special instrument approach procedure has been established for Salyer Farms Airport, based upon a privately owned radio beacon. The proposed transition area will provide controlled airspace protection for aircraft executing the prescribed instrument procedure.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (33 F.R. 2137) the following transition area is added:

SALYER FARMS, CALIF.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Salyer Farms Airport (latitude 36°05'01" N., longitude 119°32'39" W.), and within 2 miles each side of the 151° bearing from the Salyer Farms radio beacon (latitude 36°05'14" N., longitude 119°32'44" W.) extending from the 3-mile radius area to 8 miles southeast of the radio beacon; that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of the 151° bearing from the Salyer Farms radio beacon extending from the radio beacon to 12 miles southeast.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on June 13, 1968.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 68-7363; Filed, June 20, 1968; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

CERTAIN TYPES OF TOBACCO

Farm Acreage Allotments and Marketing Quotas

Notice of revision of regulations pertaining to farm acreage allotments and farm marketing quotas for burley, fire-cured, dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), cigar-filler and binder (types 42, 43, 44, 53, 54, and 55), and Maryland tobacco for the 1968-69 and subsequent marketing years.

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended and supplemented, the Department is preparing to revise the regulations (27 F.R. 8937, including amendments and corrections thereto) for establishing of farm acreage allotments and marketing

quotas, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties, and the records and reports incident thereto for burley, fire-cured, dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), cigar-filler and binder (types 42, 43, 44, 53, 54, and 55), and Maryland tobacco.

The main purpose of revising the regulations is to remove references in the regulations to flue-cured tobacco. Flue-cured tobacco marketing quotas are on an acreage-poundage basis whereas quotas for other kinds of tobacco are on an acreage basis. Regulations pertaining to flue-cured tobacco are in Part 725 of this chapter. Changes are also being made in provisions for the issuance of marketing cards and in the provisions relating to records and reports in order to facilitate the automated procedure being adopted. Other changes are for clarification purposes.

PART 724—BURLEY, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-BINDER AND FILLER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1968–69 and Subsequent Marketing Years

GENERAL

GENERAL

§ 724.51 Definitions.

As used in this subpart and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires. References contained herein to other parts of this chapter or title shall be construed as references to such parts and any amendments now in effect or later issued.

(a) The definitions in Parts 718 and 719 of this chapter are hereby incorporated in these regulations unless the context or subject matter or the provisions of these regulations otherwise require.

(b) *Act.* The Agricultural Adjustment Act of 1938, as amended.

(c) *Base period.* The 5 calendar years immediately preceding the year for which farm acreage allotments are currently being established.

(d) *Buyer's corrections account.* The warehouse account of tobacco purchased at auction by the buyer but not delivered to the buyer, or any tobacco returned by the buyer because of rejection by the buyer, lost ticket, or any other valid reason, which is turned back to the warehousemen and supported by an adjustment invoice from the buyer. This account shall include the pounds deducted resulting from returned baskets, short baskets, and short weights, and pounds added resulting from long baskets and long weights, which buyers debit or credit to the warehouseman and support with adjustment invoices.

(e) *Carryover tobacco.* Tobacco produced prior to the current calendar year which has not been marketed or otherwise disposed of prior to the beginning of the marketing year for the current crop.

(f) *Current year.* The calendar year for which acreage allotments are being established, or tobacco history acreage or normal yields are being determined, or the farm is being considered under the provisions of the marketing quota program.

(g) *Dealer or buyer.* A person who engages to any extent in the business of acquiring or selling tobacco in the form normally marketed by producers.

(h) *Director.* The Director, or Acting Director, Farmer Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(i) *Excess tobacco.* For a farm for the current year that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm times the number of acres harvested in excess of the farm acreage allotment, plus any carryover excess tobacco.

(j) *Floor sweepings.* Scraps of tobacco or leaves other than bundles of tobacco, which accumulate on the warehouse floor in the regular course of business which is sold in the untied form in which acquired and sales and resales of such tobacco: *Provided,* That floor sweepings exceeding the pounds determined by

multiplying the total first sales of tobacco at auction for the season for the warehouse shall be deemed to be leaf account tobacco:

Kind of tobacco	*Percentage*
Burley and Maryland	0.30 (three-tenths of 1 percent).
Fire-cured, air-cured, and Virginia sun-cured.	0.02 (two-hundredths of 1 percent).

(k) *Hogshead warehouseman.* A person who engages in the business of receiving and storing Maryland tobacco for producers and who assists producers in the sale of such tobacco.

(l) *Leaf account tobacco.* All tobacco purchased or otherwise acquired by or for the account of a warehouse and shall include, but not be limited to, tobacco from buyers corrections account, and sales and resales of such tobacco, scrap tobacco obtained through grading tobacco for farmers or furnishing farmers curing or stripping space, floor sweepings purchased from another warehouseman or dealer, and floor sweepings deemed to be leaf account tobacco under paragraph (j) of this section.

(m) *Market.* The disposition of tobacco in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "Marketed" shall have corresponding meanings to the term "market."

(n) *Marketing quota for a farm.* The actual production of tobacco on the farm acreage allotment, which shall be the average yield per acre of the entire acreage of tobacco harvested on the farm times the farm acreage allotment.

(o) *Marketing year.* The period beginning October 1 of the year in which the tobacco is produced and ending September 30 of the following year.

(p) *Marketing recorder or field assistant.* Any employee of the U.S. Department of Agriculture, or any employee of an Agricultural Stabilization and Conservation Service (ASCS) county office, whose duties involve the preparation and handling of records and reports pertaining to the identification of marketings of tobacco.

(q) *New farm.* A farm for which a tobacco allotment is established in the current year (except an allotment established as a result of a transfer by sale or by owner for fire-cured, dark air-cured, or Virginia sun-cured under § 724.72), and for which there is no tobacco history acreage in the base period. If, in accordance with applicable law and regulations, no tobacco acreage allotment was determined for the farm for any year of the base period, any production of tobacco on such farm during the base period shall not be considered in determining whether the farm is a new farm. The term "tobacco history acreage" as used in this paragraph is defined in § 724.55.

(r) *Nonauction sale.* Any first marketing of tobacco other than by a sale at auction.

(s) *Old farm.* A farm on which there is tobacco history acreage in 1 or more years of the base period.

(t) *Pound.* The amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producer, would equal one pound standard weight.

(u) *Resale.* The disposition by sale, barter, exchange, or gift inter vivos, of tobacco which has been marketed previously.

(v) (1) *Sale.* The first marketing of cigar-filler and cigar-binder from tobacco on which the gross amount of the sale price therefor has been or could be readily determined.

(2) *Sale date.* The date on which the gross amount of the sales price of a first marketing of tobacco is determined, except that for 1968–69 or subsequent year for which marketing quotas are in effect for within quota Maryland tobacco at the Baltimore Hogshead Market the term means the date on which such tobacco is received by a warehouse at such market, weighed, recorded in the official records, and graded by Maryland State inspectors.

(w) *Sale day.* The period at the end of which the warehouseman bills to buyers the tobacco purchased by them during such period.

(x) *Scrap tobacco.* The residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(y) (1) *Suspended sale, except burley tobacco.* Any first marketing of tobacco at a warehouse sale for which the sale is not identified by the end of the sale day by the marketing card (including sale memo, where applicable) issued for the farm where the tobacco was produced.

(2) *Suspended burley tobacco sale.* Any marketing of tobacco at auction for which the sale is not identified by a producer's marketing card or a dealer's identification card by the end of the sale day on which such marketing occurred.

(z) *Tobacco.* Each one or all, as indicated by the context, of the kinds of tobacco listed in this paragraph, comprising the types specified, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the United States Department of Agriculture.

(1) Burley tobacco, type 31;

(2) Fire-cured tobacco, type 21;

(3) Fire-cured tobacco, types 22, 23, and 24;

(4) Dark air-cured tobacco, types 35 and 36;

(5) Virginia sun-cured tobacco, type 37;

(6) Maryland tobacco, type 32;

(7) Cigar-binder tobacco, types 51 and 52;

(8) Cigar-filler and binder tobacco, types 42, 43, 44, 53, 54, and 55.

As used herein "cigar tobacco" means the latter two kinds (subparagraphs (7) and (8) of this paragraph).

(aa) *Tobacco available for marketing.* All tobacco produced on a farm, including carryover tobacco, which has not been marketed or otherwise disposed of.

(bb) *Trucker.* A person who trucks or hauls tobacco for producers, or any other persons.

(cc) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

(dd) *Warehouse sale.* A marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, including sale of all lots or baskets of tobacco at public auction in sequence at a given time and shall include for Maryland tobacco each marketing of farm tobacco through a hogshead tobacco warehouse to a buyer other than the warehouseman and each marketing of resale tobacco through such a warehouse.

§ 724.52 Extent of determinations, computations and rule for rounding fractions.

(a) *General.* If rounding is prescribed herein, computations shall be carried to two decimal places beyond the number of decimal places required, and digits of 50 or less beyond the required number of decimal places shall be dropped; if 51 or more, the last required decimal place shall be increased by one.

(b) *Allotments.* Farm acreage allotments shall be determined in hundredths and any allotment of less than 0.01 acre shall be increased to 0.01 acre. For example, 2.5536 equals 2.55; 2.5550 equals 2.55; 2.5551 equals 2.56; 2.5582 equals 2.56; and 0.0001 equals 0.01.

(c) *Percent excess.* The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths percent and calculations thereof rounded to the nearest tenth percent. For example, 6.732 percent would be 6.7 percent; 6.750 percent would be 6.7 percent; 6.751 percent would be 6.8 percent; and 6.782 percent would be 6.8 percent.

(d) *Converted rate of penalty.* The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty", shall be expressed in tenths of a cent and calculations thereof rounded to the nearest hundredth of a cent. For example, expressions in tenths calculated at 6.732 cents would be 6.7 cents; 6.750 cents would be 6.7 cents; 6.751 cents would be 6.8 cents; and 6.782 cents would be 6.8 cents and expressions in hundredths calculated at 0.0536 cent would be 0.05 cent; 0.0550 cent would be 0.05 cent; 0.0551 cent would be 0.06 cent; and 0.0582 cent would be 0.06 cent.

(e) *Amount of penalty.* The amount of penalty on any lot of tobacco marketed shall be expressed in dollars and cents and calculations thereof rounded to the nearest cent. For example, $10.5536 would be $10.55; $10.5550 would be $10.55; 10.5551 would be $10.56; and $10.5582 would be $10.56.

§ 724.53 Supervisory authority of ASC State Committee.

The State committee may take any action required by the regulations in this part which has not been taken by a county committee. The State committee

may also (a) correct, or require a county committee to correct, any action taken by a county committee which is not in accordance with the regulations in this part, or (b) require a county committee to withhold taking any action which is not in accordance with the regulations in this part.

§ 724.54 **Instructions and forms.**

The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary, for carrying out the regulations in this part. The forms and instructions shall be approved by and the instructions shall be issued by the Deputy Administrator.

ACREAGE ALLOTMENTS, HISTORY ACREAGE AND NORMAL YIELDS FOR OLD FARMS

§ 724.55 **Determination of preliminary acreage allotments and tobacco history acreage for old farms.**

(a) *Determination of preliminary acreage allotments*—(1) *Farms with history acreage in base period.* A preliminary farm acreage allotment shall be determined for each farm which has tobacco history acreage, as defined and explained in paragraph (b) of this section, in the base period, except that no preliminary farm acreage allotment shall be established in the current year under any one of the following conditions:

(i) The only tobacco history acreage credited to the farm during the entire base period is history acreage restored because the allotment was reduced for violation of the regulations in this part: (*a*) A new farm allotment was established in any prior year but was canceled for such year and the farm had no other tobacco history acreage during the base period; (*b*) an allotment was pooled under Part 719 of this chapter but was canceled; or (*c*) the county committee determines that the farm has been retired from agricultural production and the farm was not or could not have been acquired under right of eminent domain by the acquiring person or agency. This subdivision shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production if the allotment for the retired land was not allocated to other land contained in the farm of which the retired land was a part, or for a farm for which an acreage allotment may be determined under the provisions of § 724.60 (a).

(2) *Preliminary farm acreage allotments.* The preliminary farm acreage allotment for the current year for a farm which qualifies for a preliminary farm acreage allotment under subparagraph (1) of this paragraph shall be the same as the allotment (prior to lease and transfer and prior to reduction for violation) for the preceding year: *Provided,* That if the tobacco history acreage for the farm in neither of the two immediately preceding years was as much as 75 percent of the allotment (after any reduction for violation), the preliminary acreage allotment shall be the larger of (not to exceed the allotment for the preceding year): (i) The largest tobacco history acreage in either of the 2 preceding years, or (ii) the average tobacco history acreage for the base period.

(b) *Determination of tobacco history acreage.* Tobacco history acreage shall be determined for each farm for which a tobacco farm acreage allotment has been established for the current year.

(1) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as tobacco history acreage for any year if:

(i) (*a*) In such year or either of the two immediately preceding years the sum of (*1*) the final tobacco acreage as determined under Part 718 of this chapter, (*2*) acreage leased and transferred from the farm, (*3*) acreage reduced because of insufficient cropland on the farm, and (*4*) acreage regarded as planted under the conservation programs and conservation practices determined pursuant to Part 719 of this chapter, was as much as 75 percent of the allotment after any reduction for violation. If an erroneous notice of allotment was applicable, the smaller of the correct or the erroneous notice shall be used to determine whether 75 percent planting provision has been met; or (*b*) in such year or either of the two immediately preceding years the farm acreage allotment was in the eminent domain pool; or (ii) the farm consists of federally owned land for which a restrictive lease is in effect prohibiting the production of tobacco. (Federally owned land as used in this paragraph means land owned by the Federal Government or any department, bureau, or agency thereof, or by any corporation all of the stock of which is owned by the Federal Government.)

(2) *Computed history agreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under subparagraph (1) of this paragraph, the tobacco history acreage shall be the sum of the acreages (not to exceed the farm acreage allotment) as follows:

(i) Final tobacco acreage.

(ii) Acreage regarded as planted under the conservation programs and conservation practices determined pursuant to Part 719 of this chapter.

(iii) Acreage leased and transferred from the farm.

(iv) Acreage reduced because of insufficient cropland on the farm.

(v) Acreage reduced for violation of the regulations in this part.

(3) *Adjustment of tobacco history acreage for abnormal weather or disease.* If the county committee determines (with the approval of a representative of the State committee) that for any year the sum of the final tobacco acreage, any acreage transferred from the farm, the acreage allotment reduced because of insufficient cropland acreage, and the acreage regarded as planted to tobacco under the conservation programs and conservation practices, is less than 75 percent of the allotment (after any reduction for violation) because of abnormal weather or disease, the tobacco history acreage for such year shall be adjusted to become the smaller of (i) the allotment (prior to any reduction for violation), or (ii) the sum of the final tobacco acreage for the farm, the additional acreage which the county committee determines (with the approval of a representative of the State committee) would have been included in the final acreage except for abnormal weather or disease, any acreage leased and transferred from the farm, the acreage reduced because of insufficient cropland acreage, the acreage regarded as planted to tobacco under the conservation programs and conservation practices, and the amount of any reduction for violation. Any adjustment in tobacco history acreages because of abnormal weather or disease shall not be considered as acreage devoted to tobacco in determining whether or not 75 percent of the allotment is planted. No adjustment for abnormal weather or disease shall be made unless the farm operator requests such an adjustment in writing to the county committee no later than October 1 of the crop year involved.

(4) *Zero allotment farms.* A farm for which a farm acreage allotment of zero was established shall not be credited with any tobacco history acreage.

(5) *Allotments in eminent domain pool.* The farm acreage allotment in the eminent domain pool, as provided in Part 719 of this chapter, shall be considered fully planted during the years in the pool, including any year in which the pooled allotment is released by the displaced owner to the county committee for reapportionment to other farms in the county. The tobacco history acreage shall be the same as the pooled allotment.

(6) *All history acreage is restored history acreage.* A farm shall be considered to have no tobacco history acreage during the base period and shall not be considered an old farm if the only tobacco history acreage computed for the farm during the base period consists of tobacco history acreage restored from a reduction of the farm acreage allotment for violation of the regulations in this part.

(7) *Tobacco history acreage for new farms.* The tobacco history acreage for a farm for the year it received an allotment as a new farm shall be the same as the new farm allotment if as much as 75 percent of the allotment is planted in such year. If less than 75 percent of the new farm allotment is planted, the tobacco history acreage shall be the the same as the planted acreage. No adjustment for abnormal weather or disease shall be made in the tobacco history acreage for the farm for the year it was a new farm.

§ 724.56 **Old farm tobacco acreage allotment.**

The preliminary allotments determined for all old farms pursuant to § 724.55 shall be adjusted uniformly so that the total of such allotments for old farms plus a reserve acreage available for adjusting inequities in acreage allotments for old farms and for correcting errors in old farm allotments shall

not exceed the national acreage allotment less that part of such reserve acreage set aside for establishing new farm allotments: *Provided*, That in the case of burley tobacco, the farm acreage allotment for the current year shall not be less than the smallest of (a) the allotment for the preceding year, (b) fifty-hundredths of an acre, or (c) 10 percent of the cropland in the farm: *Provided further*, That no burley tobacco allotment for any one year of seventy-hundredths of an acre or less shall be reduced more than 0.10 acre, and no burley tobacco farm acreage allotment for any one year of more than seventy-hundredths of an acre shall be reduced to less than 0.60 acre.

§ 724.57 Reduction in farm allotment because of cropland limitation.

The allotment determined for any farm under § 724.56 may be reduced for the current year if the sum of the feed grain base, total allotments, and sugar proportionate shares exceeds the cropland for the farm for the current year and the farm operator requests in writing to reduce the tobacco allotment in lieu of the feed grain base: *Provided*, That such reduction shall not exceed the acreage by which the sum of the feed grain base, total allotments, and sugar proportionate shares exceeds the cropland for the farm: *Provided further*, That such reduction shall be effective for the current year only. For purposes of establishing future State and farm acreage allotments, the acreage not planted under the farm allotment because of a reduction under this paragraph shall be regarded as planted on the farm.

§ 724.58 Correction of errors and adjusting inequities in acreage allotments for old farms.

(a) *General*. Notwithstanding the limitations contained in any other section of this subpart, the farm acreage allotment for each kind of tobacco established for an old farm may be increased to correct an error or adjust an inequity if the county committee determines, with the approval of a representative of the State committee, that the increase is necessary to establish an allotment for such farm which is fair and equitable in relation to the allotment for other old farms in the county in which the farm is located. Not to exceed 1 percent of the national acreage allotment for each kind of tobacco minus that part of the national reserve set aside for establishing new farm allotments shall be made available for adjusting inequities and for correcting errors. The amount of the national reserve acreage available for correcting errors and for adjusting inequities will be announced at the same time the national quota is proclaimed. The reserve acreage for old farms will be allocated to each State based on the relation of each State's preliminary acreage allotment to the preliminary allotments for all States.

(b) *Basis for adjustment*. Acreage increases to adjust inequities in acreage allotments shall be made on the basis of the past farm acreage and past farm acreage allotments of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The total of all adjustments in old farm allotments under this paragraph shall not exceed the acreage allocated for such purpose. The sum of adjustments for farms in a county owned, operated, or controlled by the State, county and community committeemen and the county office manager, shall not be larger in relation to the sum of the preceding year's allotments for such farms than the sum of the adjustments for other farms in such county in relation to the preceding year's allotments for such farms.

(c) *CR, CCP, and CAP farms*. The allotment for a farm under a conservation reserve contract or a farm under a cropland conversion program agreement, or land under a cropland adjustment agreement shall be given the same consideration under this section as the allotment for any other old farm.

(d) *Approved acreage*. Acreage approved for a farm under this section becomes a part of the farm acreage allotment.

§ 724.59 Time for making reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year.

Any reduction made with respect to a farm's acreage allotment for the current year for any of the reasons provided for in § 724.97, excluding paragraph (c), shall be made no later than (a) April 1 of the current year in the States of Alabama, Georgia, North Carolina, South Carolina, and Virginia; or (b) May 1 of the current year in all other States. If the reduction cannot be made by such dates for the current year, the reduction shall be made with respect to the acreage allotment next established for the farm, but no later than by corresponding dates in a subsequent year: *Provided, however*, That no reduction shall be made in the acreage allotment for any farm for a violation if the acreage allotment for such farm for any prior year was reduced on account of the same violation.

§ 724.60 Reallocation and release and reapportionment of allotments determined for farms acquired by an agency having the right of eminent domain, or shifted from production of cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco to production of shade-grown cigar-leaf (type 61) wrapper tobacco.

(a) The determination of allotments for farms acquired by an agency having the right of eminent domain, the transfer of such allotments to a pool, and reallocation from the pool shall be administered as provided in Part 719 of this chapter. The normal yield for each farm to which a reallocation is made as provided in this paragraph shall be determined as provided in § 724.62 for determining normal yields for old farms.

(b) The displaced owner of a farm may, not later than April 1 of the current year in the States of Alabama, Georgia, North Carolina, South Carolina, and Virginia, and not later than May 1 of the current year in all other States, release in writing to the county committee for the current year all or part of the acreage for the farm in a pool under Part 719 of this chapter for reapportionment for the current year by the county committee to other farms in the county having allotments for the same kind of tobacco. The county committee may reapportion, not later than May 1 of the current year in the States of Alabama, Georgia, North Carolina, South Carolina, and Virginia, and not later than June 1 of the current year in all other States, the released acreage or any part thereof to other farms in the county on the basis of the past farm acreage and past farm acreage allotments for the same kind of tobacco, land, labor, equipment available for the production of such kind of tobacco, crop rotation practices, and soil and other physical factors affecting the production of such kind of tobacco. The allotment acreage released shall, for tobacco history acreage and future allotment purposes, be considered to have remained in the pool as though it had not been released therefrom. The acreage reapportioned to a farm under this paragraph shall automatically be reduced, where applicable, so as not to exceed the acreage by which the final tobacco acreage on the farm for the current year determined pursuant to Part 718 of this chapter, exceeds the allotment for the current year for the farm prior to being increased by reapportionment of acreage under this paragraph.

(c) The allotment determined or which would have been determined for any land which has been used for the production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco, but which will be shifted in the current year to the production of shade-grown cigar-leaf (type 61) wrapper tobacco shall be placed in a State pool and shall be available to the State committee to establish allotments pursuant to § 724.65(a).

(d) No release and reapportionment of allotment acreage hereunder shall be the result of any private negotiations between individuals. Any acreage released shall be released to the county committee and such acreage shall be reapportioned only by the county committee.

§ 724.61 Farms divided or combined.

The provisions of Part 719 of this chapter shall apply to allotments and history acreages for the base period for farms that are reconstituted by division or combination.

§ 724.62 Determination of normal yields for old farms.

The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking

into consideration (a) the yields obtained on the farm during the 5 years of the base period for which data are available, (b) the soil and other physical factors affecting the production of tobacco on the farm, and (c) the yields obtained on other farms in the locality which are similar with respect to such factors. The normal yield first determined for a farm for any year in accordance with the foregoing provision shall serve as the normal yield for the farm for all purposes in connection with the tobacco marketing quota program for the year for which such normal yield is determined.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 724.63 Determination of acreage allotments for new farms.

(a) The acreage allotment, other than an allotment made under § 724.60(a), for a new farm shall be that acreage which the county committee, with approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That the acreage allotment so determined shall not exceed 50 percent of the average of the acreage allotments established for two or more but not more than five old tobacco farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further*, That if the acreage planted to tobacco on a new tobacco farm is less than 75 percent of the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the planted tobacco acreage on the farm.

(b) Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm shall be operated by the owner thereof. A person who owns only part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner of the farm if the farm is jointly owned by such husband and wife.

(2) The farm covered by the application shall be the only farm in the United States owned or operated by the farm operator for which a burley, flue-cured, fire-cured, dark air-cured, Virginia sun-cured, Maryland, cigar-filler (type 41); cigar-binder (types 51 and 52); or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco acreage allotment is established for the current crop year.

(3) The farm shall not have an allotment for the current year for any of the kinds of tobacco listed in subparagraph (2) of this paragraph, other than the allotment requested in the application.

(4) The available land, type of soil, and topography of the land on the farm for which the allotment is requested is suitable for the production of the kind of tobacco requested in the application and the production of such kind of tobacco on the farm ordinarily will not result in an undue erosion hazard under continuous production.

(5) The operator shall own, or otherwise have readily available, adequate equipment and other facilities of production (including irrigation water) necessary to the successful production of the kind of tobacco requested on the farm.

(6) The operator shall expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products from the farm for which the new farm allotment application is filed. In making this computation of income from the farm, no value will be allowed for the estimated return from the production of the requested allotment. However, in addition to the value of agricultural products sold from the farm, credit will be allowed for the estimated value of home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm. Where the farm operator is a partnership, each partner must expect to obtain, during the current year, more than 50 percent of his income from agricultural commodities or products from the farm; where the farm operator is a corporation, it must have no major corporate purpose other than operation and ownership where applicable, of such farm, and the officers and general manager of the corporation must expect to obtain more than 50 percent of their income, including dividends and salary, from the corporation.

(7) The farm operator shall have had experience in producing, harvesting and marketing the kind of tobacco requested in the application either as a sharecropper, tenant or farm operator during at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested. If the applicant was in the armed services during any part or all of the 5-year period, the experience period shall be expanded, year for year, for each year of military service during such 5-year period. The production of tobacco of the kind requested in the application on a farm for which no farm acreage allotment for such kind of tobacco was established, shall not be deemed as experience in growing tobacco for this purpose.

(8) A written application is filed by the farm operator at the office of the county committee on or before February 15 of the calendar year for which the application is made, except that in the case of cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco, the application shall be so filed not later than March 10 of the current year.

(9) The farm shall not include land returned to agricultural production after being acquired by an agency having the right of eminent domain if the entire tobacco allotment for the land was pooled pursuant to Part 719 of this chapter until after a date 5 years from the date the former owner was displaced from the land acquired by eminent domain.

(10) A farm which includes land which has no tobacco allotment because the owner did not designate a tobacco allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter, shall not be eligible for a new farm tobacco allotment for a period of 5 years beginning with the year in which the farm reconstitution becomes effective.

(11) Any farm from which the entire farm allotment for fire-cured, dark air-cured, or Virginia sun-cured tobacco is transferred by sale, lease, or by owner to another farm owned or controlled by him, under § 724.70, shall not be eligible for a new farm tobacco allotment for the kind transferred during the 5 years following the year in which such transfer is made.

(c) The acreage allotments established as provided in this section for each kind of tobacco shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. A reserve acreage of not more than one percent of the national acreage allotment for the current year, minus that part of such reserve acreage set aside for adjusting inequities in acreage allotments for old farms and for correcting errors in old farm allotments, shall be available for establishing allotments for new farms.

(d) Any new farm allotment approved under this part which was determined by the county committee on the basis of incorrect information knowingly furnished the county committee by the applicant for the new farm allotment shall be canceled by the county committee as of the date established.

§ 724.64 Determination of normal yields for new farms.

The normal yield for a new farm shall be that yield per acre which the county committee determines is normal for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

MISCELLANEOUS

§ 724.65 Determination of acreage allotments and normal yields for farms shifted from production of shade-grown cigar-leaf (type 61) wrapper tobacco to production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco.

(a) Notwithstanding the foregoing provisions of this part an allotment may be established for a farm for the current year which in the preceding year was producing shade-grown cigar-leaf (type 61) wrapper tobacco but on which cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco will be produced in the current year. The acreage

used for such purpose will be limited to that placed in the State pool pursuant to § 724.60(c). Any allotment established pursuant to this paragraph shall, to the extent of available acreage in such pool, be determined by the county committee so as to be fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowance for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor and equipment available for the production of tobacco, crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Allotments established pursuant to this paragraph shall be eligible for consideration for adjustment under § 724.58.

(b) The normal yield for any farm for which an allotment is established under paragraph (a) of this section shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 724.62 for similar farms in the community.

§ 724.66 Approval of allotments and marketing quotas and notice of farm acreage allotments.

(a) All farm acreage allotments and yields shall be determined by the county committee of the county in which the farm is located and shall be reviewed by a representative of the State committee. The State committee may revise or require revision of any determination made under the regulations in this Part. All acreage allotments and yields shall be approved by a representative of the State committee, and no official notice of acreage allotment shall be mailed to a farm operator until such allotment has been so approved, except that revised acreage allotment notices without such prior approval may be mailed in cases (1) resulting from reconstitutions that do not involve the use of additional acreage, or (2) of allotment reductions due to failure to return marketing cards where a satisfactory report of disposition of tobacco is not otherwise furnished as provided in § 724.95.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. All such notices shall bear the actual or fascimile signature of a member of the county committee. The fascimile signature may be affixed by a county committeeman or an employee of the county office. Insofar as practical, all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm in respect to which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) a violation of the marketing quota regulations for a prior marketing year, (2) removal of the farm from agricultural production, (3) division of the farm, or (4) combination of the farm, mailing of the notice of such allotment may be delayed: *Provided*, That the notice of allotment for any farm shall be mailed no later than (i) April 1 of the current year in the States of Alabama, Georgia, North Carolina, South Carolina, and Virginia, or (ii) May 1 of the current year in all other States.

(d) If the county committee determines with the approval of the State executive director that (1) the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and (2) the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith, planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the current year, except that in determining whether or not 75 percent of the allotment is planted, the provisions of § 724.55 shall be followed.

§ 724.67 Application for review.

Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm may, within 15 days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the ASCS county office to have such allotment reviewed by a review committee. The procedure governing the review of farm acreage allotments and marketing quotas is contained in Part 711 of this chapter, which is available at the ASCS county office.

§ 724.68 Lease and transfer of tobacco acreage allotment.

(a) For 1968 and 1969 crops of cigarbinder (types 51 and 52) or Maryland tobacco subject to the limitations provided in this section, the owner and operator (acting together if different persons) of any farm for which an old farm tobacco acreage allotment for cigarbinder (types 51 and 52) or Maryland tobacco is established for the current year may lease and transfer all or any part of such allotment to any other owner or operator of a farm in the same county with a current year's allotment (old or new farm) for the same kind of tobacco for use on such farm. Also, the allotment established for a farm as pooled allotment under Part 719 of this chapter may be leased and transferred during the 3-year life of the pooled allotment. The lease and transfer of allotment acreage shall be recognized and considered valid by the county committee subject to the conditions set forth in this section.

(b) Any lease shall be made on an annual basis and on such terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) The lease and transfer of any allotment or any part thereof shall not be effective until a copy of such lease is filed with and determined by the county committee to be in compliance with the provisions of this section. Such lease and transfer shall not be effective unless a copy of the lease is filed with the county committee not later than April 1 of the current year for the States of Alabama, Georgia, North Carolina, South Carolina and Virginia, and not later than May 1 of the current year for all other States. In addition, the lease and transfer of an allotment shall be effective if the State executive director finds that a lease was timely agreed upon and the terms of the lease are reduced to writing and filed no later than July 31 of the current year.

(d) The county committee shall determine a normal yield per acre, in accordance with the provisions of § 724.62 in the case of old farms, and, in the case of new farms, § 724.64 for each farm from which, and for each farm to which, a tobacco acreage allotment or any part thereof is leased. If the normal yield determined by the county committee for the farm to which the allotment acreage is transferred does not exceed the normal yield determined by the county committee for the farm from which the allotment acreage is transferred by more than 10 percent, the lease and transfer shall be approved acre for acre. If the normal yield determined by the county committee for the farm to which the allotment acreage is transferred exceeds the normal yield for the farm from which the allotment acreage is transferred by more than 10 percent, the county committee shall make a downward adjustment in the amount of the allotment acreage transferred by multiplying the normal yield established for the farm from which the allotment acreage is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment acreage is transferred.

(e) The amount of allotment acreage which is leased from a farm (prior to any reduction made under this section) shall be considered for the purpose of determining future allotments (and tobacco history acreage) to have been planted to tobacco on such farm. The amount of allotment acreage which is leased and transferred to a farm shall not be taken into account in establishing allotments for subsequent years for such farms.

(f) The total acreage allotted to any farm after the transfer by lease of tobacco acreage allotment to the farm (the sum of its own allotment and acreage leased and transferred to it after any

adjustment in normal yields) shall not exceed 50 percent of the acreage of cropland in the farm.

(g) A new farm allotment shall not be leased or transferred.

(h) Lease and transfer of an allotment from a farm covered by a Conservation Reserve Program (CR), Cropland Adjustment Program (CAP), or Cropland Conservation Program (CCP) shall be subject to the following conditions:

(1) *CR and CCP (1964–65).* Lease and transfer of an allotment may be approved for any farm under a whole or part farm CR contract or CCP Agreement.

(2) *CAP and CCP (1966 and 1967).* (i) Lease and transfer of an allotment shall not be approved if the transferring or receiving farm has the allotment crop base for a kind of tobacco designated under such program agreement.

(ii) Any lease and transfer of an allotment hereunder shall be made subject to an appropriate adjustment in the rates of payment under such contract or agreement but no adjustment shall be made in such contract or agreement on the farm to which a lease and transfer is made.

(i) The pooled tobacco allotment acreage which has been released to the county committee and reapportioned under the provisions of § 724.60(b) shall not be eligible for lease and transfer.

(j) Any leased allotment acreage shall not be subleased.

(k) A revised notice showing the allotment acreage after lease and transfer shall be issued by the county committee to each of the operators of all farms from which or to which tobacco allotment acreage is leased under this section.

(l) If a violation is pending which may result in an allotment reduction for a farm for the current year, the county committee shall delay approval of any lease and transfer of allotment from or to the farm until the violation is cleared or the allotment reduction is made. However, if the allotment reduction in such a case cannot be made effective for the current crop year before the final date for reducing allotments for violations (see § 724.59) the lease may be approved by the county committee. In any case, if, after a lease and transfer of a tobacco acreage allotment has been approved by the county committee, it is determined that the allotment for the farm from which or to which such acreage is leased is to be reduced for a violation, the allotment reduction for such farm shall be delayed until the following year.

(m) Except with respect to the erroneous allotment notice provisions in § 724.66 and the provisions for review in § 724.67, the term "tobacco acreage allotment" as used herein shall mean the allotment without regard to the application of the provisions of this section.

(n) If the allotment for a farm for the current year is reduced to zero, no tobacco allotment acreage for such kind of tobacco may be leased to such farm for the current year.

(o) No lease shall be approved by the county committee for any farm involved in a lease and transfer of allotment acreage until the time for filing an application for review (see § 724.67), as shown on the original allotment notice for the farm, has expired. If an application for review is filed for a farm involved in a lease and transfer agreement, such agreement shall not be approved by the county committee until the allotment for such farm is finally determined pursuant to Part 711 of this chapter.

(p) The acreage allotment finally determined (after lease and transfer) for a farm under the provisions of this section shall be the allotment for such farm for the current year only for the purpose of determining (1) excess acreage, (2) the amount of penalty to be collected on marketings of excess tobacco including absorption of carryover penalty tobacco, (3) eligibility for price support, and (4) the farm marketing quota and the percentage reduction for a violation in the allotment for the farm (see § 724.95). Such percentage reduction determined as applicable when the violation occurred shall be applied to the allotment being reduced prior to any lease and transfer of allotment.

(q) An agreement for leasing tobacco allotment acreage may be dissolved at the request of all parties to the lease by so notifying the county committee in writing not later than April 1 of the current year in the States of Alabama, Georgia, North Carolina, South Carolina, and Virginia and May 1 of the current year in all other States. In such a case, an official notice of the farm acreage allotment and marketing quota, disregarding lease and transfer, shall be issued by the county committee to each of the operators involved in the leasing agreement. If the request to dissolve the lease is made after the above-specified date(s), the acreage allotments resulting from the lease and transfer shall remain in effect. In addition, the lease and transfer of an allotment may be dissolved if the county committee, with the approval of the State executive director, finds that such dissolution was timely agreed upon and the terms of the dissolution are reduced to writing and filed no later than July 31 of the current year.

(r) Allotments for reconstituted farms shall be divided or combined in accordance with Part 719 of this chapter. For this purpose, the farm acreage allotment being divided or combined for a farm in the current year shall be the allotment after lease and transfer has been made. For the following year, that part of the acreage allotment leased shall revert to the farm from which it was transferred. Notwithstanding the above, in the case of divisions, the county committee may allocate the leased acreage involved to the tracts involved in the division as the farm operators interested in such tracts agree in writing.

§ 724.69 Transfer of farm marketing quota.

There shall be no transfer of farm marketing quotas except as provided in § 724.68 and § 724.70 of this subpart and Part 719 of this chapter.

§ 724.70 Transfer of fire-cured, dark air-cured, and Virginia sun-cured tobacco allotments by lease, sale, or by owner to another of his farms, under section 318 of the act.

Based on the present and future outlook of production and disappearance of fire-cured, dark air-cured, and Virginia sun-cured tobacco, it has been determined that transfer of tobacco allotments by lease, sale, or by the owner will not impair the effective operation of the 1968 and subsequent years' marketing quota or price support programs for such kinds of tobacco. Transfers under section 318 of the act shall be handled in accordance with this section.

(a) *Persons eligible to file applications for transfers*—(1) *Sale or lease.* Effective beginning with the 1968 crop, the owner and operator of any old farm, as defined in § 724.51, for which a fire-cured, dark air-cured, or Virginia sun-cured tobacco allotment is or will be established for the year in which a transfer by sale or lease is to take effect, is eligible to file an application for sale or lease of all or part or the right to all or part of an allotment for any or all of such kinds of tobacco to any other owner or operator of a farm in the same county without regard to whether such farm has a tobacco allotment for the kind to be transferred. If the owner and operator of the farm from which transfer by sale or lease is to be made are different persons, both such persons shall execute the application.

(2) *By owner.* Effective beginning with the 1968 crop, the owner of any old tobacco farm, as defined in § 724.51, for which a fire-cured, dark air-cured, or Virginia sun-cured tobacco allotment is or will be established for the year in which the transfer is to take effect is eligible to file an application to transfer an allotment, for a term of years designated by the owner, or permanently for any or all of such kinds of tobacco from a farm to another farm in the same county owned or controlled by such owner.

(b) *Date for filing application.* Applications shall be filed for transfers to take effect in the current year during the period October 1 of the preceding year and not later than May 1 of the current year.

(c) *Where to file application.* Applications shall be filed with the county committee of the county where the farm is administratively located.

(d) *Maximum period of lease application.* Applicants for transfer of allotments by lease shall not exceed 5 years.

(e) *When application is effective.* An application for transfer shall not be effective until the county committee determines it to be in compliance with the provisions of this section.

(f) *Productivity adjustment* — (1) *Reduction in farm allotments being transferred.* The county committee shall determine a normal yield per acre, in accordance with the provisions of § 724.62

in the case of old farms and § 724.64 in the case of new farms for each farm from which, and for each farm to which, a tobacco acreage allotment or any part thereof is transferred. If the normal yield for the farm to which transfer is made for the year the transfer is to take effect exceeds the normal yield for the farm from which transfer is made for the year the transfer is to take effect by more than 10 percent, the allotment so transferred shall be reduced for differences in farm productivity. The county committee shall determine the amount of allotment to be transferred by sale, lease, and by owner, where productivity adjustment is required under this paragraph as follows: (i) Multiply the normal yield established for the farm from which the allotment is being transferred by the acreage being transferred, then (ii) divide the result by the normal yield established for the farm to which the allotment is transferred. The amount of allotment so transferred from a farm shall be the full amount and the amount of allotment so transferred to a farm shall be the reduced amount. In the case of temporary transfers of allotment for 1 or more years by lease or by owner, the productivity adjustment and amount of allotment so transferred shall be redetermined by the county committee each year the transfer remains in effect.

(2) *Adjustment in farm history acreage.* The farm history acreage for the immediately preceding 5 years on farms from which and to which permanent transfer of allotment is made shall be adjusted by the county committee for each of the base years to correspond with the amount of allotment transferred between the farms. In the case of temporary transfers of allotment for one or more years by lease or by owner, there shall be no reduction in farm history acreage on the farm from which the transfer is made and no farm history acreage shall be transferred to the receiving farm.

(g) *Sale and lease transfers—limit on amount of acreage transferred.* The total of the fire-cured, dark air-cured, or Virginia sun-cured tobacco allotment which may be transferred for each kind of tobacco, by sale, lease, or by owner, to a farm shall not exceed ten acres of allotment: *Provided,* That the total of each acreage for each kind of tobacco allotted to any farm after such transfer (the sum of its own allotment and the acreage transferred after any adjustment in normal yields for the current year) shall not exceed 50 per centum of the acreage of cropland in the farm. The cropland in the farm for the current year for purposes of such transfers shall be the total cropland as defined in Part 719 of this chapter. If the farm to which allotment is to be transferred is made up of two or more separately owned tracts, each separately owned tract shall be considered a farm for the purpose of applying limitations of this paragraph.

(h) *No transfer of new farm allotment.* No transfer of allotment shall be made from a farm for the year in which the farm receives a new farm allotment.

(i) *No transfer by sale from farms to which transfer by sale within 3 years.* No transfer by sale shall be made from any farm to which allotment was transferred by sale within the three immediately preceding crop years.

(j) *Transfer of pooled allotment.* Allotments established for a farm as pooled allotment under Part 719 of this chapter may be transferred (1) on a permanent basis during the 3-year life of a pooled allotment or (2) on a temporary basis for a term of years not to exceed the remaining number of crop years of such 3-year period.

(k) *Consent of lienholder.* No transfer of allotment shall be made from a farm subject to a mortgage or other lien unless the transfer is agreed to in writing by the lienholder.

(l) *New farm eligibility.* Any farm from which the entire farm allotment is transferred shall not be eligible for a new farm tobacco allotment for the kind transferred during the 5 years following the year in which such transfer is made.

(m) *Farms under Long-Term Land Use Programs.* Transfer of an allotment from a farm covered by a Conservation Reserve Program (CR), Cropland Adjustment Program (CAP), or Cropland Conservation Program (CCP) shall be subject to the following conditions:

(1) *CR, and CCP (1964–65).* A temporary transfer, or permanent transfer by sale or by owner of an allotment may be approved for any farm under a CR contract or CCP Agreement.

(2) *CAP, and CCP (1966 and 1967).* (i) A temporary transfer of an allotment shall not be approved if the transferring or receiving farm has the allotment crop base for a kind of tobacco designated under such program agreement. (ii) A permanent transfer by sale or by owner of an allotment may be approved for any farm under a CAP or CCP agreement.

Any transfer of an allotment hereunder shall be made subject to an appropriate adjustment in the rates of payment under such contract or agreement but no adjustment shall be made in such contract or agreement on the farm to which a transfer is made.

(n) *Subleasing prohibited.* No transfer by lease shall be made from a farm receiving allotment under a transfer by lease for the term of the latter lease.

(o) *Limitation on transfer to and from a farm in the same year.* No transfer of allotment for any year shall be made (1) from a farm receiving allotment by transfer for such year or (2) to a farm which had allotment transferred from it for such year.

(p) *Transfer of history acreage, farm base, and marketing quota.* Transfer of allotment shall have the effect of transferring history acreage, farm base, and marketing quota attributable to such allotment and in the case of a transfer by lease upon the expiration of the lease the transferred allotment shall be considered for purposes of establishing future allotments to have been planted on the farm from which such allotment was transferred.

(q) *Liability of operators of farms receiving transferred acreage by lease.* The acreage allotment for a farm determined after transfer by lease shall be the allotment for such farm for the current year only for the purposes of determining (1) excess acreage, (2) the amount of penalty to be collected on marketings of excess tobacco including absorption of carryover penalty tobacco, (3) eligibility for price support, and (4) the farm marketing quota and the percentage reduction for a violation in the allotment for the farm (see § 724.95). Such percentage reduction determined as applicable when the violation occurred shall be applied to the allotment being reduced prior to any transfer of allotment by lease.

(r) *Reconstituted farms.* Allotments for reconstituted farms shall be divided or combined in accordance with Part 719 of this chapter. For this purpose, the farm acreage allotment being divided or combined for a farm in the current year shall be the allotment after transfer by lease has been made. Notwithstanding the above, in the case of divisions, the county committee may allocate the acreage involved that was transferred by lease to the tracts involved in the division as the farm operators interested in such tracts agree in writing.

(s) *Farm in violation.* The maximum acreage that can be transferred from a farm is the allotment for the current year. If a violation on the transferring farm is determined after the transfer but the operator of the receiving farm was not involved in the violation, the allotment so transferred shall not be subject to a reduction: *Provided,* That if the transfer was by lease, when the allotment is restored to the transferring farm the allotment reduction shall be effected.

(t) *Approval of transfers.* The county committee shall approve transfers of allotment only if it determines that a timely filed application has been received and that the transfer complies with the requirements of this section. No transfers shall be effective until approval as provided under this paragraph is obtained.

(u) *Notice of revised allotments.* The county committee shall issue revised notices of farm allotment for each farm affected by the transfer of allotment.

(v) *Cancellation, revision, or dissolution of transfers*—(1) *Cancellation.* If the county committee obtains evidence that the conditions applicable to any transfer of allotment under this section have not been met, the committee on the basis of such evidence shall determine whether such conditions have been met and if not met, shall cancel the transfer of allotment. Where the transfer of an allotment is canceled, the county committees shall issue revised notices of allotment showing the reasons for the cancellation. Any cancellation made with respect to a farm's acreage allotment for the current year shall be made no later than May 1 of the current year. If the cancellation is not made by such date for the current year, the cancellation shall be made with respect to the acreage allotment next established for the

farm, but no later than by corresponding date in a subsequent year.

(2) *Revision or dissolution.* An agreement to transfer an allotment may be dissolved at the request of all parties to the agreement by so notifying the county committee in writing not later than the close of business on May 1 of the current year.

§ 724.79 Identification of kinds of tobacco.

(a) Any tobacco (1) that has similar appearance and growth characteristics while growing in a field on a farm, or (2) any cured tobacco that has the same characteristics and corresponding qualities, colors, and lengths of a kind and type designated under the definition of "tobacco" shall be considered such kind and type without regard to any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

(b) For the purpose of discovering and identifying tobacco subject to marketing quotas, the term "tobacco" with respect to any farm located in an area in which one or more of a kind and type of tobacco named in the definition of "tobacco" is normally produced shall include all acreage of tobacco on a farm, unless the county committe with the approval of the State committee (1) determines that all or a part of such acreage should not be considered as either one of such kinds of tobacco under paragraph (a) of this section, or (2) determines from satisfactory proof furnished by the operator of the farm that a part or all of the production of such acreage has been certified by the Agricultural Marketing Service under the Tobacco Inspection Act (7 U.S.C. 511), and regulations issued pursuant thereto, as a kind of tobacco not subject to marketing quotas. Any amount of tobacco so determined as a kind and type of tobacco not subject to marketing quotas shall be converted to acres on the basis of the average yield per harvested acre of tobacco grown on the farm for the purpose of determining the harvested acreage of such kind of tobacco produced on the farm.

(c) Maryland tobacco in hogsheads which at the close of business on the last day of any marketing year for which marketing quotas are not in effect was on such date physically in the State Tobacco Warehouse, Baltimore, Md., and which was produced in a prior year, shall not be considered to be "tobacco" within the meaning of this subpart if such warehouse has furnished the report required by § 724.98.

§ 724.80 Disposition of excess tobacco.

(a) *Where tobacco acreage exceeds the allotment.* (1) The farm operator may dispose of excess tobacco prior to the marketing from the farm of any of the same kind of tobacco by furnishing to the county committee proof satisfactory to the committee that such excess tobacco will not be marketed. Such disposition of excess tobacco, subject to the provision of subparagraph (2) of this paragraph, may take place before harvesting, during harvesting, or after completion of harvesting of the kind of tobacco involved from the farm.

(2) No credit toward liquidating excess acreage shall be given for any excess tobacco disposed of after harvest, but prior to marketing, unless the county committee determines that such tobacco is representative of the entire crop from the farm of the kind of tobacco involved.

(b) *Harvested acreage.* The harvested acreage from a farm shall not include harvested acreage disposed of under this section.

§ 724.81 Issuance of producer marketing cards.

A marketing card for use in identifying each kind of tobacco shall be issued for the current year for each farm having tobacco available for marketing. The kind of card to be issued shall be determined pursuant to this section. Cards shall be issued in the name of the farm operator, except that cards issued for tobacco grown for experimental purposes only shall be issued in the name of the experiment station; cards issued to a successor-in-interest shall be issued in the name of the successor-in-interest; and, where a part of a farm which includes all the tobacco acreage on the farm is cash rented to one producer, cards shall be issued in the name of the one producer.

(a) *Person authorized to issue marketing cards.* The county office manager shall be responsible for the issuance of marketing cards. Each marketing card, except cards issued to identify burley tobacco, shall bear the actual or facsimile signature of the county office manager who issued the card.

(b) *Rights of producers and successors-in-interest.* (1) Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card for marketing his proportionate share.

(2) Any person who succeeds, other than as a dealer, in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights to the use of the marketing card and assume the same liability for penalties as the original producer.

(c) *Issuance of within quota and excess cards, except burley tobacco producer cards*—(1) *Within quota marketing card.* (i) A within quota marketing card, MQ–76 (eligible for price support), shall be issued for each kind of tobacco for which there is no excess tobacco available for marketing, or the percent excess is zero, except that an excess marketing card, MQ–77 (ineligible for price support), showing zero penalty, shall be issued if at the time of the issuance of the marketing card: (*a*) There is excess tobacco of another kind of tobacco which was produced on the same farm in the same current year; (*b*) all excess tobacco has been disposed of in accordance with § 724.80, and in compliance with the time of notification provisions of and in the manner prescribed in Part 718 of this chapter, but not before harvest, unless the county committee determines that the producer's failure to dispose of his excess tobacco prior to harvest was because of conditions beyond his control; or (*c*) any kind of tobacco produced on land owned by the Federal Government is within the allotment for the farm, but in violation of a lease restricting the production of tobacco.

(ii) A within quota marketing card (MQ–76) shall be issued to identify tobacco grown for experimental purposes only by a publicly owned experiment station.

(2) *Excess marketing card.* An excess marketing card, MQ–77 (ineligible for price support), showing the converted rate of penalty shall be issued for each kind of tobacco for which there is excess tobacco available for marketing and the percent excess exceeds zero percent. The percent excess and the converted rate of penalty shall be determined in accordance with § 724.82, except that an excess marketing card showing the full rate of penalty shall be issued:

(i) For each kind of tobacco for which no farm acreage allotment was established, or for which an allotment was established and later canceled, or,

(ii) For each kind of tobacco for which the farm operator or another producer on the farm prevents the county committee from obtaining information necessary to determine the correct acreage of tobacco on the farm.

(d) *Issuance of producer burley cards.* (1) A Form MQ–76 (burley) (eligible for price support) shall be issued:

(i) If there is no excess tobacco available for marketing, or the percent excess is zero;

(ii) To identify tobacco grown for experimental purposes only by a public owned experiment station.

(2) A Form MQ–76 (burley) bearing the notation "No Price Support" shall be issued:

(i) Showing zero penalty, if at the time of the issuance of the marketing card: (*a*) There is excess tobacco of another kind of tobacco which was produced on the same farm in the same current year; or (*b*) all excess burley tobacco has been disposed of in accordance with § 724.80, and in compliance with the time of notification provisions of and in the manner prescribed in Part 718 of this chapter, but not before harvest unless the county committee determines the producer's failure to dispose of his excess tobacco prior to harvest was because of conditions beyond his control; or (*c*) any burley tobacco was produced on land owned by the Federal Government is within the allotment for the farm, but in violation of a lease restricting the production of tobacco.

(ii) Showing the converted rate of penalty, if the percent excess exceeds zero percent.

(iii) Showing the full rate of penalty if: (*a*) No burley farm acreage allotment was established or a burley allotment was established and later canceled, or (*b*) the farm operator or another producer on the farm prevents the county committee from obtaining information necessary to determine the

correct acreage of tobacco on the farm.

The percent excess and the converted rate of penalty shall be determined in accordance with § 724.82.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 724.82 Extent to which marketings from a farm are subject to penalty.

(a) *Farms having no carryover tobacco.* Marketing of tobacco from a farm having no carryover tobacco shall be subject to penalty by the percent excess determined by dividing the excess acreage of tobacco by the harvested acreage of tobacco for the farm.

(b) *Farms having carryover tobacco.* Marketing of tobacco from a farm having carryover tobacco shall be subject to penalty by the percent excess determined as follows:

(1) (i) Determine the number of "carryover" acres by dividing the number of pounds of carryover tobacco from the prior year by the normal yield for the farm for that year.

(ii) Reduce such "carryover" acres by the amount determined by subtracting the harvested acreage from the allotment in the current year.

(iii) If the "carryover" acres is entirely offset by the underharvested acreage, no penalty will be due on marketings, and the remainder of paragraph (b) of this section will be inapplicable.

(2) Determine the number of "within quota carryover acres" by multiplying the "carryover acres" (subparagraph (1) (i), or (ii), when determined, of this paragraph) by the "percent within quota" (i.e., 100 percent minus the percent excess) for the year in which the carryover tobacco was produced.

(3) Determine the "total acres" of tobacco by adding the "carryover acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the current year's allotment and the "within quota carryover acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).

(c) *Converted rate of penalty.* For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty for the current crop by the percent excess obtained under paragraph (a) or (b) of this section.

§ 724.83 Debt stamping and replacing marketing cards.

(a) *Stamping to show indebtedness.* (1) If any producer on a farm is indebted to the United States and such indebtedness is listed on the county debt record, any Form MQ–76 issued for the farm shall bear the notation "U.S. DEBT" on the front cover (including sales memos where the card contains such forms). Except as to burley cards, the amount and type of the indebtedness and the name of the debtor shall be entered on the inside back cover of the card. For burley tobacco, the amount shall follow the debt notation and the name of the indebted producer, if different from the farm operator, shall be recorded directly under the debt notation. A notation showing indebtedness to the United States shall constitute notice to any warehouseman, hogshead warehouseman, or loan organization that, subject to prior liens, the net proceeds from any price support loan due the debtor shall be paid to the United States to the extent of the indebtedness shown. The acceptance and use of a marketing card bearing a notice and information of indebtedness to the United States shall not constitute a waiver by the producer of any right to contest the validity of such indebtedness by appropriate administrative appeal or legal action and shall not necessitate a producer accepting a price support advance from which such indebtedness would be deductible. As debt collections are made, the amount of the debt shown on the card shall be revised to show the debt balance, and the floor sheet shall show the amount collected. Upon request of the producer to whom the card was issued, a debt-free marketing card shall be issued when the debt has been entirely paid.

(2) Any marketing card may be stamped for the purpose of notifying warehousemen, hogshead warehousemen, or loan organizations, that the tobacco being marketed pursuant to such card is subject to a lien held by the United States.

(b) *Replacing, exchanging, or issuing additional marketing cards.* Subject to the approval of the county office manager, two or more marketing cards may be issued for any farm. Upon the return to the ASCS county office of a marketing card which has been used in its entirety and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the county office manager who issued the card to have been lost, destroyed, or stolen.

§ 724.84 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) An entry is omitted or is incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or

(4) Any erasure or alteration has been made and not properly initialed by the county office manager or marketing recorder.

(b) *Validating invalid cards.* If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the county office manager who issued the card, or by a marketing recorder, then such card shall become valid.

(c) *Returning invalid cards.* In the event any marketing card becomes invalid (other than by loss, destruction or theft, or by omission, alteration, or incorrect entry, which has not been corrected by the county office manager who issued the card, or by a marketing recorder), the farm operator, or the person having the card in his possession, shall return it to the ASCS county office at which it was issued.

§ 724.85 Misuse of marketing card.

Any information which causes a marketing recorder, a member of a State, county, or community committee, or an employee of an ASCS State or county office to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm, shall be reported immediately by such person to the ASCS county or State office.

§ 724.86 Identification of marketings, excluding burley tobacco and cigar tobacco.

(a) *Sale memo and bill of nonauction sale.* Subject to paragraph (b) of this section, each marketing of tobacco from a farm shall be identified by an executed sale memo from the marketing card issued for the farm. In addition, each nonauction sale, except sales through a hogshead warehouse, shall be identified by an executed bill of nonauction sale, and such bills of nonauction sale shall be delivered to a marketing recorder or other person who is authorized to issue sale memos.

(b) *Suspended sales and sales without marketing cards.* Any suspended sale, which is not identified by a properly executed sale memo on or before the last warehouse sale day of the marketing season, or within 4 weeks after the date of marketing, whichever comes first, shall be identified by MQ–82, Sale Without Marketing Card, as a marketing of excess tobacco. Form MQ–82 shall be executed only by a marketing recorder or other representative of the State executive director.

(c) *Other persons authorized to execute sale memos.* (1) A warehouseman or a hogshead warehouseman, who has been authorized during the current marketing year on MQ–78, Tobacco Warehouse Organization, may issue a sale memo to identify a sale by a farmer if a marketing recorder is not available at the warehouse when the marketing card is presented. Each such sale memo issued by him shall be presented promptly by him to the marketing recorder for verification with the warehouse records.

(2) In the case of Maryland tobacco, a tobacco dealer who buys tobacco direct from farmers, who resells such tobacco through a hogshead tobacco warehouse, and who has been authorized on MQ–78–Tobacco to issue sale memos, may issue the form covering a purchase of such tobacco only if the bill of nonauction sale has been executed.

(3) Any warehouseman, hogshead warehouseman, or dealer, who engages in the business of acquiring scrap tobacco from farmers, and who has been authorized on MQ–78, may issue a sale memo covering a purchase of scrap tobacco if the bill of nonauction sale has been executed.

(d) *Verification of sale memos.* Any person authorized on MQ–78 to act as a marketing recorder shall promptly present to a marketing recorder, for verification, any sale memos executed by him in the absence of a marketing recorder.

(e) *Withdrawal of approval to act as marketing recorder.* The authorization on MQ–78 for persons to act as marketing recorders may be withdrawn by the State executive director if such action is determined to be necessary to properly enforce the regulations in this subpart.

(f) Verificatilon of penalty by warehousemen or dealers. Each sale memo for excess tobacco issued by a marketing recorder shall be verified by a warehouseman or dealer to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the sale memo.

(g) *Recording of serial number.* The serial number of the floor sheet(s) shall be recorded by the warehouseman on the check register or check stub for the check written covering the auction sale of tobacco by a producer.

(h) *Separate display of producer tobacco on auction warehouse floor.* Each basket of fire-cured, dark air-cured, Virginia sun-cured, and Maryland producer's tobacco placed on a warehouse floor shall be displayed on baskets separate from tobacco produced on any other farm and shall be identified on the warehouse bill (floor sheet) covering such baskets by the number of the marketing card for the kind of tobacco issued for the farm on which the tobacco was produced. Such kinds of tobacco not so displayed shall not be eligible for price support.

(i) *Identification of returned first sale (producer) tobacco.* When resold at auction, tobacco which has been previously sold and returned to a warehouse by the buyer is resale tobacco. When such tobacco is resold by the warehouseman, it shall be identified as leaf account resale tobacco.

§ 724.87 Identification of burley tobacco marketings.

(a) *Identification of producer marketings.* Each auction and nonauction marketing of burley tobacco from a farm in the current year shall be identified by a marketing card, Form MQ–76, issued for the farm. The reverse side of the marketing card shall show pounds sold and date of sale. Also, each producer sale at auction shall be recorded on Form MQ–72–1, Report of Tobacco Auction Sale, and each producer sale at nonauction shall be recorded on Form MQ–72–2, Report of Tobacco Nonauction Purchase.

(b) *Verification of penalty by warehousemen or dealers.* Each sale of tobacco by a producer which is subject to penalty and which has been recorded by a marketing recorder shall be verified by a warehouseman or dealer to determine whether the amount of penalty shown to be due has been correctly computed. Such warehousemen or dealer shall not be relieved of any liability for the amount of penalty due because of any error which may occur in computing the penalty and recording the sale.

(c) *Check register.* The serial number of the floor sheet(s) shall be recorded by the warehouseman on the check register of check stub for the check written covering the auction sale of tobacco by a producer.

(d) *Identification of dealer marketing of resale tobacco.* Each auction and nonauction marketing of resale tobacco in the current year shall be identified when sold by a Form MQ–79–2, Dealer Identification Card, issued to the dealer. Also, each resale at auction shall be recorded on Form MQ–72–1, Report of Tobacco Auction Sale, and each resale at nonauction shall be recorded on Form MQ–72–2, Report of Tobacco Non-Auction Purchase.

(e) *Separate display of producer tobacco on auction warehouse floor.* Each basket of burley tobacco placed on a warehouse floor shall be displayed on baskets separate from tobacco produced on any other farm and shall be identified on the warehouse bill (floor sheet) covering such baskets by the marketing card for the kind of tobacco issued for the farm on which the tobacco was produced. Burley tobacco not so displayed shall not be eligible for price support.

(f) *Identification of returned first sale (producer) tobacco.* When resold at auction, burley tobacco which has been previously sold and returned to the warehouse by the buyer is resale tobacco. When such tobacco is resold by the warehouseman, it shall be identified as leaf account resale tobacco.

§ 724.88 Identification of marketings of cigar tobacco.

(a) *Marketing card and sale memo for cigar tobacco.* If a sale of producer's cigar tobacco to a buyer is not identified with a marketing card (MQ–76 or MQ–77) issued for the farm, including a sale memo from MQ–77, where such card was issued, by the end of the sale date and recorded and reported on MQ–79 (CF&B), Buyer's Record, by the tenth day of the calendar month next following the month during which the sale date occurred, the marketing shall be identified on MQ–79 (CF&B) as a marketing of excess tobacco and reported not later than the tenth day of the calendar month next following the month during which the sale date occurred.

(b) Each excess sale memo issued by a buyer shall be verified by the buyer to determine whether the amount of penalty shown to be due has been correctly computed and such buyer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in issuing the sale memo.

§ 724.89 Rate of penalty.

(a) *Basic rate.* The basic penalty rate shall be equal to seventy-five (75) percent of the average market price for the kind of tobacco for the immediately preceding marketing year as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture. The rate of penalty will be determined for each marketing year and announced by amendment to the regulations of this subpart.

(b) *Average market price and rate of penalty.* These data will be issued annually in May or early June (October for Maryland tobacco).

§ 724.90 Persons to pay penalty.

The persons to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Auction sale.* The penalty due on marketings by a producer through an auction sale shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonauction sale.* (1) The penalty due on marketings by a producer through a hogshead warehouse shall be paid by the hogshead warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer, and (2) the penalty due on tobacco purchases directly from a producer, other than through a hogshead warehouse or by an auction sale, shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Cigar tobacco sold without excess sale memo or within quota card identification.* The penalty due on marketings of cigar tobacco by a producer which, as to excess tobacco, are not identified by a valid sale memo, and, as to within quota tobacco, a within quota card, by the end of the sale date shall be presumed, subject to rebuttal, to be marketings of excess tobacco. The penalty thereon shall be paid by the buyer who may deduct an amount equivalent to the penalty from the amount due the producer.

(d) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 724.91 Penalties considered to be due from warehousemen, hogshead warehousemen, dealers, buyers and others excluding the producer.

Any marketing of tobacco under any one of the following conditions shall be considered to be a marketing of excess tobacco.

(a) (1) *Auction sale without memo of sale (not applicable to burley).* Any warehouse sale to tobacco by a producer which is not identified by a valid sale memo on or before the last warehouse

sale day of the marketing season, or within 4 weeks following the date of marketing, whichever comes first, shall be identified by an MQ–82, and shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(2) *Auction sale of burley tobacco without marketing card.* Any first marketing of burley tobacco at an auction sale by a producer which is not identified by a valid marketing card at the time of marketing shall be considered to be a marketing of excess tobacco and the penalty thereon shall be collected and remitted by the warehouseman.

(b) (1) *Nonauction sale of burley tobacco.* Any nonauction sale of burley tobacco which (i) is not identified by a valid marketing card and recorded at the time of purchase on MQ–79, Dealer's Report; or, (ii) if purchased prior to the opening of the local auction market for the current year, is not identified by a valid marketing card and recorded on MQ–79 not later than the end of the calendar week which includes the first sale day of the local auction markets, shall be considered a marketing of excess tobacco. The penalty thereon shall be collected by the purchaser of such tobacco, and remitted with MQ–79.

(2) *Nonauction sale (not applicable to burley tobacco).* Any nonauction sale of tobacco, except cigar tobacco and sales by producers of Maryland tobacco sold through the hogshead market, which (i) is not identified by a valid bill of nonauction sale; (ii) is not also identified by a valid sale memo and recorded on MQ–79, Dealer's Record, not later than the end of the calendar week in which the tobacco was purchased; or (iii) if purchased prior to the opening of the local auction market for the current year, is not identified by a valid sale memo and recorded on MQ–79 not later than the end of the calendar week which includes the first day of the local auction markets, shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(c) *Leaf account tobacco.* The part or all of any marketing of tobacco by a warehouseman which such warehouseman represents to be a leaf account resale, but which when added to prior leaf account resales is in excess of prior leaf account purchases, recognizing and including appropriate adjustments for returned baskets, short baskets and short weights and long baskets and long weights from the Buyers' Corrections Account, shall be considered to be a marketing of excess tobacco, unless and until such warehouseman furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(d) *Dealer's tobacco.* The part or all of any marketing of tobacco, except cigar tobacco, by a dealer, including purchases and resales at a hogshead warehouse, which such dealer represents to be a resale, but which when added to prior resales by such dealer is in excess of the total of his prior purchases, shall be considered to be a marketing of excess tobacco, unless and until such dealer furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the dealer.

(e) *Resales not reported.* Any resale of tobacco which is required to be reported by a warehouseman or dealer, but which is not so reported within the time and in the manner required, shall be considered to be a marketing of excess tobacco, unless and until such warehouseman or dealer furnishes a report of such resale, which is acceptable to the State executive director. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(f) *Unrecorded sale of cigar tobacco.* Any sale of cigar tobacco which is not recorded on MQ–79 (CF&B), Buyer's Record Book, by the 10th day of the month next following the month during which the sale date occurred shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who fails to make the record.

(g) *Marketings falsely identified by a person other than the producer.* If any marketing of tobacco by a person other than the producer thereof is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by such person.

(h) *Excess resale rule.* Where an analysis of an auction warehouse or dealer account shows excess resales for the season to be less than 100 pounds, the State executive director may accept the account as being satisfactory and no penalty due on account of excess resales.

(i) *Failure to obtain an MQ–77, Sale Memo, and failure to record a sale on MQ–76.* Any sale of cigar tobacco for which a dealer (1) if within quota, fails to record the sale on the marketing card issued for the farm, or (2) if the tobacco was produced on a farm for which an excess marketing card was issued, fails to obtain a valid sale memo by the end of the sale date, shall be presumed, subject to rebuttal, to be subject to penalty. The penalty thereon shall be paid by the buyer who fails to make the required record.

§ 724.92 Producers penalties; false identification; failure to account; canceled allotments.

(a) *Penalties for false identification or failure to account.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number acres harvested in the current year in excess of the farm acreage allotment shall be deemed to have been marketed as excess tobacco from such farm.

(2) If any producer who manufactures tobacco products from tobacco produced by or for him fails to make the reports or makes a false report required under § 724.95(g), he shall be deemed to have failed to account for the disposition of tobacco produced on the farm(s) involved. The filing of a report by a producer under § 724.95(g), which the State committee finds to be incomplete or incorrect, shall constitute a failure to account for the disposition of tobacco produced on the farm.

(b) *Canceled allotment.* If part or all of the tobacco produced on a farm has been marketed, and the allotment for the farm is canceled, any penalty due on the marketings shall be paid by the producer.

(c) *Person to pay penalty when erroneous rate is shown on card.* If an erroneous penalty rate is shown on a marketing card and tobacco is identified by such card, the producer shall remit any additional penalty due for the sale.

§ 724.93 Payment of penalty.

(a) *Date due.* Penalties shall become due at the time the tobacco is marketed, except that (1) in the case of tobacco removed from storage under bond penalty shall be due on the date of such removal from storage, or (2) in the case of false identification or failure to account for disposition of tobacco, the penalty shall be due on the date of such false identification or failure to account for disposition. The penalty shall be paid by remitting the amount thereof to the ASCS State office not later than the end of the calendar week in which the tobacco becomes subject to penalty, except that for cigar tobacco, the penalty shall be paid not later than the 10th of the calendar month next following the month in which the tobacco becomes subject to penalty. A draft, money order, or check drawn payable to the Agricultural Stabilization and Conservation Service, may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) *Auction sale—net proceeds.* If the penalty due on any auction sale of tobacco by a producer is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producers, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through a warehouse.

(c) *Nonauction sale—converted penalty rate.* Nonauction sales shall be subject to the converted rate of penalty for the farm on which the tobacco was produced and shall be paid in full even though the penalty may exceed the proceeds for the sale of tobacco.

§ 724.94 Request for return of penalty.

Any producer of tobacco, after the marketing of all tobacco available for marketing from the farm and any other

person who bore the burden of the payment of any penalty, may request the return of the amount of such penalty which is in excess of the amount required to be paid. Such request shall be filed on MQ–85 with the ASCS county office within 2 years after the payment of the penalty. Approval of return of penalty to producers shall be by the county committee, subject to the approval of the State executive director.

RECORDS AND REPORTS

§ 724.95 Producer's records and reports.

(a) *Report of tobacco acreage.* The farm operator or any producer on the farm shall execute and file a report with the ASCS county office or a representative of the county committee on Form ASCS–578, Record of Measurement Service, or Report of Acreage, showing all fields of tobacco on the farm in the current year. If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm, even though the farm operator or his representative refuses to sign such report, the allotment next established for such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) the filing of, aiding, or acquiescing in the filing of, such false report was not intentional on the part of any producer on the farm, and that no producer on the farm could reasonably have been expected to know that the report was false, provided the filing of the report will be construed as intentional unless the report is corrected and the payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the filing of the false acreage report.

(b) *Report of tobacco grown for experimental purposes.* For farms on which tobacco is being grown for experimental purposes only, the Director of a publicly owned agricultural experiment station shall furnish, each current year, the ASCS State office, prior to the beginning of the harvesting of tobacco from any farm on which experimental tobacco is being grown, a report showing the following information with respect to each kind of tobacco and farm on which tobacco is grown for experimental purposes only:

(1) Name and address of the publicly owned experiment station;

(2) Name of the owner, and name of the operator, if different from the owner, of each farm on which tobacco is grown for experimental purposes only;

(3) The amount of acreage of tobacco grown on each farm for experimental purposes only; and

(4) A certification signed by the Director of the publicly owned agricultural experiment station to the effect that such acreage of tobacco was grown on each farm for experimental purposes only, the tobacco was grown under his direction, and the acreage on each plot was considered necessary for carrying out the experiment.

(c) *Harvesting second crop tobacco from same acreage.* If, in the same calendar year more than one crop of tobacco was grown from (1) the same tobacco plants, or (2) different tobacco plants, and is harvested from the same acreage of a farm and is marketed, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested.

(d) *Cancellation of new farm allotment.* Any new farm allotment approved under this subpart which was determined by the county committee on the basis of incorrect information knowingly furnished the county committee by the applicant for the new farm allotment shall be cancelled by the county committee as of the date the allotment was established.

(e) *False identification.* If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which, in fact, was produced on a different farm, the acreage allotments next established for both such farms and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) no person on such farm intentionally participated in such marketing or could have reasonably been expected to have prevented such marketing: *Provided,* That marketing shall be construed as intentional, unless all tobacco from the farm is accounted for and payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in such marketing.

(f) *Report on marketing card.* The operator of each farm on which tobacco is produced shall return to the ASCS county office each marketing card issued for the farm whenever marketings from the farm are completed, and, in no event, later than (1) June 1 of next calendar year after issuance of the card in the case of cigar tobacco, (2) October 1 of next calendar year after issuance of the card in the case of Maryland tobacco, and (3) for all other kinds of tobacco, not later than 30 days, in the year of issuance of the card, after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within 15 days after written request by certified mail from the county office manager shall constitute failure to account for disposition of all tobacco marketed from the farm unless disposition of tobacco marketed from the farm is otherwise accounted for to the satisfaction of the county committee. Upon failure to satisfactorily account to the county committee for disposition of tobacco marketed from the farm, the allotment next established for such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county committee and a representative of the State committee that the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided,* That such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such proof. As to each MQ–76 issued for Maryland tobacco and for each MQ–77 issued for any kind of tobacco, at the time the marketing card is returned to the ASCS county office, there shall be shown on each card the quantity of tobacco on hand, if any, including the crop year it was produced and its location. The card shall be signed by the farm operator. As to each MQ–76 for cigar tobacco, at the time the marketing card is returned to the ASCS county office, the Record of Sales form on the card shall be signed by the farm operator.

(g) *Reports by producer-manufacturers.* (1) Each producer who manufactures tobacco products from tobacco produced by or for him as a producer shall report, as to each farm on which such tobacco is produced, to the ASCS State Office as follows with respect to such tobacco.

(i) If the harvested acreage is within the allotment, the producer-manufacturer shall furnish the ASCS State Office a report, as soon as all the tobacco from the farm has been weighed, showing the total pounds of tobacco produced, the date(s) on which such tobacco was weighed, the farm serial number of the farm on which it was produced, and the estimated value of such tobacco.

(ii) If the harvested acreage is in excess of the allotment, the producer-manufacturer shall furnish the ASCS State Office a report as soon as all the tobacco from the farm has been weighed, showing the total pounds of tobacco produced on the farm, the date(s) on which the tobacco was weighed, the farm serial number of the farm on which it was produced, the estimated value of the tobacco, and the location of the tobacco. If the required reports are not made, penalty shall be paid on the tobacco by the producer-manufacturer, at the converted rate of penalty shown on the marketing card issued for the farm, when it is moved from the place where it can be conveniently inspected by the county committee at anytime separate and apart from any other tobacco.

(2) If the producer-manufacturer has excess tobacco and does not pay the penalty thereon at the converted rate of penalty shown on the marketing card, he shall notify in writing the buyer of the manufactured product or the buyer of any residue resulting from processing the tobacco, at time of sale of such product or residue, of the precise amount of penalty due on such manufactured product or residue. In such event, the

producer-manufacturer shall immediately notify the State executive director and shall account for the disposition of such tobacco by furnishing the State executive director a report on a form to be furnished by him, showing the name and address of the buyer of the manufactured products or residue, a detailed account of the disposition of such tobacco and the exact amounts of penalty due with respect to each such sale of such products or residue, together with copies of the written notice of the exact amounts of the penalty due given to the buyer of such products or residue. Failure to file such report, or the filing of a report which is found by the State committee to be incomplete or incorrect, shall be considered failure of the producer-manufacturer to account for the disposition of tobacco produced on the farm and the allotment next established for the farm shall be reduced for such failure, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees, that (i) the failure to furnish such report of disposition was unintentional and the producer-manufacturer on such farm could not reasonably have been expected to furnish That such failure will be construed as such report of disposition: *Provided:* intentional unless such report of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such report. The producer-manufacturer shall be liable for the payment of penalty.

(h) *Report of production and disposition.* In addition to any other reports which may be required by this subpart, the operator on each farm, or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall, upon written request by certified mail from the State executive director within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108, Report of Production and Disposition, a written report of the acreage production and disposition of all tobacco produced on the farm by sending the same to the ASCS State office showing, as to the farm at the time of filing such report, (1) the number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage of tobacco harvested from the farm, (2) the total pounds of tobacco produced, (3) the amount of tobacco on hand and its location, (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed, the gross price and the date of the marketing, and (5) complete details as to any tobacco disposed of other than by sale. Failure to file the MQ–108 as requested, the filing of a false MQ–108, or the filing of an MQ–108 which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (i) the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided,* That such failure will be construed as intentional and unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such proof.

(i) *Amount of allotment reduction.* The amount of reduction in the allotment for the current year for a violation described in paragraphs (a), (e), (f), (g), or (h) of this section shall be that percentage which the amount of tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred. Where the violation equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent. The quantity of tobacco determined by the county committee to have been falsely identified, or produced on acreage falsely omitted from an ASCS–578 as filed, or for which the county committee determines that proof of disposition has not been furnished, shall be considered as the amount of tobacco involved in the violation. If the actual quantity of tobacco falsely identified, or produced on acreage falsely omitted from ASCS–578, or for which proof of disposition has not been furnished is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If (1) the actual quantity of tobacco produced on acreage falsely omitted from an ASCS–578, or for which proof of disposition has not been furnished is not known, or (2) if the actual total production of tobacco on the farm is not known, the county committee shall determine such actual quantity or such total production and the farm marketing quota in the following manner. The yield per acre and the total production of tobacco on the farm shall be determined by taking into consideration the condition of the tobacco crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided,* That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting production of tobacco are similar. The yield per acre and the total production of tobacco for the farm as so determined by the county committee shall be deemed to be the actual yield per acre and the actual total production of tobacco for the farm. The actual yield per acre of tobacco on the farm as so determined by the county committee multiplied by the farm acreage allotment shall be deemed to be the actual production of the acreage allotment and the farm marketing quota. Where the actual quantity of tobacco for which proof of disposition has not been furnished is not known, such quantity shall be determined by the county committee to be the quantity of tobacco remaining after deducting from the total production of tobacco on the farm determined as aforesaid, the quantity of tobacco for which proof of disposition has been furnished. Where the actual quantity of tobacco produced on acreage falsely omitted from an ASCS–578 is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid by the acreage falsely omitted from the ASCS–578 as filed.

(j) *Allotment reductions for combined farms.* If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied as heretofore provided in this section to that portion of the allotment for which a reduction is required.

(k) *Allotment reduction for divided farms.* If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied as heretofore provided in this section to the allotments for the divided farms required to be reduced.

(l) *County administrative hearings in connection with violations.* Except for the failure to return a marketing card to the county office, the allotment for any farm shall not be reduced for a violation under this section until after the operator of the farm has been notified in writing by the county office manager of the time and place of a hearing to determine the nature and extent of the violation. The notice of the hearing shall request the farm operator to bring to the hearing warehouse bills (floor sheets) and other relevant supporting documents. At least two members of the county committee shall be present at the hearing. The hearing shall be held at the time and place named in this notice and any action taken on the violation shall be taken after the hearing. If the farm operator does not attend the hearing, or is not represented, the county committee may take whatever action it deems proper.

§ 724.96 Warehouseman's records and reports, except burley tobacco.

(a) *Record of marketing*—(1) *Auction sale.* Each warehouseman shall keep such records as will enable him to furnish the ASCS State office with respect to each auction sale and for each kind of tobacco made at his warehouse the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller, in the case of a sale by a producer, and in the case of a resale, the name of the seller.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s); and, in addition, with respect to each individual basket or lot of tobacco constituting the auction sale, the following information:

(v) Name of purchaser.

(vi) Number of pounds sold.

(2) *Record for separate accounts.* Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate account for:

(i) Nonauction sales by farmers of tobacco purchased by or on behalf of the warehouseman.

(ii) Purchases and resales of leaf account tobacco.

(iii) Resales of floor sweepings.

(3) *Buyers corrections account.* Each warehouseman shall keep such records as will enable him to furnish the ASCS State office on Form MQ–71, Summary of Buyers Corrections Account, the total pounds of the debits (for returned baskets, short baskets and short weights of tobacco) and credits (for long baskets and long weights of tobacco) to the Buyers Corrections Account. Where the warehouseman returns to the seller tobacco debited to the Buyers Corrections Account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the Buyers Corrections Account and a corresponding purchase (debit entry) in the case of a dealer on his MQ–79, Dealer's Record. If an auction warehouse maintains a daily summary of bill-outs, the balancing figure reflected thereon, if any, shall not be included in the Buyers Corrections Account.

(4) *Scrap tobacco acquired from grading producers' tobacco.* Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the ASCS State office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(5) *Scrap tobacco acquired from furnishing producers curing and stripping space.* Any warehouseman or any other person who provides tobacco curing space or stripping space for farmers shall maintain records which will enable him to furnish the ASCS State office the name of the farm operator and the approximate amount of scrap tobacco obtained from each farm resulting from providing such space.

(6) *Resales.* In the case of resales for dealers, the name of the dealer making each resale, and in the case of resales for the warehouse, the name of the applicable warehouse account shall be shown on the warehouse records so that the individual lots of tobacco sold can be identified, and the word "Resale" shall be clearly shown on each warehouse bill (floor sheet) covering such tobacco.

(b) *Identification of producer sales of tobacco*—(1) *Floor sheet.* The serial number of the Form MQ–76 or Form MQ–77 on which tobacco is to be marketed at auction shall be recorded by the warehouseman on his office copy of the warehouse bill (floor sheet) prior to the time the tobacco is offered for sale. The letters "NA" shall be shown on each line of a warehouse bill (floor sheet) on which there is recorded tobacco purchased by or for the warehouse at nonauction sale and there shall be recorded on all such warehouse bills (floor sheets) the serial number of the Form MQ–76 or Form MQ–77 on which the tobacco is marketed at the time the tobacco is purchased at nonauction sale. A copy of the warehouse bill (floor sheet) bearing the letters "NA" shall be furnished the producer for any lot or basket of such tobacco purchased by the warehouseman.

(2) *Check register.* The serial number of the warehouse bill (floor sheet) shall be recorded by the warehouseman on the check register or check stub for the check written covering an auction sale of tobacco by a producer.

(3) *Marketing card cover.* The serial number of the warehouse bill (floor sheet) shall be recorded on the inside front cover of the marketing card by the market recorder or warehouseman for each sale memo issued covering a sale of tobacco by a producer.

(c) *Sale memo and bill of nonauction sale.* A record in the form of a valid sale memo from a Form MQ–76 or Form MQ–77 or Form MQ–82, Sale Without Marketing Card, shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through a warehouse and each nonauction sale of tobacco purchased by or for the warehouseman, including scrap tobacco obtained as a result of providing curing space or stripping space for farmers. Each sale memo shall be executed as follows:

(1) *Auction sale.* A sale memo issued from a Form MQ–76 to cover an auction sale shall show in the spaces provided therefor, the bill (floor sheet) number and pounds sold. Sale memo issued from a Form MQ–77 to cover an auction sale shall show on the first page thereof in all of the spaces provided therefor, the warehouse bill(s) number(s), the pounds sold, and the amount of penalty due.

(2) *Nonauction sale to a warehouseman who does not prepare a warehouse bill (floor sheet).* A sale memo issued to cover a nonauction sale of tobacco to a warehouseman who does not prepare a warehouse bill (floor sheet) to cover the sale, shall show in Item 2 of a sale memo from Form MQ–76 or on the reverse side of a sale memo from Form MQ–77 the pounds sold and the amount of penalty due on a sale memo from Form MQ–77. The signature of the producer shall be obtained in the space provided.

(3) *Nonauction sale to a warehouseman who prepares a warehouse bill (floor sheet).* (i) Where a warehouseman purchases all the delivery of a producer's tobacco at a nonauction sale and prepares a warehouse bill (floor sheet) to cover the purchase, item 2 of a sale memo from Form MQ–76 or the reverse side of a sale memo from Form MQ–77, shall be completed as specified in subdivision (2) of this subparagraph and in addition, in the spaces provided in item 1 of the sale memo from Form MQ–76 or on the first page of a sale memo from Form MQ–77 the number of pounds purchased shall be shown in the spaces provided therefor and the amount of penalty due on a sale memo from Form MQ–77. The signature of the producer shall be obtained in the space provided.

(ii) Where a warehouseman purchases at a nonauction sale part of a delivery of tobacco by a producer and the remainder of the tobacco is sold at auction: (*a*) Item 1 of a sale memo from Form MQ–76 shall be completed to show the warehouse bill (floor sheet) number and the total number of pounds covered by the entire delivery under "Lbs. Sold." The first page of a sale memo from a Form MQ–77 shall be completed to show the warehouse bill(s) (floor sheet) number in the space provided therefor, the total number of pounds covered by the entire delivery under "Lbs. Sold," and the amount of penalty due. (*b*) Item 2 of a sale memo from Form MQ–76 shall show the number of pounds under "Lbs. Sold" at nonauction sale. The reverse side of a sale memo from a Form MQ–77 shall show the number of pounds sold at nonauction sale in the space provided therefor.

(d) *Suspended sale record.* Any warehouse bills covering first marketing of farm tobacco for which sale memos have not been issued at the end of the sale day shall be presented to a market recorder who shall stamp such bills "Suspended" and write thereon the serial number of the suspended sale, and record the bills on MQ–80, Daily Auction Warehouse Report: *Provided*, That if a market recorder is not available, the auction warehouseman may stamp such bills "Suspended" and deliver them to a market recorder when one is available.

(e) *Warehouseman's entries on dealer's record.* Each warehouseman shall record, or have the dealer record, on MQ–79 the total purchases and resales made by each such dealer or other warehouseman during each sale day at a warehouse. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to the current crop, entry on MQ–79 shall clearly show such fact.

(f) *Record and report of purchases and resales.* Each warehouseman shall keep a record and make reports on MQ–79, Dealer's Record, showing:

(1) All nonauction purchases of tobacco except nonauction purchases for which a warehouseman prepares a floor sheet.

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

(4) Resales of floor sweepings separately from leaf account tobacco. MQ–79 shall be prepared and a copy forwarded to the ASCS State office not later than the end of the calendar week in which such tobacco was purchased or resold: *Provided*, That if tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy forwarded to the ASCS State office not later than the end of the calendar week which would include the first sale day of the local auction markets. A remittance for all penalties shown by the entries on MQ–79 and on the sale memos to be due, shall be forwarded to the ASCS State office with the original copy of MQ–79.

(g) *Daily report of auction warehouse business.* Each warehouseman shall prepare and promptly forward at the end of each sale day to the ASCS State office a report on MQ–80, Daily Auction Warehouse Report, showing for each sale day, unless otherwise stated below.

(1) For each dealer or buyer as originally billed, the total pounds of tobacco purchased at auction and resales at auction on the warehouse floor.

(2) For any association as originally billed, the total pounds and gross amount of loan tobacco acquired at auction, and resales at auction, if any, on the warehouse floor.

(3) (i) The total pounds of leaf account purchases at auction on the warehouseman's own floor, (ii) the total pounds of leaf account purchases at nonauction sale for which a floor sheet is prepared, and (iii) the total pounds of all leaf account resales at auction on the warehouseman's own floor, including resales of tobacco from the warehouseman's buyers corrections account. (*a*) the total pounds of leaf account purchases at auction on the warehouseman's own floor, (*b*) the total pounds of leaf account purchases at nonauction sale for which a floor sheet is prepared, and (*c*) the total pounds of all leaf account resales at auction on the warehouseman's own floor, including resales of tobacco from the warehouseman's buyers corrections account.

(4) The total pounds of all resales at auction on the warehouseman's own floor of floor sweepings which accumulated on the warehouseman's own floor.

(5) The sum of the totals for subparagraphs (1), (2), (3), and (4) of this paragraph.

(6) The computed total of first sales at auction on the warehouse floor.

(7) (i) The warehouse gross sale pounds for the day, as billed to buyers (sum of subparagraphs (1), (2), and (3) of this paragraph), (ii) the pounds on warehouse check register if shown thereon, and (iii) the total pounds of the resales (sum of subparagraphs (1), (2), (3), and (4) of this paragraph).

(8) On the report for the last sale day for the season, the pounds of all tobacco on hand whether such tobacco represents leaf account tobacco or floor sweepings which accumulated on the warehouseman's own floor.

(9) For each warehouse sale of excess tobacco from a farm, the applicable sale memo and numbers thereof with remittance of the penalty due as shown thereon.

(10) As to the information required to be entered on MQ–80, Daily Auction Warehouse Report, by the marketing recorder, the warehouseman shall keep and make available such records as will enable the marketing recorder to enter thereon: (i) For each sale identified by a sale memo or MQ–82, Sale Without Marketing Card, the pounds sold; (ii) for each sale suspended, the warehouse bill(s) number and pounds sold; and (iii) for each sale cleared from suspension, the sale memo number and the date of clearance.

(11) Where a producer rejects the sale of a basket or a lot of tobacco, the warehouseman shall not change (i) the applicable sale memo, and (ii) the MQ–80 on which is reported the sale, if such tobacco has been billed out and the bills have been presented to the buyer.

(12) In balancing first sales (represented by marketing recorder's total sales memos) with computed first sales (bill-out total minus resales as reported by the warehouseman) the State executive director is authorized to approve reports with variance not to exceed one half of one percent of such pounds.

(h) *Daily report of data from buyers corrections account.* For fire-cured, dark air-cured, Virginia sun-cured, and Maryland tobacco for the marketing year beginning October 1, 1968, and subsequent marketing years when quotas are in effect, each warehouseman shall keep a record and make reports on MQ–71, Summary of Buyers Corrections Account, showing for each sale day and for each buyer the total pounds of debits for the warehouse for short baskets, short weights, and returned baskets and the total pounds of credits for the warehouse for long baskets and long weights, as shown by the buyers corrections account, excluding billing errors, kept by the warehouseman.

(i) Producer tobacco (first sale) in possession of a warehouseman, resulting from long weights and long baskets, which has not previously been identified by a sale shall be recorded and reported in the same manner as a nonauction sale to a warehouseman who does not prepare a warehouse bill (floor sheet) and shall be reported on MQ–79, Dealer's Record.

§ 724.97 Warehouseman's records and reports for burley tobacco.

(a) *Record of marketing.*—(1) *Auction sale.* Each warehouseman shall keep such records as will enable him to furnish the ASCS State office with respect to each auction sale of burley tobacco made at his warehouse the following information:

(i) The name of the operator of the farm on which the burley tobacco was produced and the name of the seller, in the case of a sale by a producer, and in the case of a resale, the name of the seller.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s); and, in addition, with respect to each individual basket or lot of tobacco consistuting the warehouse sale, the following information:

(v) Name of purchaser.

(vi) Number of pounds sold.

(2) *Record for separate accounts.* Records of all purchases and resales of burley tobacco by the warehouseman shall be maintained to show a separate account for:

(i) Nonauction sales by farmers of burley tobacco purchased by or on behalf of the warehouseman.

(ii) Purchases and resales of leaf account tobacco.

(iii) Resales of floor sweepings.

(3) *Buyers corrections account.* Each warehouseman shall keep such records as will enable him to furnish weekly to the ASCS State office on Form MQ–71, Summary of Buyers Corrections Account, the total pounds of the debits (for returned baskets, short baskets, and short weights of burley tobacco) and the credits (for long baskets and long weights of burley tobacco) to the buyers corrections account. Where the warehouseman returns to the seller burley tobacco debited to the buyers corrections account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the buyers corrections account and a corresponding purchase (debit entry) in the case of a dealer on his MQ–79, Dealer's Record. If an auction warehouse maintains a daily summary of bill-outs, the balancing figure reflected thereon, if any, shall not be included in the buyers corrections account.

(4) Any warehouseman or any other person who grades burley tobacco for farmers shall maintain records which will enable him to furnish the ASCS State office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(5) Any warehouseman or any other person who provides burley tobacco curing space or stripping space for farmers shall maintain records which will enable him to furnish the ASCS State office the name of the farm operator and the approximate amount of scrap tobacco obtained from each farm resulting from providing such space.

(6) In the case of resales for dealers, the name of the dealer making each resale, and in the case of resales for the warehouse, the name of the applicable warehouse account shall be shown on the warehouse records so that the individual lots of tobacco sold can be identified, and the word "Resale" shall be clearly shown on each warehouse bill (floor sheet) covering such tobacco.

(7) *Warehouse bill and daily warehouse sales summary.* Each warehouseman shall use a warehouse bill (floor sheet) to record the tobacco being offered for sale. The warehouseman shall not weigh in any tobacco for sale unless a card (MQ–76 for producers, MQ–79–2 for dealers) is furnished the weighman. Each of such cards shall be retained until the tobacco is sold or removed from the floor. A copy of the executed MQ–80,

Daily Warehouse Sales Summary, shall be furnished the marketing recorder for the Kansas City Data Processing Center (KCDPC).

(b) *Identification of producer sales of tobacco*—(1) *Warehouse bill (floor sheet)*. The State and county codes and the farm serial number on the marketing card identifying the tobacco to be marketed at auction shall be recorded by the warehouseman on the warehouse bill (floor sheet) at the time the tobacco is weighed in and the warehouseman shall retain the marketing card where tobacco is to be sold at auction until the producer has been paid for the sale of the tobacco or the tobacco is removed from the warehouse by the producer. The warehouseman shall be responsible for the safekeeping and proper use of the marketing card during his retention of it. Each warehouse bill (floor sheet) issued to cover an auction sale of tobacco from a farm for which a marketing card is issued bearing the notation "No Price Support" shall bear the same notation. The letters, "NA" shall be shown on each line of a warehouse bill (floor sheet) on which there is recorded tobacco purchased by or for the warehouse at nonauction sale and there shall be recorded on all such warehouse bills (floor sheet) the farm serial number on the marketing card identifying the tobacco marketed at the time the tobacco is purchased at nonauction sale. A copy of the warehouse bill (floor sheet) bearing the letters "NA" shall be furnished the producer for any lot or basket of such tobacco purchased by the warehouseman.

(2) *Check register*. The serial number of the warehouse bill (floor sheet) shall be recorded by the warehouseman on the check register or check stub for the check written covering an auction sale of tobacco by a producer.

(c) *Marketing card*. Each marketing of burley tobacco from a farm shall be identified by a marketing card issued for the farm. The card shall be executed as follows:

(1) *Auction sale*. A marketing card used to cover an auction sale shall show on the reverse side the pounds sold and date of sale. The warehouse bill (floor sheet) shall show the pounds on which penalty is due, and the amount of the penalty.

(2) *Nonauction sale to a warehouseman at a warehouse*. A marketing card used to cover a nonauction sale of tobacco to a warehouseman shall show on the reverse side the pounds sold and date of sale. If the tobacco sale bill includes both an auction sale and a nonauction sale such combined pounds shall be shown on the reverse side. The tobacco sale bill shall show the pounds on which penalty is due and the amount of the penalty.

(3) *Nonauction sale (country purchase) to a warehouseman*. A marketing card used to cover a nonauction sale (country purchase) at the farm shall show on the reverse side the pounds and date of sale. Each warehouseman shall record each nonauction purchase of tobacco made by him on MQ–79.

(d) *Suspended sale record*. Any warehouse bill (floor sheet) covering a sale of tobacco for which a valid marketing card or dealer identification card was not presented shall be given to a marketing recorder who shall stamp such bills, "Suspended." Such tobacco sale data shall be made available to the KCDPC after the sale is cleared.

(e) *Warehouseman's entries on other dealer's report*. Each warehouseman shall record or have the dealer record on MQ–79 the total purchases and resales made by each such dealer or other warehouseman during each sale day at the warehouse. If any tobacco resold by the dealer is tobacco bought by him and carried over by him from a crop produced prior to the current crop, the entry on MQ–79 shall clearly show such fact.

(f) *Record and report of purchases and resales*. Each warehouseman shall keep a record and make reports on MQ–79, Dealer's Record, showing:

(1) All nonauction purchases of tobacco, except nonauction purchases at his warehouse for which a warehouseman prepares a floor sheet and reports on MQ–80, Daily Warehouse Sales Summary.

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

(4) Resales of floor sweepings separately from leaf account tobacco. MQ–79 shall be prepared and a copy, including copies of Form MQ–72–2, Report of Tobacco Nonauction Purchase, forwarded to the ASCS State office not later than the end of the calendar week in which such tobacco was purchased or resold: *Provided*, That if tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy, together with copies of MQ–72–2, forwarded to the ASCS State office not later than the end of the calendar week which would include the first sale day of the local auction markets. A remittance for all penalties shown by the entries on MQ–79 and Form MQ–72–2 to be due shall be forwarded to the ASCS State office with the original copy of Form MQ–79.

(g) *Daily warehouse sales summary*. Each warehouseman shall prepare at the end of each sale day a report on MQ–80, Daily Warehouse Sales Summary, showing for each sale day:

(1) For each manufacturer, buyer, order buyer and burley tobacco cooperative (pool), pounds of tobacco purchased at auction (consigned in the case of the pool), resales at auction, and the total of all such pounds.

(2) The sum of the total pounds purchased for subparagraph (1).

(3) For each dealer subject to reporting purchases and resales on MQ–79, as originally billed, the total pounds of tobacco purchased at auction, resales at auction, and the total of all of such pounds.

(4) The total pounds purchased at auction for the leaf account.

(5) The total pounds purchased at nonauction at the warehouse for the leaf account.

(6) The sum of the total pounds purchased for subparagraphs (4) and (5).

(7) The sum of the total purchases for subparagraphs (2), (3), and (6) of this paragraph.

(8) The total leaf account resales at auction.

(9) The total resales of floor sweepings which accumulated on the warehouseman's own floor.

(10) The sum of the total resales for subparagraphs (1), (3), (8), and (9).

(11) On the report for the last sale day for the season, the pounds of all tobacco on hand and whether such tobacco represents leaf account tobacco, or floor sweepings which accumulated on the warehouseman's own floor.

(12) As to the information required to be entered on MQ–80, Daily Warehouse Sales Summary, by the marketing recorder, the warehouseman shall keep and make available such records as will enable the marketing recorder to enter thereon: (i) The total number of Forms MQ–72–1 for the sale day and the sum of pounds sold shown on Forms MQ–72–1; (ii) the total number of suspended warehouse bills (floor sheets) and the sum of such pounds sold.

(h) Each warehouseman shall make available such records as will enable the marketing recorder to enter on Form MQ–72–1, Report of Tobacco Auction Sale, showing for each sale day:

(1) Crop year;

(2) Type code 31;

(3) Warehouse identification code number;

(4) Name of person selling the tobacco as shown by MQ–76, Tobacco Marketing Card, for a producer and MQ–72–2, Tobacco Dealer Identification Card, for a dealer;

(5) Pounds sold;

(6) Amount of penalty collected, if any;

(7) Amount of U.S. debt collected, if any; and

(8) Date of sale.

§ 724.98 Hogshead warehouseman's records and reports.

(a) *Record of marketing*. A hogshead warehouseman shall keep such records as will enable him to furnish the ASCS State office the report specified in this section.

(b) *Identification of producer sales*. (1) Except for sales identified by an MQ–82, Sale Without Marketing Card, a hogshead warehouseman shall record the marketing card serial number on the ledger account for each sale by a producer through the warehouse.

(2) A record in the form of a valid sale memo or an MQ–82, Sale Without Marketing Card, shall be obtained by a hogshead warehouseman to cover each marketing of tobacco from a farm through the warehouse. A bill of nonauction sale shall not be required to identify a first

sale of tobacco through a hogshead warehouse. Any hogshead warehouseman or any other person who obtains possession of any scrap tobacco in the course of grading tobacco for any farm and any hogshead warehouseman who obtains possession of any scrap tobacco as a result of providing curing space or stripping space for farmers shall obtain a bill of nonauction sale and a sale memo to cover the amount of such scrap tobacco.

(c) *Report of hogshead tobacco warehouse business.* (1) Each hogshead tobacco warehouseman shall furnish the ASCS State office a report each quarter, unless requested earlier by the State executive director, of all leaf account tobacco purchased or sold and all floor sweepings sold, if any, through the warehouse including an MQ–79, Dealer's Record, to show his purchases at the hogshead warehouse when he is requested to so report by the State executive director.

(2) A hogshead tobacco warehouseman shall submit a report each quarter, unless requested earlier by the State executive director, showing for each buyer who purchased tobacco through the warehouse during the period for which the report is submitted, a copy of the bill-out to the buyer together with the following:

(i) Name of farm operator (and name of seller, if different from operator) for each sale of farm tobacco;

(ii) Farm serial number of the farm for each such sale of farm tobacco;

(iii) Serial number of sale memo executed by the hogshead warehouseman, or MQ–82, Sale Without Marketing Card, executed by a representative of the State committee with respect to each sale of farm tobacco;

(iv) Date of sale;

(v) Hogshead serial number;

(vi) Number of pounds of tobacco in the hogshead;

(vii) Designation as to the year the tobacco in the hogshead was produced;

(viii) A sale memo or an MQ–82, Sale Without Marketing Card, for each sale of farm tobacco;

(ix) A remittance of the penalty due as shown on all sale memos (MQ–77 and MQ–82);

(x) Designation by the word "Resale" or supporting statement denoting a resale and the name of the person reselling the tobacco entered on the bill-out for tobacco resold through the hogshead warehouse.

(3) A hogshead tobacco warehouseman shall furnish the ASC State committee, not later than October 20 of the beginning of each marketing year, when marketing quotas are effective, a report showing the producer's name (or the name of the dealer in the case of tobacco received from a dealer), hogshead number, and pounds of tobacco in each hogshead received but which is on hand and unsold as of the close of business on September 30 of each such marketing year. When such report is required to be made it shall include tobacco produced prior to the current marketing year and tobacco produced in the current year and all tobacco shall be identified as to the year in which it was produced.

§ 724.99 Dealer's record and reports, excluding cigar tobacco buyers.

Each dealer, except as provided in § 724.100, or any other person as provided in paragraph (e) of this section, shall keep by kinds of tobacco the records and make the reports as provided by this section.

(a) *Report of dealer's name and address.* Each dealer shall properly execute and the marketing recorder (or the dealer if the tobacco is to be marketed through a hogshead tobacco warehouse) shall detach and forward to the ASCS State office "Receipt for Dealer's Record" contained in MQ–79, which is issued to the dealer.

(b) *Record of marketing.* Each dealer shall keep such records as will enable him to furnish the ASCS State office with respect to each lot of tobacco purchased by him the following information:

(1) (i) The name of the warehouse through which the tobacco was purchased in the case of an auction sale or hogshead warehouse sale, (ii) the name of the operator of the farm on which the tobacco was produced, and the name of the seller in the case of a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller in the case of nonauction purchases from warehousemen and dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer and as to each lot of tobacco sold by him the following information:

(5) Name of the warehouse or hogshead warehouse through which the tobacco was sold in the case of a warehouse sale, and the name of the purchaser if other than an auction warehouse sale.

(6) Date of sale.

(7) Number of pounds sold.

(8) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s).

(9) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to the current crop, the fact that such tobacco was so bought and carried over.

(c) *Nonauction sale (country purchase) to a dealer—(1) Fire-cured, dark air-cured, Virginia sun-cured, and Maryland tobacco.* Each purchase of tobacco by a dealer from a producer, other than through an auction sale or hogshead warehouse sale, including farm scrap tobacco obtained from grading tobacco for farmers or as a result of furnishing farmers curing space or stripping space, shall be identified by a sale memo from the marketing card issued for the farm on which the tobacco was produced. The producer's signature shall be obtained in item 3 on the sale memo from a Form MQ–76 or in the space provided on the bill of nonauction sale on the reverse side of a sale memo from a Form MQ–77. Any sale of producer's tobacco which is not identified by a marketing card (Form MQ–76 or Form MQ–77) shall be identified by a Form MQ–82 executed by a marketing recorder or other representative of the State executive director. The dealer shall record or have a marketing recorder record each purchase of nonauction tobacco made by him on Form MQ–79, Dealer's Record.

(2) *Burley tobacco.* (i) Each purchase of burley tobacco from a producer shall be identified by an MQ–76, Tobacco Marketing Card, issued for the farm on which the tobacco was produced. The reverse side of the marketing card shall show the pounds sold and the date of sale. (ii) In addition, Form MQ–72–2, Report of Tobacco Nonauction Purchase, shall be prepared and shall show (*1*) date of purchase, (*2*) identification number of buyer, (*3*) identification of producer selling the tobacco, as shown on Form MQ–76, including his name and address and complete farm number, (*4*) type code 31, (*5*) pounds purchased, and (*6*) amount of penalty collected, if any.

The dealer shall record or have a marketing recorder record each nonauction purchase of burley tobacco made by him on MQ–79.

(d) *Record and report of purchases and resales.* (1) Except as provided in subparagraph (2) of this paragraph, each dealer shall keep a record and make reports on MQ–79, showing all purchases and resales of tobacco made by or for the dealer, and in the event of purchase or resale of tobacco bought from a crop produced prior to the current crop, the fact that such tobacco was bought by him and carried over from a crop produced prior to the current crop.

(2) MQ–79 shall be prepared and a copy forwarded to the ASCS State office not later than the end of the calendar week in which such tobacco was purchased or resold, including the original copy of any spoiled reports, except as follows: (*i*) If tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy (together with executed copies of Form MQ–72–2 for all nonauction purchases of burley tobacco) forwarded to the ASCS State office not later than the end of the calendar week which would include the first sale day of the local auction markets; (*ii*) if tobacco is resold in a State other than where produced and the auction markets at such location open earlier than those where the tobacco would normally be sold at auction by farmers, reports shall be prepared and forwarded (together with executed copies of Form MQ–72–2 for all nonauction purchases of burley tobacco) not later than the end of the calendar week which would include the first sale day of the local auction market where the resale takes place; (*iii*) purchases and resales by dealers at the Baltimore hogshead market shall be reported on MQ–79 whenever the Maryland State executive director determines such to be necessary to enforce the provisions of these regulations.

(3) The data for burley tobacco to be entered on MQ–72–2, Report of Tobacco Nonauction Purchase, for purchases from producers shall be that enumerated under subparagraph (2) of paragraph (c). For nonauction purchases of burley tobacco from dealers, the data to be entered on MQ–72–2 shall be the following:

(i) Date of purchase; (ii) identification number of buyer; (iii) identification number of dealer making the sale; (iv) type code 31; and (v) pounds purchased.

(e) *Daily report to warehouseman for buyers corrections account of tobacco received.* Notwithstanding the provisions of § 724.100, any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish the warehouseman on a daily sales basis an invoice or an adjustment invoice correctly setting forth the pounds for which he has not been invoiced or for which he has been invoiced incorrectly. Such reports shall be furnished daily, if practicable, otherwise they shall be furnished at the end of each week.

§ 724.100 Dealers exempt from regular records and reports, excluding cigar tobacco buyers.

Any dealer or buyer who acquires tobacco only at an auction sale or hogshead warehouse sale and resells in the form in which tobacco ordinarily is sold by farmers, 5 percent or less of any such tobacco shall not be subject to the provisions of § 724.99.

§ 724.101 Cigar tobacco buyer's records and reports.

(a) *Report of buyer's name and address.* Each buyer shall properly execute, detach, and promptly forward to the ASCS State office "Receipt for Buyer's Record" contained in MQ–79 (CF&B), which is issued to the buyer.

(b) *Record of marketing.* (1) Each buyer, as to each kind of tobacco, shall keep such records as will enable him to furnish the ASCS State office with respect to each sale of tobacco made by producers to such buyer, including tobacco obtained under subparagraph (2) of this paragraph, the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name and address of the seller, in the case of a sale by a person other than the farm operator;

(ii) Date of sale;

(iii) The serial number of the MQ–76 marketing card, or sale memo from an MQ–77, used to identify the sale;

(iv) Number of pounds sold; and

(v) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer.

(2) Any buyer or any other person who grades tobacco for farmers, or who furnishes farmers curing space or stripping space, shall maintain records which will enable him to furnish the ASCS State office the name of the farm operator and the amount of each grade of tobacco obtained from each farm from furnishing such services.

(c) *Identification of sale on marketing card, sale memo, and buyer's record.* Each MQ–76 and each sale memo from an MQ–77 used to identify each sale of tobacco by a producer, including tobacco obtained under paragraph (b)(2) of this section, shall be properly executed by the buyer. The serial number of the MQ–76 marketing card or sale memo from an MQ–77 to identify such tobacco, shall be recorded on the buyer's copy of the MQ–79 (CF&B) and on the check register or check stub for the check written with respect to such tobacco.

(d) *Record and report of purchases of tobacco from producers.* (1) Each buyer shall keep a record and make reports on MQ–79 (CF&B), Buyer's Record, showing by kinds all tobacco purchased by or for him from producers, including tobacco obtained under subparagraph (b)(2) of this section. Such record and report shall show for each sale the sale date, the name of the farm operator (and the name and address of the person selling the tobacco if other than the farm operator), the serial number of the within quota marketing card (MQ–76), and from each excess card (MQ–77), the sale memo number used to identify the sale, the pounds of tobacco represented in the sale, the rate of penalty shown on the sale memo (MQ–77), and the amount of penalty. If no marketing card is presented by the producer, the buyer shall record and report the purchase as provided above except that the buyer shall enter the word "None" in the space for the serial number of the marketing card (MQ–76) or sale memo (MQ–77), the applicable rate of penalty per pound shown in § 724.89 in the space for rate of penalty, and shall show the name and address of the seller in the space for the seller's name.

(2) The original of MQ–79 (CF&B), excess sale memos (MQ–77), and a remittance for all penalties shown by the entries on MQ–79 (CF&B) and on the excess sale memos (MQ–77) to be due shall be forwarded to the ASCS State office not later than the 10th day of the calendar month next following the month during which the sale date occurred.

(e) *Record of Buyer's disposition of cigar tobacco.* Each buyer shall maintain records which will show, by kinds of tobacco, the disposition made by him of all tobacco purchased by or for him from producers, including tobacco obtained under paragraph (b)(2) of this section.

§ 724.102 Cigar tobacco buyers and loan organizations not exempt from regular records and reports.

No buyer shall be exempt from keeping the records and making the reports required in this part. Any "loan" organization which receives tobacco from producers for the purpose of (a) selling it for the producer or (b) placing it under the Commodity Credit Corporation price support program shall keep the records, make the reports, and remit penalties in case of receiving such tobacco for sale.

§ 724.103 Records and reports of truckers and persons redrying, prizing, or stemming tobacco.

(a) Each trucker shall keep such records, by kinds of tobacco, as will enable him to furnish the ASCS State office a report with respect to each lot of tobacco received by him showing:

(1) The name and address of the producer;

(2) The date of receipt of the tobacco;

(3) The number of pounds received; and

(4) The name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of redrying, prizing, or stemming tobacco for producers shall keep, by kinds of tobacco, such records as will enable him to furnish the Director a report showing:

(1) The information required above for truckers; and, in addition,

(2) The purpose for which the tobacco was received;

(3) The amount of advance made by him on the tobacco; and

(4) The disposition of the tobacco.

§ 724.104 Separate records and reports from persons engaged in more than one business.

Any person who is required to keep any record or make any report as a warehouseman, processor, dealer, buyer, trucker, or as a person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 724.105 Failure to keep records and make reports or making false report or record.

(a) *Failure to keep records or make reports.* Under the provisions of section 373(a) of the act, any warehouseman, hogshead warehouseman, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers who fail to make any report or keep any record as required, or who makes any false report or record, is guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than $500 for each offense. In addition, any tobacco warehouseman, dealer, or buyer who fails, upon being requested to do so, to remedy a violation(s) by submitting complete reports and keeping accurate records shall be subject to an additional fine not to exceed $5,000.

(b) *False representations.* The penalties designated in paragraph (a) of this section are in addition to penalties prescribed by other criminal statutes including U.S. Code, Title 18, section 1001, which provides for a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, for a person convicted of knowingly and willingly

committing such acts as making a false certification on a new farm application or application for transfer of an allotment, false acreage report, altering a marketing card, falsely identifying tobacco or filing a false dealer or warehouse report.

(c) *Failure to obtain sale memo.* The failure of any dealer or warehouseman to obtain and deliver to a representative of the county committee a properly executed sale memo to cover a sale of producer tobacco shall constitute a failure to make a report.

(d) Failure to obtain, for burley tobacco, producer's marketing card or dealer identification card. (1) The failure of any dealer or warehouseman to obtain a producer's marketing card, MQ–76, to identify a sale of producer tobacco and (2) the failure of any dealer or warehouseman to obtain a dealer identification card, MQ–79–2, to cover a resale of tobacco, shall constitute a failure to make a report.

§ 724.106 Registration of warehousemen and dealers.

Any dealer or warehouseman dealing in burley tobacco shall be registered with the U.S. Department of Agriculture. Such registration will be handled by the North Carolina ASCS State Office, Raleigh, N.C. Any person desiring to register as a dealer or warehouseman shall complete an "Application for Dealer Identification Card" and submit it to the State office. Warehousemen will be assigned a five-digit identification number and dealers will be assigned a four-digit identification number. Persons requesting it will be issued a dealer identification card, Form MQ–79–2.

§ 724.107 Duties of Kansas City ASCS data processing center.

Numerous recordkeeping and reporting provisions required of these regulations are the responsibility of Kansas City ASCS Data Processing Center (also referred to as KCDPC). The duties of KCDPC are set forth in writing in frequent issuances of internal procedure.

§ 724.108 Examination of records and reports.

(a) *Examination.* For the purpose of ascertaining the correctness of any report made or record kept or of obtaining information required to be furnished in any report but not so furnished, any warehouseman, hogshead warehouseman, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers, shall make available at one place for examination by representatives of the State executive director and by employees of the Office of the Inspector General and of the Farmer Programs Division, and Producer Association Division of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, upon written request by the State executive director all such books, papers, records, basket tickets, floor sheets, buyer adjustment invoices, accounts, canceled checks, check registers, check stubs, correspondence, contracts, documents, and memoranda as the State executive director or the Director has reason to believe are relevant and are within the control of such person.

(b) *Orderly retention of records.* The records and reports required by this subpart including buyer invoices (bill-outs) and basket tickets, shall be kept in an orderly manner by sale day to facilitate examination and verification.

§ 724.109 Length of time records and reports are to be kept.

Records required to be kept and copies of the reports required to be made by any person under this subpart shall be on a marketing year basis and shall be retained by him for 2 years after the end of the marketing year. Records shall be kept for such longer period of time as may be requested in writing by the State executive director or the Director.

§ 724.110 Information confidential.

All data reported to or acquired by the Secretary pursuant to this subpart shall be kept confidential by all officers and employees of the U.S. Department of Agriculture, by all members of county and community committees, and all ASCS county office employees, and only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the act.

Effective date: Date of publication in the FEDERAL REGISTER.

Prior to the issuance of the proposed regulations, any data, views, or recommendations pertaining thereto which are submitted to the Director, Farmer Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration, provided such submissions are postmarked not later than 10 days after the date of 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 such time and places and in the manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on June 14, 1968.

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

[F.R. Doc. 68–7398; Filed, June 20, 1968; 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 30, 32]

TRITIUM, KRYPTON-85 AND PROMETHIUM-147 IN SELF-LUMINOUS PRODUCTS

Exemption

Rules of general applicability to licensing of byproduct material; specific licenses to manufacture, distribute, or import exempted and generally licensed items containing byproduct material.

Petitions for rule making have been filed with the Atomic Energy Commission requesting exemption from licensing requirements of certain quantities of tritium in self-luminous screws, transistor radio dials and pointers, sportsmen's compasses, toggle and other switches, emergency markers, and level vials; promethium-147 in self-luminous level vials, automobile windshield wiper and headlight switch knob markers, shift quadrants and position indicators; and krypton-85 in self-luminous light sources when installed in safety markers, signs, signals, switching equipment, and equipment and control panels. (Docket Nos. PRM 30–20, PRM 30–18, PRM 30–35, PRM 30–23, PRM 30–30, PRM 30–29, PRM 30–34, and PRM 30–24, respectively.)

In view of the number of petitions received for exemption of byproduct material in self-luminous products, the Commission is considering amendments of 10 CFR Parts 30 and 32 to (a) establish, in a new § 30.19, a class exemption for self-luminous products containing tritium, krypton-85 and promethium-147 when such products have been manufactured, imported, or transferred pursuant to a specific license issued by the Commission authorizing distribution for use under the exemption and (b) establish, in a new § 32.22, requirements for the issuance of specific licenses authorizing manufacture, import, or transfer of self-luminous products containing such byproduct material for possession and use under the exemption and, in a new § 32.24, requirements for reports of transfers of byproduct material under the licenses. It is expected that the proposed amendments of Parts 30 and 32, without relaxing safety requirements, will expedite the regulatory process and eliminate time-consuming burdens both for licensees and the Commission.

An applicant for a license to manufacture, import, or transfer self-luminous products for use under the exemption would be required to demonstrate that the safety criteria set forth in proposed § 32.23 would be met. The safety of certain products is highly dependent on their ability to contain the radioactive material and radiation therefrom during the useful life of the product under both normal and the most severe conditions of handling, storage, use, and disposal. Applicants would be required to demonstrate by results of prototype tests that such products will maintain to a high degree their containment capability under these conditions. Further, licensees would be required to follow quality control procedures to assure that the production line products are replicas of the prototype.

The proposed new § 30.19 specifically provides that toys or adornments containing byproduct material are not included in the class exemption. Petitions submitted to the Commission to exempt the use of byproduct material in toys and adornments would continue to be considered by the Commission on a case-by-case basis.

The proposed § 32.22(b) provides that notwithstanding other provisions of the section, the Commission may deny an application for a specific license to distribute a product for use under this exemption if the end uses of the product cannot be reasonably foreseen.

Petitions for rule making for exemption of self-luminous products which do not meet the conditions of the proposed amendments (§§ 32.22, 32.23, and 32.24) would be considered on a case-by-case basis.

A new term "dose commitment" is used in the regulations for the first time to refer to the future dose to a critical organ expected to result from intake into the body of a quantity of radioactive material. This is a term of the art commonly used in publications in the radiation protection field. A proposed new § 32.2(a) would add a definition of "dose commitment".

The safety criteria in the proposed § 32.23(a) would limit the average dose, or dose commitment, in any one year to members of the group expected to receive the highest dose from normal use and disposal of a single exempt unit to no more than 0.2 percent of the applicable dose limit for individuals in the population as recommended by the Federal Radiation Council (FRC) and the International Commission on Radiological Protection (ICRP).

Although the probability is low that the same individual will simultaneously use and be exposed to the radiation from a large number of exempt products containing radioactive material, it may be expected that some individuals will use and be exposed to more than one exempt unit. It is considered impractical to define meaningful criteria applicable to the use of multiple units or products by the same individual. Therefore, the criteria for single exempt units have been made sufficiently conservative so that the probability is low that individuals exposed to more than one exempt unit or product will receive a dose, or dose commitment, in any one year of more than a few percent of the dose limits for individuals in the population as recommended by the FRC and the ICRP.

The criteria would limit the dose received by persons engaged in marketing, distributing and servicing of exempt products, as a result of exposure to the quantities of units likely to accumulate, to about 2 percent of the dose limit for individuals in the population as recommended by the FRC and the ICRP (§ 32.23(b)). The number of persons in this category would be small in comparison to the number of persons using the product.

The criteria would limit the risk of exposure to radiation associated with accidental release of radioactive material from exempt products by design, prototype testing and quality control requirements and by specifying the maximum dose that could be received by an individual as a result of an accidental release (§ 32.23(d)). The doses specified are considerably smaller than those that would be likely to produce clinical symptoms of injury. Accidents and conditions of use sufficiently severe to result in the release of substantial quantities of radioactive material would have a low probability of occurrence. The overall risk to individuals would, therefore, be very small.

The proposed amendments are consistent with the Commission's criteria for the approval of products intended for use by the general public containing by-product material and source material as published in the FEDERAL REGISTER in March 1965 (30 F.R. 3462). Paragraph 1 of the criteria states:

> At the present time it appears unlikely that the total contribution to the exposure of the general public to radiation from the use of radioactivity in consumer products will exceed small fractions of limits recommended for exposure to radiation from all sources. Information as to total quantities of radioactive materials being used in such products and the number of items being distributed will be obtained through recordkeeping and reporting requirements applicable to the manufacture and distribution of such products. If radioactive materials are used in sufficient quantities in products reaching the public so as to raise any question of population exposure becoming a significant fraction of the permissible dose to the gonads, the Commission will, at that time, reconsider its policy on the use of radioactive materials in consumer products.

Information as to the quantity of radioactive material distributed in consumer type products as reported to the Commission by manufacturers, importers and distributors continues to support this statement.

Recordkeeping and report requirements would be imposed on the manufacturer, importer or distributor as to the total quantity of radioactive material transferred in exempt products under the proposed amendments to Part 32 (§ 32.24 (c)). As appropriate, the Commission expects to make field assessments of the conditions of ultimate disposal of exempt products and of population doses from radioactive material released from such products.

Notices of licensing of manufacture, import, or transfer of individual products for use under the class exemption would be published in the FEDERAL REGISTER for the information of the public.

The Commission is considering a finding that the exemption from licensing requirements for the receipt, possession, use, transfer, export, ownership or acquisition of tritium, krypton-85 or promethium-147 in self-luminous products, under the conditions specified in the proposed amendments, will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

Under the provisions of § 150.15(a)(6) of 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274", the transfer of possession or control by the manufacturer, processor, or producer of products distributed for use under the proposed exemption would be subject to the Commission's licensing and regulatory requirements even if the product is manufactured pursuant to an agreement State [1] license.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 30 and 32 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. A new § 30.19 is added to 10 CFR Part 30 to read as follows:

§ 30.19 Self-luminous products containing tritium, krypton-85, or promethium-147.

(a) Except for persons who apply tritium, krypton-85, or promethium-147 to, or persons who incorporate tritium, krypton-85, or promethium-147 into self-luminous products, or who import such products for sale or distribution and except as provided in paragraph (c) of this section, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in Parts 20 and 30–36 of this chapter to the extent that such person receives, possesses, uses, transfers, exports, owns, or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, imported, or transferred in accordance with a specific license issued by the Commission pursuant to § 32.22 of this chapter, which license authorizes the transfer of the product for use under this section.

(b) Any person who desires to apply tritium, krypton-85, or promethium-147 to, or to incorporate tritium, krypton-85, or promethium-147 into, self-luminous products, or to transfer or to import for sale or distribution such products containing tritium, krypton-85, or promethium-147 for use pursuant to paragraph (a) of this section, should apply for a license pursuant to § 32.22 of this chapter, which license states that the product may be distributed by the licensee to persons exempt from the regulations pursuant to paragraph (a) of this section or equivalent regulations of an agreement State.

(c) The exemption in paragraph (a) of this section does not apply to tritium, krypton-85, or promethium-147 incorporated in toys or adornments.

2. A new § 32.2 is added to 10 CFR Part 32 to read as follows:

[1] A State to which the Commission has transferred certain regulatory authority over radioactive material by formal agreement, pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

§ 32.2 Definitions.

As used in this part:

(a) "Dose commitment" means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment it is assumed that from the time of intake the period of exposure to retained material will not exceed 50 years.

3. New §§ 32.22, 32.23, and 32.24 are added to 10 CFR Part 32 to read as follows:

§ 32.22 Self-luminous products containing tritium, krypton-85, or promethium-147: Requirements for license to apply, incorporate, import, or transfer.

(a) An application for a specific license to apply tritium, krypton-85, or promethium-147 to, or to incorporate tritium, krypton-85, or promethium-147 into, self-luminous products or to import or to transfer such products for distribution for use pursuant to § 30.19 of this chapter or equivalent regulations of an agreement State, will be approved if:

(1) The applicant satisfies the general requirements specified in § 30.33 of this chapter: *Provided, however,* That the requirements of § 30.33(a) (2) and (3) do not apply to an application for a license to transfer tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, or produced pursuant to a license issued by an agreement State.

(2) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, and conditions of use and disposal of the product to demonstrate that the product will meet the criteria set forth in § 32.23. The information should include:

(i) A description of the product and its intended use.

(ii) The type and quantity of byproduct material to be used in the product.

(iii) Chemical and physical form of the byproduct material to be applied to or incorporated in the product and changes in chemical and physical form that may occur during the useful life of the product.

(iv) Solubility in water and body fluids of the forms of the byproduct material identified in subdivisions (iii) and (xii) of this subparagraph.

(v) Details of construction and design of the product as related to containment and shielding of the byproduct material under normal and the most severe conditions of handling, storage, use, and disposal of the product.

(vi) External radiation level at 1 and 10 centimeters from the external surface of the product and method of measurement.

(vii) Degree of access of human beings to the product during normal handling and use.

(viii) Total quantity of byproduct material expected to be distributed in the product annually.

(ix) The expected useful life of the product.

(x) The proposed method of labeling or marking each unit with identification of manufacturer or importer of the product and byproduct material in the product.

(xi) Procedures for prototype testing of the product to demonstrate the effectiveness of the containment and other safety features under both normal and the most severe conditions of handling, storage, use, and disposal of the product.

(xii) Results of the prototype testing of the product including any change in the form of the byproduct material contained in the product, the extent to which the byproduct material may be released to the environment and any increase in external radiation levels.

(xiii) The estimated radiation doses and dose commitments relevant to the criteria in § 32.23 and the basis for such estimates.

(xiv) Quality control procedures to be followed in the fabrication of production lots of the product and the quality control standards the product will be required to meet.

(xv) Any additional information, including experimental studies and tests, required by the Commission.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Commission may deny an application for a specific license under this section if the end uses of the product cannot be reasonably foreseen.

§ 32.23 Same: Safety criteria.

An applicant for a license under § 32.22 shall demonstrate that the product is designed and will be constructed so that:

(a) In normal use and disposal of a single exempt unit, it is unlikely that the external radiation dose in any one year, or the dose commitment, resulting from the intake of radioactive material in any one year, to the members of a suitable sample of the group of individuals expected to be most highly exposed to radiation or radioactive material from the product will exceed the dose to the appropriate organ as specified in Column I of Table I.

(b) In normal handling of the quantities of exempt units likely to accumulate in one location during marketing, distribution, installation and servicing of the product, it is unlikely that the external radiation dose in any one year, or the dose commitment, resulting from the intake of radioactive material in any one year, to the members of a suitable sample of the group of individuals expected to be most highly exposed to radiation or radioactive material from the product will exceed the dose to the appropriate organ as specified in Column II of Table I.

(c) Under the conditions of §§ 32.23(a) and 32.23(b), it is unlikely that the external radiation dose in any one year, or the dose commitment, resulting from the intake of radioactive material in any one year, to any individual would exceed the dose to the appropriate organ specified in Column III of Table I; and

(d) Under the most severe conditions, including accidents or fire, likely to occur in use and disposal of a single unit or in handling and storage of the quantities of exempt units likely to accumulate in one location during marketing, distribution, installation, and servicing of the product, the external radiation dose or dose commitment to any individual would not exceed the dose to the appropriate organ specified in Column IV of Table I.

TABLE I

Part of body	Column I (rem)	Column II (rem)	Column III (rem)	Column IV (rem)
Whole body, head, and trunk, active blood-forming organs, gonads, or lens of eye.	0.001	0.01	0.5	15
Hands and forearms, feet and ankles, localized areas of skin averaged over areas no larger than 1 square centimeter.	0.015	0.15	7.5	300
Other organs	0.003	0.03	1.5	50

§ 32.24 Conditions of licenses issued under § 32.22: Quality control, labeling, and reports of transfers.

Each person licensed under § 32.22 shall:

(a) Carry out adequate control procedures in the manufacture of the product to assure that each production lot meets the quality control standards approved by the Commission;

(b) Label or mark each unit so that the byproduct material in the product and the manufacturer or importer of the product can be identified; and

(c) File an annual report with the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545, which shall state the total quantity of tritium, krypton-85, or promethium-147 transferred to other persons for use under § 30.19 of this chapter or equivalent regulations of an agreement State during the reporting period. Each report shall cover the year ending June 30 and shall be filed within 30 days thereafter.

(Sec. 81, 68 Stat. 935; 42 U.S.C. 2111; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 13th day of June 1968.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 68-7329; Filed, June 20, 1968; 8:45 a.m.]

FEDERAL MEDIATION AND CONCILIATION SERVICE

[29 CFR Part 1404]

ARBITRATION

Notice of Proposed Rule Making

Notice is hereby given that the Director of the Federal Mediation and Conciliation Service has under consideration proposed amendments regarding the

arbitration policies, functions, and procedures of the Service. The present regulations are fully set forth in 29 CFR Part 1404 and have not been changed since January 8, 1957.

The proposed amendments to Part 1404 would make two major changes in the Service's arbitration policies and procedures. The first significant change would be the elimination of the present $150 per diem fee ceiling that an arbitrator may charge the parties for his services. Under the proposed regulations, each individual on the roster would certify his per diem fee to the Service, and the Service would place that fee on the individual's biographical sketch which would be sent to the parties whenever the individual's name appeared on a panel. Thus, the parties would be in a position to consider the individual's per diem fee along with all other factors in determining whom they desire to serve as arbitrator.

The present regulations provide in part that if at any time a company or a union, or both, suggests that a name or names be omitted from a panel, such name or names will generally be omitted. The second significant change in the proposed regulations would require that both parties join in a request for the omission of a name or names from a panel.

Aside from the two changes noted above, the others that are proposed are minor in nature. There are many proposed deletions from the present regulations because the Service believes that much in the present regulations is unnecessary or inappropriate at the present time.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the arbitration policies, functions, and procedures of the Service within 30 days after date of publication of this notice in the FEDERAL REGISTER. Such comments, suggestions, or objections should be addressed to: Director, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

WILLIAM E. SIMKIN,
Director.

§ 1404.1 Arbitration.

The labor policy of the U.S. Government is designed to foster and promote free collective bargaining. Voluntary arbitration is particularly encouraged by public policy and is in fact almost universally utilized by the parties to resolve disputes involving the interpretation or application of collective bargaining agreements. Also, in appropriate cases, voluntary arbitration or fact-finding are tools of free collective bargaining and may be desirable alternatives to economic strife. The parties assume broad responsibilities for the success of the private juridical system they have chosen. The Service will assist the parties in their selection of arbitrators.

§ 1404.2 Composition of roster maintained by the service.

(a) It is the policy of the Service to maintain on its roster only those arbitrators who are qualified and acceptable, and who adhere to ethical standards.

(b) Applicants for inclusion on its roster must not only be well-grounded in the field of labor-management relations, but, also, usually possess experience in the labor arbitration field or its equivalent. After a careful screening and evaluation of the applicant's experience, the Service contacts representatives of both labor and management since arbitrators must be generally acceptable to those who utilize its arbiration facilities. The responses to such inquiries are carefully weighed before an otherwise qualified arbitrator is included on the Service's roster. Persons employed full time as representatives of management, labor, or the Federal Government are not included on the Service's roster.

(c) The arbitrators on the roster are expected to keep the Service informed of changes in address, occupation, or availability, and of any business connections with or of concern to labor or management.

§ 1404.3 Security status.

The arbitrators on the Service's roster are not employees of the Federal Government, and, because of this status, the Service does not investigate their security status. Moreover, when an arbitrator is selected by the parties, he is retained by them and, accordingly, they must assume complete responsibility for the arbitrator's security status.

§ 1404.4 Procedures; how to request arbitration services.

The Service prefers to act upon a joint request which should be addressed to the Director of the Federal Mediation and Conciliation Service, Washington, D.C. 20427. In the event that the request is made by only one party, the Service may act if the parties have agreed that either of them may seek a panel of arbitrators. A brief statement of the nature of the issues in dispute should accompany the request, to enable the Service to submit the names of arbitrators qualified for the issues involved. The request should also include a copy of the collective bargaining agreement or stipulation. In the event that the entire agreement is not available, a verbatim copy of the provisions relating to arbitration should accompany the request.

§ 1404.5 Arbitrability.

Where either party claims that a dispute is not subject to arbitration, the Service will not decide the merits of such claim. The submission of a panel should not be construed as anything more than compliance with a request.

§ 1404.6 Nominations of arbitrators.

(a) When the parties have been unable to agree on an arbitrator, the Service will submit to the parties the names of seven arbitrators unless the applicable collective bargaining agreement provides for a different number, or unless the parties themselves request a different number. Together with the submission of a panel of suggested arbitrators, the Service furnishes a short statement of the background, qualifications, experience and per diem fee of each of the nominees.

(b) In selecting names for inclusion on a panel, the Service considers many factors, but the desires of the parties are, of course, the foremost consideration. If at any time both the company and union suggest that a name or names be omitted from a panel, such name or names will be omitted. The Service will not place names on a panel at the request of one party unless the other party has knowledge of such request and has no objection thereto, or unless both parties join in such request. If the issue described in the request appears to require special technical experience or qualifications, arbitrators who possess such qualifications will, where possible, be included in the list submitted to the parties. Where the parties expressly request that the list be composed entirely of technicians, or that it be all-local or nonlocal, such request will be honored, if qualified arbitrators are available.

(c) Two possible methods of selection from a panel are—(1) At a joint meeting, alternately striking names from the submitted panel until one remains, and (2) each party separately advising the Service of its order of preference by numbering each name on the panel. In almost all cases, an arbitrator is chosen from one panel of names. However, if a request for another panel is made, the Service will comply with the request, providing that additional panels are permissible under the terms of the agreement or the parties so stipulate.

(d) Subsequent adjustment of disputes is not precluded by the submission of a panel or an appointment. A substantial number of issues are being settled by the parties themselves after the initial request for a panel and after selection of the arbitrator. Notice of such settlement should be sent promptly to the arbitrator and to the Service.

(e) The arbitrator is entitled to be compensated whenever he receives insufficient notice of settlement to enable him to rearrange his schedule of arbitration hearings or working hours. In other situations, when an arbitrator spends an unusually large amount of time in arranging or rearranging hearing dates, it may be appropriate for him to make an administrative charge to the parties in the event the case is settled before hearing.

§ 1404.7 Appointment of arbitrators.

(a) After the parties notify the Service of their selection, the arbitrator is appointed by the Director. If any party fails to notify the Service within 15 days after the date of mailing the panel, all persons named therein shall be deemed acceptable to such party. The Service will make a direct appointment of an arbitrator based upon a joint request, or upon a unilateral request when the applicable collective bargaining agreement so authorizes.

(b) The arbitrator, upon appointment notification, is requested to communicate with the parties immediately to ar-

range for preliminary matters such as date and place of hearing.

§ 1404.8 Status of arbitrators after appointment.

After appointment, the legal relationship of arbitrators is with the parties rather than the Service, though the Service does have a continuing interest in the proceedings. Industrial peace and good labor relations are enhanced by arbitrators who function justly, expeditiously and impartially so as to obtain and retain the respect, esteem and confidence of all participants in the arbitration proceedings. The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control, subject to such rules of procedure as the parties may jointly prescribe. He is to make his own decisions based on the record in the proceedings. The arbitrator may, unless prohibited by law, proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. The award, however, must be supported by evidence.

§ 1404.9 Prompt decision.

(a) Early hearing and decision of industrial disputes is desirable in the interest of good labor relations. The parties should inform the Service whenever a decision is unduly delayed. The Service expects to be notified if and when (1) an arbitrator cannot schedule, hear, and determine issues promptly, and (2) he is advised that a dispute has been settled by the parties prior to arbitration.

(b) The award shall be made not later than thirty (30) days from the date of the closing of the hearing, or the receipt of a transcript and any posthearing briefs, or if oral hearings have been waived, then from the date of receipt of the final statements and proof by the arbitrator, unless otherwise agreed upon by the parties or specified by law. However, a failure to make such an award within thirty (30) days shall not invalidate an award.

The Service, when nominating arbitrators, takes notice of any arbitrator's failure to comply with its policies and procedures.

§ 1404.10 Importance of impartiality.

Interviews with or communications by the arbitrator to and from one party without the knowledge and consent of the other party, are easily misunderstood and should be avoided since they can result in a loss of confidence in the integrity, fairness and judgment of the arbitrator.

§ 1404.11 Arbitrator's award and report.

(a) At the conclusion of the hearing and after the award has been submitted to the parties, each arbitrator is required to file a copy with the Service. The arbitrator is further required to submit a report showing a breakdown of his fees and expense charges so that the Service may be in a position to check conformance with its fee policies. Cooperation in filing both award and report within fifteen (15) days after handing down the award is expected of all arbitrators.

(b) It is the policy of the Service not to release arbitration decisions for publication without the consent of both parties. Furthermore, the Service expects the arbitrators it has nominated or appointed not to give publicity to awards they may issue, except in a manner agreeable to both parties.

§ 1404.12 Fees of arbitrators.

(a) No administrative or filing fee is charged by the Service. The current policy of the Service permits each of its nominees or appointees to charge a per diem fee for his services, the amount of which is certified in advance by him to the Service. Each arbitrator's maximum per diem fee is set forth on his biographical sketch which is sent to the parties at such time as his name is submitted to them for consideration. The arbitrator shall not change his per diem fee without giving at least ninety (90) days advance notice to the Service of his intention to do so.

(b) In those rare instances where arbitrators fix wages or other important terms of a new contract, the maximum fee noted above may be exceeded by the arbitrator after agreement by the parties. Conversely, an arbitrator may give due consideration to the financial condition of the parties and charge less than his usual fee in appropriate cases.

§ 1404.13 Conduct of hearings.

(a) The Service does not prescribe detailed or specific rules of procedures for the conduct of an arbitration proceeding because it favors flexibility in labor relations. It believes that the parties and experienced arbitrators know best how arbitration proceedings should be conducted if wise decisions and industrial peace are to be achieved. Questions such as hearing rooms, submission of prehearing or posthearing briefs, and recording of testimony, are left to the discretion of the individual arbitrator and to the parties. The Service does, however, expect its arbitrators and the parties to conform to applicable laws, and to be guided by ethical and procedural standards as codified by appropriate professional organizations and generally accepted by the industrial community and experienced arbitrators.

(b) In cities where the Service maintains offices, the parties are welcome upon request to the Service to use its conference rooms when they are available.

Washington, D.C., June 14, 1968.

[F.R. Doc. 68-7358; Filed, June 20, 1968; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Geological Survey

[Order No. 15]

WYOMING

Phosphate Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, WYOMING

PHOSPHATE LANDS

T. 40 N., R. 117 W., in part unsurveyed,
Sec. 5, N½, NE¼SW¼, N½SE¼, unsurveyed;
Sec. 6, N½NE¼, SE¼NE¼, unsurveyed.

RECLASSIFIED PHOSPHATE LANDS FROM NONPHOSPHATE LANDS

Prior classification of the following lands as nonphosphate lands is hereby revoked and the lands are reclassified as phosphate lands:
T. 40 N., R. 117 W., in part unsurveyed,
Sec. 3, SW¼NW¼, W½SW¼;
Sec. 4, lots 1 to 4, inclusive, S½N½, N½SW¼, SE¼SW¼, SE¼.

NONPHOSPHATE LANDS

T. 40 N., R. 117 W., in part unsurveyed,
Sec. 5, NW¼SW¼, S½S½, unsurveyed;
Sec. 6, SW¼NE¼, W½, SE¼, unsurveyed;
Secs. 7 to 9, inclusive, unsurveyed;
Sec. 15, lots 2, 3, and 5, SW¼NE¼, W½, SE¼;
Secs. 16 to 18, inclusive, unsurveyed;
Secs. 19 to 22, inclusive;
Sec. 23, lots 2, 3, 4, 5, 7, 8, and 9, SW¼NW¼, SW¼, W½SE¼;
Sec. 25, SW¼;
Sec. 26, W½NE¼, SE¼NE¼, W½ SE¼;
Secs. 27 to 36, inclusive.

The area described aggregates 16,650 acres, more or less, of which about 609 acres are classified phosphate lands, about 756 acres are reclassified phosphate lands that were formerly classified nonphosphate lands, and about 15,285 acres are classified nonphosphate lands.

Dated: June 13, 1968.

ARTHUR A. BAKER,
Acting Director.

[F.R. Doc. 68-7351; Filed, June 20, 1968; 8:46 a.m.]

[Order No. 16]

WYOMING

Phosphate Land Classification Order

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, WYOMING

PHOSPHATE LANDS

T. 39 N., R. 117 W., unsurveyed,
Sec. 18, fractional SW¼;
Sec. 19, fractional NW¼, fractional S½SW¼, S½SE¼;
Sec. 30, N½NE¼, fractional N½NW¼.

NONPHOSPHATE LANDS

T. 39 N., R. 117 W., unsurveyed,
Secs. 1 to 17, inclusive;
Sec. 18, NE¼, fractional NW¼, SE¼;
Sec. 19, NE¼, fractional N½SW¼, N½SE¼;
Secs. 20 to 29, inclusive;
Sec. 30, S½NE¼, fractional S½NW¼, fractional SW¼, SE¼;
Secs. 31 to 36, inclusive;
H.E.S. 125, 191, 197.

The area described aggregates about 19,796 acres, more or less, of which about 345 acres are classified phosphate lands, and about 19,451 acres are classified nonphosphate lands.

Dated: June 13, 1968.

ARTHUR A. BAKER,
Acting Director.

[F.R. Doc. 68-7352; Filed, June 20, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

MANUFACTURE OF FROZEN DESSERTS

Standards Recommended for Adoption by State Regulatory Agencies

Statement of considerations leading to the recommended standards. A study of State requirements for dairy plants processing mix or frozen desserts and requirements for the quality of milk and dairy products to be used in the manufacture of frozen desserts, indicated the need for a uniform set of quality standards. While significant programs in improving frozen dessert quality have been accomplished, such progress has been uneven.

After discussion with industry representatives and State Regulatory Agencies, recommended standards for State adoption were published in the FEDERAL REGISTER (vol. 32, No. 32, pp. 2965-2074) of February 16, 1967, under the section, notices.

Following the initial publication of the recommended standards, statements were filed by the National Restaurant Association and representatives of the soft-freeze industry to the effect that the standards as presented did not fully recognize the nature of their business compared to that of the specialized dairy processor or manufacturer. They believed that handling soft-serve frozen desserts with other food items in drive-ins and restaurants should justify classing soft-serve frozen desserts for inspection purposes under the same sanitation requirements as for general food items.

It was on this premise that an amendment was issued in the FEDERAL REGISTER, Vol. 32, No. 116, dated June 16, 1967, under the section, notices, recommending that the facilities and equipment relative to frozen desserts in restaurants, soft-serve stands and mobile units and other similar establishments be governed by the U.S. Public Health Service, Food Service Sanitation Ordinance and Code as published in the Food Service Sanitation Manual, 1962 Edition, Public Health Service Publication No. 934.

After publication of the amendment, further comments were received and after consideration of all relevant matters, it was decided to republish the recommended standards including the provisions contained in the amendment and certain other editorial changes for clarification purposes. For example, the definitions were changed for Frozen Desserts Manufacturers, Frozen Desserts Plants, and Mobile Units and a new definition was insertd for Frozen Desserts Retail Establishments. In addition, the sections on pasteurization and cooling were rewritten.

The work was carried out under authority of the Agricultural Marketing Act of 1946, 60 Stat. 1087 as amended; 7 U.S.C. 1621-1627. The recommended standards are intended for voluntary adoption by the States. The administration and enforcement of the standards when adopted also will be entirely within the jurisdiction of the States.

A sample State Enabling Act to facilitate the enactment of the proposed standards, together with the recommended standards, as amended, are as follows:

SAMPLE STATE ENABLING ACT

An Act to provide for the Establishment of Minimum Standards for the Manufacture of Frozen Desserts.

SECTION 1. It is the intent of this Act to encourage the sanitary production of good quality milk, to promote the sanitary processing of milk, cream and other dairy products or ingredients thereby assuring wholesome, stable and high quality frozen desserts made therefrom.

SEC. 2. The (regulatory agency of the State)[1] shall administer the provisions of this Act and is hereby authorized: To establish and promulgate minimum standards of milk for use in the manufacture of frozen desserts, its transportation, classification, use and processing and the manufacture, packaging, labeling, and storage, and handling

[1] Insert name of appropriate regulatory agency, official, or department.

of frozen desserts made therefrom; to inspect frozen dessert plants and to license frozen dessert plants to handle and process mix and to manufacture frozen desserts, in conformity with minimum standards and specifications prescribed by such rules and regulations as may be issued hereunder in effectuation of the intent hereof; to require the keeping of appropriate books and records by plants licensed hereunder; and to license qualified milk graders and bulk milk collectors when direct receipt of milk from producers is involved.

SEC. 3. The (regulatory agency of the State)[1] may for good cause, after notice and opportunity for hearing, suspend or revoke certifications and licenses issued hereunder. Provided, that nothing in this act shall be construed to prevent the suspension of the operation of any plant prior to a hearing, when such action is authorized by any applicable and valid law or regulation.

SEC. 4. Twenty-four months from and after the effective date of the rules and regulations issued pursuant to this Act, no person, firm, or corporation shall produce, sell, offer for sale or process milk for the manufacture of frozen desserts except in accordance with the provisions of this Act and the rules and regulations issued pursuant hereto.

SEC. 5. Any person, firm, or corporation that willfully violates any provision of this Act or the rules and regulations issued pursuant hereto shall be fined not more than $------, and each and every violation shall constitute a separate offense.

SEC. 6. This Act shall become effective ----------.

Introduction. These Standards for the Manufacture of Frozen Desserts Recommended for Adoption by State Regulatory Agencies are designed to assure that processing methods and practices are adequate to attain higher quality and greater stability in the finished product, protect consumer health and promote increased consumer acceptance of these products.

The Standards are recommended for adoption by States to provide an adequate and uniform basis for assessing the hygiene of processing methods. When they are adopted by a State, their enforcement becomes the responsibility of the appropriate regulatory authority.

The adoption of practical sanitary standards, uniformly applied, would aid materially in upgrading the general sanitary level of frozen desserts.

It is recognized that there are variations in the quality of manufacturing milk in various areas of the country and that the effective enforcement of the recommended standards may require more time in some areas than in others. In order to facilitate immediate adoption of the standards, options may be provided for delayed adoption, where necessary, for a period up to 5 years on provisions for minimum bacterial quality standard for milk to be used in the manufacture of mix and frozen desserts.

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SUBPART A—DEFINITIONS

Sec. 1 Meaning of words.

Words used in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

Sec. 2 Terms defined.

Unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *Act.* (The State Act to Provide for the Establishment of Standards for the Manufacture of Mix and Frozen Desserts.)[2]

(b) *Adulterated or Misbranded Frozen Desserts or Mix.* Any frozen dessert or mix which contains any unwholesome substance, or which, if defined in this Standard, does not conform with its definition, or which does not comply with the provision of the Federal Food, Drug, and Cosmetic Act or General Regulation for its enforcement shall be deemed adulterated and/or misbranded.

(c) *C–I–P or Cleaned-in-Place.* The procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned-in-place by circulation.

(d) *Commissary or Depot.* The terms "commissary" or "depot" shall mean any place, premise or establishment in which pasteurized mix, ingredients, containers, or supplies are prepared or stored for the servicing of one or more mobile units and where facilities are provided for the cleaning of the vehicle and the cleaning and bactericidal treatment of equipment and utensils.

(e) *Dairy Plant or Plant.* Any place, premise, or establishment where milk or dairy products are received or handled for processing or manufacturing. When "plant" is used in connection with the production, transportation, classifying, or use of milk, it means any plant that handles or purchases milk for manufacturing purposes; when used in connection with specifications for plants or licensing of plants, it means only those plants that manufacture mix and/or frozen desserts.

(f) *Dairy Products.* Butter, cream (fluid, dry, or plastic), dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated milk (whole or skim), condensed whole milk and condensed skim milk (plain or sweetened), and such other products derived from milk, as may be defined under the Federal Standards of Identity as ingredients for frozen desserts.

(g) *Fieldman.* A person qualified and trained in the sanitary methods of production and handling of milk as set forth herein and generally employed by a processing or manufacturing plant for the purpose of dairy farm inspections and quality control work.

(h) *Frozen Desserts.* Are the foods which conform to the provisions of "Definitions and Standards of Identity for Frozen Desserts," U.S. Food and Drug

[2] Insert title and code sections of State Enabling Act.

Administration (20 CFR 20.1–20.5). 20.1 Ice Cream; 20.2 Frozen Custard, French ice cream, French custard ice cream; 20.3 Ice Milk; 20.4 Fruit sherbets; 20.5 Water ices; and those food products defined in (i) through (l) of this section.

(i) *Quiescently Frozen Confections.* Quiescently frozen confections mean a clean and wholesome frozen, sweetened, flavored product in the manufacture of which freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing). This confection may be acidulated with food grade acid, may contain milk solids, water, may be made with or without added harmless pure or imitation flavoring, with or without harmless coloring. The finished product may contain not more than one-half (½%) of 1 percent by weight of stabilizer composed of wholesome edible material. The finished product shall contain not less than seventeen (17%) percent by weight of total food solids. In the production of this confection, no processing or mixing prior to quiescent freezing shall be used that develops in the finished confection mix any physical expansion in excess of ten (10%) percent.

(j) *Quiescently Frozen Dairy Confections.* Quiescently frozen dairy confections mean a clean and wholesome frozen product made from water, milk products and sugar, with added harmless pure or imitation flavoring, with or without added harmless coloring, with or without added stabilizer and with or without added emulsifier; and in the manufacture of which freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing). It contains not less than thirteen (13%) percent by weight of total milk solids, not less than thirty-three (33%) percent by weight of total food solids, not more than one-half (½%) percent by weight of stabilizer, and not more than one-fifth (⅕%) of 1 percent of weight by emulsifier. Stabilizer and emulsifier must be composed of wholesome, edible material. In the production of quiescently frozen dairy confections, no processing or mixing prior to quiescently freezing shall be used that develops in the finished confection mix any physical expansion in excess of ten (10%) percent.

(k) *Mellorine-Type Products.* Mellorine-type products are frozen desserts similar in composition and weight requirements to ice cream, ice milk and fruit sherbets (and are known by such names as Mellorine, Lo-Rine and Sherbine respectively). They differ in composition from the comparable products standardized herein only in that they contain food fats, other than milkfat. (Note: USDA in recommending the adoption of these standards does not imply consent to overlook Federal law concerning the Filled Milk Act, or the laws and regulations of States prohibiting the sale or manufacture of frozen desserts containing fats other than milkfat.)

(l) *Frozen Dietary Dairy Dessert and Frozen Dietary Desserts.* Frozen Dietary Dairy Dessert and Frozen Dietary Dessert is a food for any special dietary use, prepared by freezing, with or without agitation, composed of a pasteurized mix which may contain fat, protein, carbohydrates, natural and/or artificial sweeteners, flavoring, stabilizers, emulsifiers, vitamins and minerals.

(m) *Frozen Desserts Manufacturer.* A frozen desserts manufacturer is any person who manufactures, processes, converts, partially freezes or freezes any mix or frozen desserts for distribution or sale.

(n) *Frozen Desserts Plant.* A frozen desserts plant is any place or premises where frozen desserts or mix are manufactured, processed or frozen for distribution or sale at wholesale.

(o) *Frozen Desserts Retail Establishment.* A frozen desserts retail establishment is any place or premises including retail stores, stands, hotels, restaurants and vehicles or mobile units where frozen desserts are frozen or partially frozen and/or dispensed for sale at retail.

(p) *Inspector.* An employee of (the regulatory agency) qualified, trained, and authorized to perform dairy farm or plant inspections, and raw milk grading.

(q) *License.* A license issued under the Act by (the regulatory agency).

(r) *Mobile Unit.* The term mobile unit shall mean any vehicle or temporary establishment that shall travel from place to place in which a frozen desserts processor freezes, partially freezes and/or dispenses frozen desserts for sale.

(s) *Milk Grader or Bulk Milk Collector.* A person licensed by (the regulatory agency) as described in section 62 who is qualified and trained for the classifying of raw milk in accordance with the quality standards and procedures of Subpart C.

(t) *Milk.* The normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. The word "milk" used herein includes only milk for manufacturing purposes in frozen dessert plants.

(u) *Milk for manufacturing purposes.* Milk produced and used for processing and manufacture of mix, frozen desserts or other dairy products defined herein and meeting the requirements of section 27. However, milk produced for use in fluid milk products but diverted for use in the manufacture of mix and frozen desserts, may be included, provided such milk meets the requirements of section 27.

(v) *Acceptable milk.* Milk that qualifies under section 41 as to sight and odor and that is classified No. 1 or No. 2 for sediment content (section 42) and No. 1 or No. 2 for bacterial estimate (section 43).

(w) *Probational milk.* Milk classified No. 3 for sediment content (section 42) or milk classified "undergrade" for bacterial estimate (section 43) that may be accepted by plants for specific time periods.

(x) *Reject milk.* Milk that does not qualify under section 41 as to sight and odor, or that is classified No. 4 for sediment content (section 42), which is rejected by the plant by the provisions of section 51.

(y) *Excluded milk.* All of a producer's milk excluded from the market by the provisions of section 53.

(z) *Miscellaneous frozen dessert products.* All products containing frozen desserts other than those defined in this subpart, and which may hereafter be designated as frozen dessert products by the regulatory agency.

(aa) *Mix.* Mix is the pasteurized unfrozen combination of two or more ingredients permitted in a frozen dessert with or without fruits, fruit juices, candy, baked goods and confections, nut meats, or other harmless flavor and/or color.

(bb) *Official methods.* Official Methods of Analysis of the Association of Official Agricultural Chemists, a publication of the Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(cc) *Pasteurization.* The term "pasteurization," "pasteurized," or a similar term is the process of heating, in approved and properly operated equipment, every particle of mix to any one of the following temperatures and holding at the temperature for the specified time:

155° F. and holding at such temperature for at least 30 minutes.
175° F. and holding at such temperature for at least 25 seconds.

Provided that nothing contained in this definition shall be construed as barring any other method of process, or combination of times and temperatures as may be demonstrated to be equally efficient.

(dd) *Person.* The word "person" as used in this Standard shall mean any individual, partnership, corporation, company, firm, trustee, or association.

(ee) *Producer.* The person or persons who exercise control over the production of the milk delivered to a processing plant or receiving station and those who receive payment for this product. A "new producer" is one who has only recently entered into the production of milk for the market. A "transfer producer" is one who has been shipping milk to one plant and transfers his shipments to another plant.

(ff) *Regulatory agency.* (Insert the name of the State agency, official, or department) is authorized by law to administer the Act.

(gg) *Rules and regulations.* The provisions of sections 1 to 64 herein.

(hh) *Standard methods.* Standard Methods for the Examination of Dairy Products, a publication of the American Public Health Association, 1790 Broadway, New York, N.Y.

(ii) *3–A Sanitary Standards and Accepted Practices.* The standards for dairy equipment and accepted practices formulated by the 3–A Sanitary Standards Committees representing the International Association of Milk, Food and Environmental Sanitarians, the U.S. Public Health Service, and the Dairy Industry Committee. Published by the International Association of Milk, Food and Environmental Sanitarians, Box 437, Shelbyville, Ind.

SUBPART B—SPECIFICATIONS FOR LICENSED FROZEN DESSERT PLANTS

PREMISES, BUILDINGS, FACILITIES, EQUIPMENT, AND UTENSILS

Sec. 5 Premises.

The plant area and surroundings shall be kept clean, orderly, and free from refuse and rubbish, smoke, excessive dust and air pollution, and strong or foul odors. A drainage system shall be provided for rapid drainage of all water from plant buildings including surface water around the plant and on the premises.

Sec. 6 Buildings.

(a) *Construction and Maintenance.* Buildings shall be of sound construction, and the exterior and interior shall be kept clean and in good repair to protect against dust, dirt, and mold, and to prevent the entrance or harboring of insects, rodents, vermin, and other animals.

In processing areas, outside doors, windows, skylights, and transoms shall be screened or otherwise covered. Such outside doors shall not open inward and shall be self-closing; and doors leading to processing rooms shall be sound and tight fitting. Window sills on new construction shall be sloping. Outside conveyor openings and other special-type outside openings shall be protected by doors, screens, flaps, fans, or tunnels; outside openings for sanitary pipelines shall be covered when not in use; and service-pipe openings shall be completely cemented around the pipe opening or have tight metal collars.

All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handler, processed, manufactured, packaged, or stored shall be so designed and constructed as to assure clean and orderly operations. Rooms for receiving milk shall be separated from the processing area by a partition or suitable arrangement of equipment or facilities to avoid contamination of milk or dairy products. Boiler and tool rooms shall be separated from other rooms. Toilet and dressing rooms shall be conveniently located and shall not open directly into any room in which milk, dairy products, or ingredients are handled, processed, packaged or stored. Doors of all toilet rooms shall be self-closing; and fixtures shall be kept clean and in good repair.

Plans for new plant construction or major remodeling of existing plants shall be submitted to (the regulatory agency) for approval prior to such new construction or remodeling.

(b) *Interior finishing.* In all rooms, in which milk or dairy products are received, handled, processed and where mix and frozen desserts are manufactured, packaged, or stored, except dry storage of packaging materials, or in which equipment or utensils are washed, the walls, ceilings, partitions, and posts shall be smoothly finished with a washable material of light color that is substantially impervious to moisture. A wainscoting of a suitable material of a darker color may be used to a height not exceeding 60 inches from the floor. The floors in these rooms shall be of concrete or other impervious material and shall be smooth, properly graded to drain, and have drains trapped, except that freezers used for storing frozen desserts, frozen fruits, frozen eggs and comparable ingredients need not be provided with floor drains but the floors shall be sloped to drain to one or more exits, and shall be kept clean. The plumbing shall be so installed as to prevent back-up of sewage into the plant. On new construction or extensive remodeling, the floors shall be joined and coved with the walls to form watertight joints. Sound, smooth, wood floors may be used in certain packaging rooms where the nature of the product permits. Toilet and dressing rooms shall have impervious floors and smooth walls.

(c) *Ventilation and lighting.* All rooms and compartments (including storage space and toilet and dressing rooms) shall be ventilated to maintain sanitary conditions, prevent undue condensation of water vapor, and minimize or eliminate objectionable odors.

Lighting, whether natural or artificial, shall be of good quality and well distributed in all rooms and compartments. All rooms where milk, dairy products or mix and frozen desserts are handled, processed, manufactured, or packaged, or where equipment or utensils are washed, shall have at least 30 foot-candles of light intensity on all working surfaces; areas where dairy products are examined for condition and quality, at least 50 foot-candles of light intensity; and all other rooms, at least 5 foot-candles of intensity measured 30 inches above the floor. Light bulbs and fluorescent tubes shall be protected against breakage.

(d) *Laboratory.* An adequate laboratory shall be provided, maintained, and properly staffed with qualified and trained personnel for quality control and analytical purposes. It shall be located reasonably close to the processing activity in a well lighted and ventilated room of sufficient size to permit proper performance of the tests necessary to evaluate the quality of raw and finished products. A central or commercial laboratory that serves more than one plant and that provides the same services may be utilized.

Sec. 7 Facilities.

(a) *Water supply.* Both hot and cold water of safe and sanitary quality shall be available in sufficient quantity for all plant operations and facilities. Water from other lines, when officially approved, may be used for boiler feed water and condenser water, if such water lines are completely separated from the water lines carrying the sanitary water supply, and the equipment is so constructed and controlled as to preclude contamination of any product or product contact surface. There shall be no cross-connections between safe and unsafe water lines or between private and public supply.

Bacteriological examination shall be made of the plant sanitary water supply at least once every 6 months by (the appropriate State agency or an authorized laboratory) to determine purity and safety for use in processing or manufacturing dairy products.

(b) *Employee facilities.* In addition to toilet and dressing rooms, the plant shall provide the following employee facilities: conveniently located sanitary drinking water; a locker or other suitable facility for each employee; hand washing facilities, including hot and cold running water, soap or other detergents, and sanitary towels or air driers, in or adjacent to toilet and dressing rooms and at other places where necessary for the cleanliness of all personnel handling products; and self-closing containers for used towels and other wastes.

A durable, legible sign shall be posted conspicuously in each toilet and dressing room directing employees to wash their hands before returning to work.

(c) *Steam.* Steam shall be supplied in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment. Steam that may come into direct contact with milk or dairy products shall be culinary steam. Culinary steam shall comply with the recommended practices for "Producing Culinary Steam for Processing Milk and Milk Products" as published by the National Association of Dairy Equipment Manufacturers, Washington, D.C., April 1963.

(d) *Disposal of wastes.* The plant sewage system shall have sufficient slope and capacity to remove readily all waste from processing operations. Where a public sewer is not available, wastes shall be disposed of by methods approved by (the regulatory agency). Containers for the collection and holding of wastes other than dry waste paper shall be constructed of metal or other equally impervious material, kept covered with tight-fitting lids, and placed outside the plant on a concrete slab or on a rack raised at least 12 inches, however, waste containers may be kept inside a suitably enclosed, clean and fly proof room. Solid wastes shall be disposed of regularly and the containers cleaned before reuse, and dry waste paper shall be burned at the plant in an incinerator approved by (the regulatory agency) or compressed or bagged and hauled away.

Sec. 8 Equipment and utensils.

(a) Construction and installation. New equipment shall meet applicable 3–A Sanitary Standards. Equipment and utensils coming in contact with milk, dairy products, mix or frozen desserts, including sanitary pumps, piping, fittings, and connections, shall be constructed of stainless steel or other equally corrosion-resistant material; except that, where the use of stainless steel is not practicable, or in old equipment, other metals properly coated or plated may be approved temporarily. Nonmetallic parts having product contact surfaces shall be of material that meet 3–A Sanitary Standards for Plastic or Rubber and Rubber Like Materials.

Bulk storage and distribution equipment for handling liquid sweetening agents shall consist of suitable metals, alloys, or other materials which will withstand corrosive action by the ingredient; and the equipment and ingredients shall be protected from contamination.

All equipment and piping shall be so designed and installed as to be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Milk pumps shall be of a sanitary type and easily dismantled for cleaning or shall be of specifically approved construction to allow cleaning in place. New or rearranged equipment shall be set away from any wall or spaced in such a manner as to facilitate proper cleaning and to maintain good housekeeping. All parts or interior surfaces or equipment, pipes (except certain piping cleaned-in-place), or fittings, including valves and connections, shall be accessible for inspection. Cleaned-in-place sanitary piping and welded sanitary pipeline systems when used will be acceptable if properly engineered and installed according to 3–A Accepted Practices for Permanently Installed Sanitary Product—Pipelines and Cleaning Systems.

(b) *Pasteurization equipment.* Pasteurization equipment shall be in accordance with 3–A Accepted Practices for Sanitary Construction, Installation, Testing, and Operation of High-Temperature Short-Time Pasteurizers and 3–A Sanitary Standards for Non-Coiled Type Batch Pasteurizers.

Heat treating equipment used to reach temperatures higher than commonly used for pasteurization shall meet appropriate sanitary construction and operating procedures approved by (the regulatory agency).

(c) *Cleaning and sanitizing.* Equipment, sanitary piping, and utensils used in receiving, storing, processing, manufacturing, packaging, and handling of milk, dairy products, mix or frozen desserts and all product contact surfaces of homogenizers, high-pressure pumps, and high-pressure lines shall be kept clean.

The packing glands on all agitators, pumps, and vats shall be inspected at regular intervals and kept clean.

After being cleaned and immediately before use all equipment coming in contact with milk, dairy products, mix or frozen desserts shall have an effective bactericidal or sanitizing treatment.

Before use, equipment not designed for C–I–P cleaning shall have been disassembled and thoroughly cleaned and sanitized. Dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material may be used that will not contaminate or adversely affect dairy products. Steel wool or metal sponges shall not be used in the cleaning of any dairy equipment or utensils.

C–I–P cleaning shall be used only on equipment and pipeline systems that are designed and engineered for that purpose. Installation and cleaning procedures shall be in accordance with 3–A Accepted Practices for Permanently Installed Sanitary Product—Pipelines and Cleaning Systems. An outline of the cleaning procedures to be followed shall be posted near the C–I–P equipment.

Applicable equipment and areas in the plant shall be thoroughly vacuumed regularly with a heavy-duty industrial vacuum cleaner and the material picked up shall be disposed of by burning or other means to destroy any insects present.

Exhaust stacks, elevators, and conveyors shall be inspected at regular intervals and kept clean.

PERSONNEL CLEANLINESS AND HEALTH

Sec. 9 Cleanliness.

Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands. They shall keep their hands clean and follow good hygienic practices while on duty. Expectorating or use of tobacco in any form shall be prohibited in rooms and compartments where milk, dairy products, mix or frozen desserts are unpacked or exposed. Clean white or light colored washable outer garments and caps (paper caps or hairnets are acceptable) shall be worn by all persons engaged in processing milk, dairy products, mix or frozen desserts.

In addition, employees engaged in manual molding, wrapping, and touching any product contact surface shall treat their clean hands with a bactericide of approved strength before beginning such work and after each interruption. Rubber or plastic gloves may be used if sanitized as above.

Sec. 10 Health.

No person afflicted with a communicable disease shall be permitted in any room or compartment where milk, dairy products, mix or frozen desserts are prepared, processed, or otherwise handled. No person who has a discharging or infected wound, sore, or lesion on hands, arms or other exposed portions of the body shall work in any plant processing or packaging rooms or in any capacity resulting in contact with milk, dairy products, mix, or frozen desserts.

Each employee, including bulk milk collectors, whose work brings him in contact with the processing or handling of milk, dairy products, mix or frozen desserts, containers, or equipment shall have a medical and physical examination by a registered physician or by the local department of health and shall furnish a satisfactory medical certificate prior to employment. An employee returning to work following illness from a communicable disease shall have a certificate from his attending physician to establish proof of complete recovery.

PLANT OPERATIONS

Sec. 11 Pasteurization of frozen dessert mix.

After formulation the entire mix except for flavoring ingredients shall be pasteurized. Pasteurized mix or frozen desserts shall not be permitted to come in contact with equipment or containers with which unpasteurized mix, frozen desserts, milk or milk products have been in contact, unless such equipment has first been properly washed and subjected to a satisfactory bactericidal treatment.

Sec. 12 Cooling.

Processed fluid milk products including mix, except sterilized mix in hermetically sealed containers, shall be cooled promptly after heat treatment or pasteurization to 45° F. or lower and maintained thereat until used. This does not preclude holding fluid milk products at higher temperatures for a short period of time immediately prior to freezing where applicable to particular manufacturing or processing practices.

Sec. 13 Storage.

(a) Utensils and portable equipment. Utensils and portable equipment used in processing operations shall be stored above the floor in clean, dry locations, and in self-draining position on racks constructed of impervious, corrosion-resistant material.

(b) *Raw Milk and Cream.* Bulk milk, cream and fluid dairy products within the processing plant or receiving station shall be handled in such a manner as to minimize bacterial increase and shall be maintained at 45° F. or lower until processing begins.

(c) *Overflow and Spillage.* Product drip or spilled mix or frozen desserts or their ingredients, shall not be sold for human consumption.

(d) *Nonrefrigerated products.* Dairy products, mix or frozen dessert ingredients in dry storage shall be arranged in aisles, rows, sections, or lots or in such a manner as to be orderly and easily accessible for inspection and to permit adequate cleaning of the room. Dunnage or pallets shall be used when applicable. Dairy products, mix or frozen dessert ingredients shall not be stored with any product that would damage them or impair their quality. Open containers shall be carefully protected from contamination.

(e) *Refrigerated products.* All products requiring refrigeration except where otherwise specified, shall be stored under such optimum temperatures and humidity as will maintain their quality and condition. Products shall not be placed directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that might cause package or product damage.

(f) *Supplies.* Items in supply rooms shall be kept clean and protected and be so arranged as to permit inspection of supplies and cleaning and spraying of the room. Insecticides and rodenticides shall be properly labeled, segregated, and stored in a separate room or cabinet away from milk or dairy products or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets and single service sticks, spoons, covers, and containers for frozen desserts, mix or their ingredients shall be purchased and stored only in sanitary tubes, wrappings, or cartons; shall be kept therein in a clean, dry place until used; and shall be handled in a sanitary manner.

Sec. 14 Laboratory control tests.

Quality control tests shall be made by the laboratory on flow samples as often as necessary to check the effectiveness of processing in order to correct processing deficiencies. Routine analyses shall be made on raw materials and finished products to assure adequate composition and quality control.

Sec. 15 Packaging and labeling.

(a) *Packaging.* Frozen desserts and mix shall be packaged in commercially acceptable containers and packaging material that will protect the quality of the contents in regular channels of trade. Metal containers shall be free from rust, cracks, or unsanitary conditions. Prior to use, closures, covers, wrappers and containers shall be protected against dust, mold and other possible contamination. The packaging, cutting, molding, dispensing and other handling or preparation of mix or frozen desserts and their ingredients shall be done in a sanitary manner.

(b) *Labeling.* Mix in commercial bulk shipping containers shall be tagged or legibly marked with the name of the product, pasteurization date or code, net contents, name and address of processor, manufacturer or distributor and plant license number if applicable. Containers for frozen desserts shall be labeled in accordance with the provisions of the U.S. Food and Drug Administration Standards of Identity for Frozen Desserts and/or (the regulatory agency) having jurisdiction.

Sec. 16 Returns.

Mix or frozen desserts in broken, opened or partially full containers may after delivery be returned to the plant for inspection, but shall not be sold or used for making mix or frozen desserts.

Sec. 17 Lubricants.

Lubricants approved for use on milk product contact surfaces that are applied to filling machine pistons and cylinders, pumps, and valves shall be sterile and shall be applied in a sanitary manner.

RECORDS REQUIRED TO BE KEPT BY PLANTS

Sec. 18 Availability.

All records required herein (sections 19 thru 22) to be kept by plants shall be available for examination by (the regulatory agency) at reasonable times.

Sec. 19 Water supply test records.

The results of all plant water supply tests shall be kept on file at the plant for at least 12 months.

Sec. 20 Raw milk bacterial and sediment records.

Records of bacterial and sediment tests on raw milk shall be kept on file at the plant for at least 12 months.

Sec. 21 Pasteurization recorder charts.

Recorder charts showing the pasteurization record for each day shall be appropriately marked with the name of the product, date, and signature of the operator. The charts shall be kept on file at the plant for at least 6 months.

Sec. 22 Employee medical certificates.

Current-employee medical certificates shall be kept on file at the plant.

MISCELLANEOUS

Sec. 23 Vehicles.

All vehicles used for the transportation of mix, frozen desserts, cream, milk and dairy products shall be constructed and operated so as to protect their contents from heat, sun and contamination. Such vehicles shall be kept clean, and no substance capable of contaminating mix, frozen desserts, cream, milk and dairy products shall be transported therein. Vehicles transporting frozen desserts and/or mix to wholesale or retail outlets shall have the name of the distributor prominently displayed thereon. (See Subpart C, sec. 57 for additional requirements regarding transport tanks for fluid products.)

Sec. 24 Frozen Desserts Retail Establishments.

Frozen desserts retail establishments including commissaries and depots, shall be exempt from the provisions of Subparts B and C of this standard. However, such establishments shall comply with the applicable provisions of the current edition of the U.S. Public Health Service "Food Service Sanitation Ordinance and Code" as published in USPH Pub. 934. (In states where allowed, it may be enacted into law by reference; if not, the provisions of the ordinance must be included in the adopted regulations.)

PRODUCT TEST PROCEDURES AND QUALITY REQUIREMENTS

Sec. 26 The Examination of frozen desserts and their ingredients.

At irregular intervals during any 6-month period at least five samples of frozen desserts, pasteurized mix, and milk, cream, and dairy ingredients from each plant, shall be taken and examined by (the regulatory agency). Provided, that (the regulatory agency) may accept the test results of laboratories which have been checked periodically and found satisfactory. Samples of the frozen desserts or mix may be taken at any time prior to final delivery. Samples of milk, cream, and dairy products shall be taken upon their arrival at the frozen desserts plant.

The products shall be tested in accordance with tests and examinations contained in Standard Methods for the Examination of Dairy Products or Official Methods of Analysis of the Association of Official Agricultural Chemists.

No ingredients shall be used in processing frozen desserts which are adulterated within the meaning of the Federal Food, Drug and Cosmetic Act, as amended, and General Regulations for Its Enforcement.

Sec. 27 Quality Standards for raw milk and dairy products used as ingredients in frozen desserts.

The bacterial quality of commingled milk and cream, and other dairy products for use in the manufacture of mix and frozen desserts shall comply with the following standards:

Product	Maximum plant delivery temperature [1]	Raw for pasteurization not more than— [2]
Milk or skim milk	50° F	500,000/ml. standard plate count.[3]
Cream	50° F	800,000/ml. standard plate count.[3]

[1] When delivered to a dairy plant by transport tanker.
[2] Commingled at plant or received in transport tanks.
[3] In 3 out of the last 5 consecutive samples taken by the regulatory agency.

NOTE: It is recognized that there are variations in the bacterial quality of manufacturing milk in various areas of the country and that the effective enforcement of the recommended standards may require more time in some areas than in others. Therefore, in order to facilitate immediate adoption of the standards, options may be provided for delayed adoption, where necessary for a period up to 5 years on provisions for minimum bacterial quality standards for raw milk and dairy products used as ingredients in frozen desserts.

Sec. 28 Quality standards for pasteurized dairy ingredients, mix, or frozen desserts.

Pasteurized [2] mix, dairy ingredients and frozen desserts shall comply with the following standards:

[2] The phenol value shall be no greater than the minimum specified for the particular product, as determined by the phosphatase test of the latest edition of "Standard Methods."

	Bacteria count standard plate count not more than—[1]	Coliform determination not more than—[1]	Storage temperature
Milk	50,000/ml	10/ml	45° F.
Cream	50,000/ml	10/ml	45° F.
Fluid dairy ingredient	50,000/ml	10/ml	45° F.
Mix	50,000/gr	10/gr	45° F.[2] [3]
Frozen dessert (plain)	50,000/gr	10/gr.[4]	
Dry dairy ingredient [5]			

[1] In 3 out of the last 5 consecutive samples taken by the regulatory agency.
[2] This does not preclude holding mix at higher temperatures for a short period of time immediately prior to freezing where applicable to particular manufacturing or processing practices.
[3] This does not apply to sterilized mix in hermetically sealed containers.
[4] 20/gr. for chocolate, fruit, nuts or other bulky flavored frozen desserts.
[5] Extra Grade or better as defined by U.S. Standards for Grades for the particular product.

PLANT LICENSING

Sec. 29 Qualifications.

Plant licensing requires that not more than 10 percent of the patron cans (including lids) shall show open seams, cracks, rust, milkstone, or any unsanitary condition; when used, HTST units shall meet the 3–A accepted Practices for Sanitary Construction, Installation, Testing, and Operation of HTST Pasteurizers; and a safe water supply is required with no cross-connections between safe and unsafe lines or between public and private water supplies.

Also a rating of not less than 85 percent of the maximum score allowed for the total of each applicable numbered group of items preceded by an asterisk (19, 20, 21, 22, 29, 30, 31, 37, 38, and 39). The total score of all applicable numbered items, including those marked with an asterisk shall be not less than 85 percent of the possible total score.

Sub-items may be rated in quarter points.

Sec. 30 Necessity for plant license.

Within 12 months from the effective date of these rules and regulations, every plant receiving or processing milk for the manufacture of mix and frozen desserts or manufacturing frozen desserts from mix shall be inspected and all qualified plants shall be licensed as provided in sections 31, 32, 33, 34, and 35.

On or after the effective date of these rules and regulations, a new plant shall be inspected and licensed as provided in sections 31, 32, 33, 34, and 35 before buying or processing any milk for the manufacture of mix and frozen desserts. Twelve months from and after the effective date of these rules and regulations, no unlicensed plant shall handle, purchase, or receive milk or manufacture mix and frozen desserts therefrom.

All licensed plants shall be inspected annually after issuance of the initial license to determine eligibility for license renewal. The inspection procedure for license renewal shall be the same as that for initial licensing.

Sec. 31 Application for license.

Applications to (the regulatory agency) for a new or renewal license for plants shall contain the name and address of the applicant and such other pertinent information as may be required.

Sec. 32 Plant inspection.

Each plant shall be inspected by an inspector of (the regulatory agency) or by any other inspector acceptable to (the regulatory agency in jurisdiction). If, upon initial inspection, the inspector finds that the plant meets the requirements for licensing described in sections 5 to 29, as indicated by the Plant Inspection Report Form (section 37), a license shall be issued to the plant as described in section 33. If the plant does not meet the requirements for licensing, the plant shall be reinspected by an inspector within 30 days of the initial inspection. A longer time may be allowed if major changes or new equipment is required. If at this time the plant meets the requirements for licensing, a license shall be issued. If the plant does not meet the requirements for licensing, it shall not be licensed, and its authorization to handle, purchase, or receive milk or to manufacture mix or frozen dessert products therefrom shall be withheld until such time as the plant qualifies for a license.

Each completed Plant Inspection Report Form (section 37) shall be kept by (the regulatory agency), and a copy shall be given to the plant operator.

Sec. 33 Issuance of plant license.

(The regulatory agency) shall license plants that meet the specifications of sections 5 to 29 based upon the inspection procedure described in section 32. The license certificate shall be posted conspicuously at the plant. The license shall authorize the plant to test, purchase and receive milk for manufacturing purposes and/or to manufacture mix and frozen desserts therefrom, in compliance with the applicable provisions of the Act and the rules and regulations issued pursuant thereto.

Sec. 34 Expiration, suspension, and revocation of license.

Licenses shall expire and become renewable one year from the date of issuance unless revoked earlier, and no license shall be transferable.

If at any time an inspector determines that a licensed plant does not meet the requirements for licensing, he may allow a reasonable probationary period for the operator to bring his plant within the requirements for licensing. If at the end of this time the plant does not meet the licensing requirements (the regulatory agency) may refuse or revoke the plant license. An opportunity for a hearing shall be provided any licensee before suspension or revocation of his license.

Sec. 35 Reinstatement.

If, after a period of withholding, probation, or revocation of a plant license, the operator makes the necessary corrections at the plant, he may apply to (the regulatory agency) for reinspection and reinstatement. When the inspector determines that requirements for licensing have been met (the regulatory agency), shall issue a license to the plant.

SUPERVISION

Sec. 36 Regulatory agency.

(The regulatory agency) to insure compliance with the provisions of the Act and the rules and regulations shall:

(a) Periodically inspect plant premises, buildings, equipment, facilities, operations, and sanitary practices.

(b) Perform such other services and institute such other supervisory procedures as may be necessary to ensure compliance with the provisions of the Act and the rules and regulations.

Sec. 37 Plant Inspection Report Form.

The following form shall be used by inspectors in determining eligibility for plant licensing:

PLANT INSPECTION REPORT

Date_____
Name of plant_____
Owner or manager_____
Address _____
License No_____
Products manufactured_____
Time of inspection ____ p.m., a.m. ____ before, during, after processing.

Plant licensing requires that not more than 10 percent of the patron cans (including lids) shall show open seams, cracks, rust, milkstone, or any unsanitary condition; when used, HTST units shall meet the 3–A accepted Practices for Sanitary Construction, Installation, Testing and Operation of HTST Pasteurizers; and a safe water supply is required with no cross-connections between safe and unsafe lines or between public and private water supplies.

Also a rating of not less than 85 percent of the maximum score allowed for the total of each applicable numbered group of items preceded by an asterisk (19, 20, 21, 22, 29, 30, 31, 37, 38 and 39). The total score of all applicable numbered items, including those marked with an asterisk, shall be not less than 85 percent of the possible total score.

Subitems may be rated in quarter points.

PLANT INSPECTION REPORT FORM

	Maximum score	Applicable score	Score given [1]
PREMISES, BUILDINGS, AND FACILITIES			
1. Premises and surroundings		2	
Clean, 0.5.			
Orderly, 0.5.			
Properly drained, 0.5.			
Free from foul odors or smoke, 0.5.			
2. Buildings		2	
Sound construction, 1.			
Clean, good repair, 1.			
3. Doors and windows		2	
Clean, 0.5.			
Screened or protected, 1.			
Processing room outer doors open and close properly, 0.5.			
4. Conveyor and service-pipe openings covered or protected		1	
5. Floors		2	
Smooth and impervious, 1.			
Good repair, 1.			
6. Wall and ceilings		4	
Smooth, 1.			
Impervious, 1.			
Washable, 1.			
Light color, 1.			
7. Processing rooms		6	
Adequate size, 1.			
Clean, 0.5.			
Orderly, 0.5.			
No undue condensation or objectionable odors, 1.			
Ample light, well distributed, 1.			
Free from unnecessary equipment or utensils, 1.			
Free from insects and rodents, 1.			

See footnote at end of table.

PLANT INSPECTION REPORT FORM—Continued

	Maximum score	Applicable score	Score given[1]
PREMISES, BUILDINGS, AND FACILITIES—continued			
8. Coolers and freezers Adequate size, 1. Clean, 0.5. Dry, 0.5. Orderly, 0.5. Sufficient refrigeration and air circulation, 2. Adequately lighted, 0.5.		5	
9. Dry storage space (product) Adequate size, 1. Clean, 0.5. Dry, 0.5. Orderly, 0.5. Adequately lighted and ventilated, 0.5. Free from insects and rodents, 1.		4	
10. Supply rooms Clean, 0.5. Dry, 0.5. Orderly, 0.5. Adequately lighted and ventilated, 0.5. Free from insects and rodents, 1.		3	
11. Toilet and dressing rooms Properly located and separated, 0.5. Good repair, 0.5. Self-closing doors, 0.5. Clean, 0.5. Orderly, 0.5. Adequately lighted and well ventilated 0.5.		3	
12. Boiler and tool rooms separated from other rooms and adequately lighted		1	
13. Laboratory Sufficient work area, 1. Adequately equipped, 1. Adequately staffed, 1. Adequately lighted and ventilated; 1.		4	
14. Water supply Ample hot and cold water, 1. Conveniently located, 0.5. Current bacterial tests on file, 0.5. (date tested ----------).		2	
15. Steam Clean and nontoxic, 1. Adequate supply and pressure, 1.		2	
16. Drinking-water facilities sanitary and convenient		1	
17. Hand-washing facilities Properly equipped and clean, 1. Convenient, 0.5. Self-closing waste containers provided, 0.5.		2	
18. Waste disposal Sewer of sufficient capacity, 0.5. Nonpublic disposal methods approved, 0.5. Refuse in covered containers, 0.5. Waste paper properly handled, 0.5.		2	
EQUIPMENT AND UTENSILS			
*19. Construction and maintenance Product contact surfaces of stainless steel or other equally corrosion-resistant material, 3. Good condition, 2. Accessible for cleaning, 2.		7	
*20. Pasteurizers Good operating order, 1. Equipped with thermometers and recorders, 1.		2	
*21. Thermometers and recorders Adequate, 2. Sufficiently accurate, 1. Recorder charts in order and on file, 1.		4	
*22. C-I-P and welded sanitary lines properly engineered and installed		2	
23. Portable equipment and utensils suitably stored		1	
24. Can washers Operating properly, 1. Clean, good repair, 1.		2	
25. Exhaust stacks, elevators, conveyors in good condition		1	

PLANT INSPECTION REPORT FORM—Continued

	Maximum score	Applicable score	Score given[1]
EQUIPMENT AND UTENSILS—continued			
26. Vacuum cleaner in good condition used regularly, refuse disposal satisfactory		1	
27. Farm trucks Enclosed type, 1. Clean, 1.		2	
28. Transport tanks Good condition, interior smooth, enclosed tight-fitting cabinet, 1. Piping and tubing capped, 0.5. Washing facilities available, 1. Tanks clean, 0.5. Bactericidal-treated before use, 0.5. Current cleaning and sanitizing in place, 0.5.		4	
PLANT OPERATIONS			
*29. Cleaning and sanitizing plant equipment and utensils Equipment not designed for C-I-P is disassembled and thoroughly cleaned, 2. C-I-P system operated properly, 1. Utensils and other equipment and in-place pipelines thoroughly cleaned, 1. All equipment subjected to an effective bactericidal treatment immediately before use, 1.		5	
30. Raw-product storage, proper temperature maintained until start of processing		2	
*31. Pasteurization Milk and cream properly pasteurized, 1. Recorder corresponds to indicating thermometer, 1.		2	
32. Processed fluid products cooled promptly		2	
33. Laboratory Tests adequate, 1. Records available, 1.		2	
34. Product containers clean and sound		2	
35. Dry storage Product and supplies placed on dunnage or pallets, 1. Arranged in aisles, rows, or sections, 1.		2	
36. Refrigerated or freezer storage Proper temperature maintained to protect quality, 1. Products not placed directly on wet floors, 1.		2	
*37. Personnel cleanliness Clean outer garments, 1. Caps or hairnets worn, 0.5. No smoking, 0.5. Good hygiene practiced, 1.		3	
*38. Personnel health No communicable disease, 1. General good health, 0.5. Current medical records on file, 0.5.		2	
*39. Plant drains and sewers Drains properly trapped, 1. No sewage backflow, 1.		2	

[1] Indicate under "Remarks" specific deficiency or reason for disrating.

Remarks: On the basis of this survey, this plant (is) (is not) eligible for a license.

Note: 85 percent of—

1=0.85	5=4.25
2=1.70	6=5.10
3=2.55	7=5.95
4=3.40	

(Signature) (Inspector)

(Title)

(Signature) (Plant official)

(Title)

SUBPART C—MINIMUM QUALITY STANDARDS FOR MILK TO BE USED IN THE MANUFACTURE OF FROZEN DESSERTS

Sec. 40 Basis.

The classification of raw milk for manufacturing purposes from individual producers shall be based on organoleptic examination (sight and odor) and quality control tests for sediment content and bacterial estimate.

NOTE: State Regulatory agencies that have not adopted subpart E—Procedures for Farm

Certification of the "Minimum Standards for Milk for Manufacturing Purposes and Its Production and Processing Recommended for Adoption by State Regulatory Agencies" (FEDERAL REGISTER of June 26, 1963) may wish to include those provisions at this point.

Sec. 41 Sight and odor.

The flavor and odor of acceptable raw milk shall be fresh and sweet. The milk shall be free from objectionable feed and other off-flavors and off-odors that would adversely affect the finished product, and it shall not show any abnormal condition (including, but not limited to, curdled, ropy, bloody, or mastitic condition), as indicated by sight or odor.

Sec. 42 Sediment content classification.

Milk in cans and in farm bulk tanks shall be classified for sediment content as follows:

Sediment-content classification [1]	Milk in cans (off-the-bottom method 1⅛-inch diameter disc)	Milk in farm bulk tanks (mixed sample, 0.40-inch diameter disc)
No. 1 (acceptable)	Not to exceed 0.50 mg.	Not to exceed 0.50 mg. equivalent.
No. 2 (acceptable)	Not to exceed 1.50 mg.	Not to exceed 1.50 mg. equivalent.
No. 3 (probational)	Not to exceed 2.50 mg.	Not to exceed 2.50 mg. equivalent.
No. 4 (reject)	Over 2.50 mg.	Over 2.50 mg. equivalent.

[1] Sediment content based on comparison with the U.S. Department of Agriculture sediment standards for milk and milk products.

Sec. 43 Bacterial estimate classification.

Milk from the producers shall be classified for bacterial estimate as follows by one of the listed methods:

Bacterial estimate classification	Direct microscopic clump count or standard plate count	Methylene blue test, decolorized in—	Resazurin reduction time to Munsell color standard 5P7/4
No. 1 (acceptable)	Not over 500,000 per ml.[1]	Not less than 4½ hours [1]	Not less than 2¼ hours.[1]
No. 2 (acceptable)	Not over 3,000,000 per ml.	Not less than 2½ hours.	Not less than 1½ hours.
Undergrade (probational) (4 weeks).	Over 3,000,000 per ml.	Less than 2½ hours.	Less than 1½ hours.

[1] In 3 out of the last 5 samples for No. 1 only.

MILK-GRADING PROCEDURE

Sec. 44 Milk graders.

Each plant shall provide one or more milk graders or bulk milk collectors who shall examine and grade the milk from each producer in accordance with the applicable provisions of sections 40 to 43 and 46 to 50.

Sec. 45 Identification of milk.

All raw milk delivered to the receiving point, receiving station, or plant shall be identified as to the producer, seller, or shipper from whom received.

Sec. 46 Sight and odor.

Each can or farm bulk tank of milk shall be examined for physical characteristics and odor. Any milk that does not meet the requirements of section 41 shall be rejected, and the producer shall be notified immediately.

Sec. 47 Sediment content.

(a) *Method of testing.* Methods for determining sediment content of milk shall be those described in the latest edition of Standard Methods. For the testing of milk in cans, the off-the-bottom method shall be used. For testing bulk milk, a mixed 1-pint sample shall be tested.

(b) *Classification of discs.* Each sediment disc shall be classified in accordance with the provisions of section 42.

(c) *Frequency of tests.* At least once each month, at irregular intervals, the milk from each producer shall be tested as follows: (1) *Milk in cans.* One or more cans of milk selected at random from each producer.

(2) *Milk in farm bulk tanks.* A sample shall be taken from each farm bulk tank.

(d) *Acceptance or rejection of milk.* If the sediment disc is classified as No. 1, No. 2, or No. 3 the producer's milk shall be accepted. If the sediment disc is classified No. 4 the milk shall be rejected: *Provided,* That if the shipment of milk is commingled with other milk in a transport tank the next shipment shall not be accepted until its quality has been determined at the farm before being picked up; however, if the person making the test is unable to get to the farm before the next shipment it may be accepted but no further shipments shall be accepted unless the milk meets the requirements of No. 3 or better. In the case of milk classified as No. 3 or No. 4, if in cans, all cans shall be tested. Producers of No. 3 or No. 4 milk (cans or bulk) shall be notified immediately and shall be furnished applicable sediment discs and the next shipment shall be tested.

(e) *Retests.* On test of the next shipment (if in cans, all cans shall be tested) milk classified as No. 1, No. 2, or No. 3 shall be accepted, but No. 4 milk shall be rejected. Retests of bulk milk classified as No. 4 shall be made at the farm before pickup. The producers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment tested.

This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for a period not to exceed 10 calendar days. If at the end of this time the producer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2) it shall be excluded from the market in accordance with sections 53(b) and 54.

Sec. 48 Bacterial estimate.

(a) *Method of testing.* Methods for determining the bacterial estimate of milk shall be those described in the latest edition of Standard Methods.

(b) *Classification.* Milk shall be classified for bacterial estimate in accordance with the provisions of section 43.

(c) *Frequency of tests.* At least once each month, at irregular intervals, a mixed sample of each producer's milk shall be tested.

(d) *Acceptance of milk.* If the sample of milk is classified as No. 1 or No. 2 the producer's milk may be accepted without qualification. If the sample is classified as "Undergrade" (probational) the producer's milk may be accepted for a temporary period of 4 weeks. The producer of "Undergrade" milk shall be notified immediately.

(e) *Retests.* Additional samples shall be tested and classified at least weekly and the producer notified immediately of the results. This procedure of testing at least weekly and accepting "Undergrade" milk may be continued for a time period not exceeding 4 weeks. If at the end of this time the producer's milk does not meet the acceptable bacterial estimate requirements (No. 1 or No. 2), it shall be excluded from the market in accordance with sections 53(c) and 54.

Sec. 49 New producers.

The first shipment of milk received from a new producer shall be tested and classified in accordance with sections 40 to 48. If the tests show that the milk meets the requirements for acceptable milk (section 2(v)), it may be accepted; and his milk shall thereafter be tested in accordance with the procedure described in sections 46 to 48. If the tests show that the milk does not meet the requirements for acceptable milk, it shall be excluded from the market; and successive shipments of this producer's milk shall be tested and excluded until the tests show that his milk meets the requirements for acceptable milk. Thereafter his milk shall be tested in accordance with the procedure described in sections 46 to 48. A farm inspection shall be made within 30 days to establish certification of the new producers farm.

Sec. 50 Transfer producers.

When a producer discontinues milk delivery at one plant and begins delivery to a different plant for any reason, the new buyer shall not accept the first delivery until he has requested from the previous buyer and received a copy of the record of the producer's milk quality covering the preceding 90 days and a statement of the farm certification status and date of certification, if any. The previous buyer shall furnish the new buyer with such information within 24 hours after receipt of a written request, unless the records have been destroyed by means over which he has no control: *Provided,* That, the new buyer may accept a producer's milk after making the request for the record by telephone and obtaining assurance from the previous buyer that the producer's milk may be accepted; the

new buyer shall then make a written request to the old buyer for the producer's record.

If the new buyer requests and fails to receive the quality record from the previous buyer, he shall report such fact to (the regulatory agency) and shall cause a farm inspection to be made within 7 days to confirm or establish certification of the transfer producer's farm.

In lieu of the quality record from the previous buyer the producer may furnish the new buyer with a copy of the milk quality tests received with each remittance, monthly or semimonthly, for the preceding 90-day period.

The new buyer shall examine and classify each transfer producer's first shipment of milk and shall subsequently examine shipments in accordance with the provisions of sections 44 to 48.

REJECTION AND EXCLUSION OF MILK

Sec. 51 Rejected milk.

A plant shall reject specific milk from a producer if it fails to meet the requirements for sight and odor (sections 41 and 46) or if it is classified No. 4 for sediment content (sections 42 and 47). All reject milk in cans shall be identified with a reject tag and adulterated by the addition of a harmless food coloring or harmless coagulant. All reject milk in farm bulk tanks shall be colored.

Sec. 52 Field service.

A fieldman shall visit each producer of probational or reject milk within 7 days from the date of the second consecutive substandard test to inspect equipment and utensils and methods of handling the milk and to make suggestions and recommendations for improving milk quality.

Sec. 53 Excluded milk.

A plant shall not receive any milk from a producer under the following circumstances:

(a) If a new producer's milk does not meet the requirements for acceptable milk (section 49) or

(b) If the milk has been in a probational (No. 3) sediment content classification for more than 10 calendar days (sections 42 and 47).

(c) If the milk has been classified "Undergrade" for bacterial estimate for more than four successive weeks (sections 43 and 48).

(d) If, 24 months from and after the effective date of these rules and regulations, the farm is not certified as provided for in section 40.

(e) If the producer refuses to permit farm inspection.

When a plant discontinues receiving milk from a producer for any of the reasons listed in this section, it shall notify (the regulatory agency) immediately in writing.

Sec. 54 Reacceptance of producer's milk.

Subsequent shipments of milk from a producer whose milk has been excluded from the market may be accepted by the plant when the cause for exclusion has been corrected and the milk classified as acceptable.

SUPERVISION

Sec. 55 Regulatory agency.

(The regulatory agency) to insure compliance with the provisions of the Act and the rules and regulations shall:

(a) Make periodic examinations of milk from a representative number of producers at each plant to determine whether the milk is being graded and tested in accordance with the applicable provisions of Subparts B and C.

(b) Examine the quality records of transfer producers at each plant periodically and when necessary determine the acceptability of such producers' milk.

(c) Assist plant management and laboratory and field staffs with educational programs among producers relating to quality improvement of milk.

(d) Perform such other services and institute such other supervisory procedures as may be necessary to ensure compliance with the provisions of the Act and the rules and regulations.

TRANSPORTATION OF RAW MILK

Sec. 56 Transporting milk in cans.

Vehicles used for the transportation of can milk shall be of the enclosed type, constructed and operated to protect the product from extreme temperatures, dust, or other adverse conditions, and they shall be kept clean. Decking boards shall be provided where more than one tier of cans is carried.

Cans used in transporting milk from dairy farm to plant shall be of such construction (preferably seamless) as to be easily cleaned, and shall be inspected, repaired, and replaced as necessary to exclude substantially the use of cans and lids with open seams, cracks, rust, milkstone, or any unsanitary condition.

Cans used for transporting raw milk to plants shall not be used for transporting skim milk, buttermilk, or whey to producers. Milk cans shall be cleaned, sanitized, and dried before returned to producers. Can washers shall be maintained in a clean and satisfactory operating condition and kept free from accumulation of scale that would adversely affect the efficiency of the washer.

Sec. 57 Transport tanks (a) Construction.

Transport tanks shall be stainless-steel lined and so constructed that the lining will not buckle, sag, or prevent complete drainage. All milk contact surfaces shall be smooth, easily cleaned, and maintained in good repair. The pump and hose cabinet shall be fully enclosed and have tight-fitting doors. New and replacement transport tanks shall meet the 3–A Sanitary Standards for Milk Transport Tanks.

(b) *Transfer of milk to transport tank.* Milk shall be transferred from farm bulk tanks to transport tanks through stainless steel piping or approved tubing under sanitary conditions. This sanitary piping and tubing shall be capped when not in use.

(c) *Cleaning and sanitizing.* A covered or enclosed washing dock and other facilities shall be available for all plants that receive or ship milk in tanks. Milk transport tanks, sanitary piping, fittings and pumps shall be cleaned and sanitized at least once each day, after use: *Provided;* That if they are not to be used immediately after emptying a load of milk, they shall be washed promptly after use and given bactericidal treatment immediately before use. After being washed and sanitized, each tank shall be identified by a tag attached to the outlet valve, bearing the following information: plant and specific location where cleaned, date and time of day of washing and sanitizing, and name of person who washed and name of person who sanitized the tank. The tag shall not be removed until the tank is again washed and sanitized.

RECORDS TO BE KEPT BY PLANTS

Sec. 58 Availability.

All records required to be kept by plants shall be available for examination by (the regulatory agency) at all reasonable times.

Sec. 59 Milk quality test records.

Accurate records listing the results of quality tests on each producer's milk shall be kept on file at the plant for at least 12 months.

Sec. 60 Can inspection records.

Every three months the plant shall audit the can inspection program and keep a record of the total number of cans examined and the percentage of the cans found to be improperly cleaned or dried, in need of repair, or otherwise unfit for use. These records shall be kept on file at the plant for at least 12 months.

LICENSING MILK GRADERS, AND BULK MILK COLLECTORS

Sec. 61 Application for license.

Applications to (the regulatory agency) for a new or renewal license for milk graders, and bulk milk collectors shall contain the name and address of the applicant and such other pertinent information as may be required.

Sec. 62 Issuance of license.

(a) *Milk graders, and bulk milk collectors.* (The regulatory agency) shall license milk graders and bulk milk collectors who meet the qualifications prescribed by (the regulatory agency). The licenses of milk graders and bulk milk collectors shall authorize them to grade, accept, and reject raw milk in accordance with the provisions of sections 40 to 51.

Sec. 63 Expiration, suspension, and revocation of license.

Licenses shall expire and become renewable 1 year from the date of issuance unless revoked earlier, and no license shall be transferable.

(The regulatory agency) may suspend or revoke licenses of milk graders and bulk milk collectors for any violation of these regulations or the Act. An opportunity for a hearing shall be provided any licensee before suspension or revocation of his license.

Sec. 64 **Reinstatement.**

The reinstatement of licenses for milk graders and bulk milk collectors which have been suspended or revoked shall be made only after satisfying (the regulatory agency) of their qualifications.

Done at Washington, D.C. this 15th day of June 1968.

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

[F.R. Doc. 68-7293; Filed, June 20, 1968; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

CONSUMER AND MARKETING SERVICE

Delegation of Functions

Section 110 of the Statement of Organization and Delegations published at 29 F.R. 16210 et seq., December 3, 1964, as amended at 30 F.R. 6697, May 15, 1965; 31 F.R. 10644, August 10, 1966; 33 F.R. 2793, February 9, 1968; and 33 F.R. 6251, April 24, 1968 is further amended as follows:

1. Paragraph 1 of Section 110 is amended to read as follows:

1. Poultry Products Inspection Act (21 U.S.C. 451 et seq.), Federal Meat Inspection Act, as amended by the Wholesome Meat Act (21 U.S.C. 601-611, 615-691), Humane Slaughter Act (7 U.S.C. 1901 et seq.), Process and Renovated Butter Act (26 U.S.C. 4817-4818).

Done at Washington, D.C., this 17th day of June 1968.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 68-7367; Filed, June 20, 1968; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

BATTELLE MEMORIAL INSTITUTE

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. 68-00335-65-46040. Applicant: Battelle Memorial Institute, 505 King Avenue, Columbus, Ohio 43201. Article: Scanning electron microscope. Manufacturer: Cambridge Instrument Co., Ltd., England. Intended use of article: The article will be used in scientific studies of the microtopography of a large variety of relatively rough surfaces. 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, was being manufactured in the United States at the time the applicant ordered the foreign article on August 29, 1967. (See letter from applicant dated May 29, 1968.) Reasons: There is currently one domestic manufacturer of scanning electron microscopes, the K Square Corp. (K Square) which, according to its letter dated April 28, 1968 had not begun accepting orders until October, 1967 with a quoted delivery time of 6 months. Therefore, we find that, within the purview of § 602.1(f) (1) of the above-cited regulations, no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, was being produced within the United States and was on sale and available from a stock in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-7330; Filed, June 20, 1968; 8:45 a.m.]

CLAYTON FOUNDATION BIOCHEMICAL INSTITUTE 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. 68-00608-00-46040. Applicant: Clayton Foundation Biochemical Institute, The University of Texas, Experimental Science Building 444, 24 and Speedway Street, Austin, Tex. 78712. Article: Electron microscope accessories. Manufacturer: Siemens AG, West Germany. Intended use of article: The articles will be used as accessories to an existing electron microscope presently employed for scientific and educational purposes. Application received by Commissioner of Customs: May 24, 1968.

Docket No. 68-00611-33-61200. Applicant: Fairview Hospital, 2312 South Sixth Street, Minneapolis, Minn. 55402. Article: Frame for correction of curvature of the spine. Manufacturer: Ets Belembert, France. Intended use of article: The article will be used for experimental trial in correction of curvature of the spine. Application received by Commissioner of Customs: May 27, 1968.

Docket No. 68-00613-00-46040. Applicant: The Johns Hopkins University, Purchasing Department, Baltimore, Md. 21218. Article: Electromagnetic shutter/exposure meter for Siemens electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to measure exact exposure time improvement of resolution power. Application received by Commissioner of Customs: May 28, 1968.

Docket No. 68-00614-00-46040. Applicant: The Johns Hopkins University, Baltimore, Md. 21218. Article: Decontamination device for Siemens electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to modify an existing Siemens electron microscope. Application received by Commissioner of Customs: May 28, 1968.

Docket No. 68-00616-01-72000. Applicant: Newark College of Engineering, 323 High Street, Newark, N.J. 07102. Article: Rheogoniometer, Weissenberg Model R.18. Manufacturer: Sangamo Controls, Ltd., United Kingdom. Intended use of article: The article will be used to carry out sophisticated research on the behavior of molten polymers, polymers solutions, and biological fluids. Application received by Commissioner of Customs: June 3, 1968.

Docket No. 68-00617-33-46040. Applicant: University of Pennsylvania, New Bolton Center, School of Veterinary Medicine, Rural Delivery 1, Kenneth Square, Pa. 19348. Article: Electron microscope, Model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will

be used primarily for the bovine leukemia research program which encompasses the detection and ultrastructural examination of viruses at high magnification. Application received by Commissioner of Customs: June 3, 1968.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-7334; Filed, June 20, 1968; 8:45 a.m.]

DUKE 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. 68-00432-33-46040. Applicant: Duke University, Duke University Medical Center, Durham, N.C. 27706. Article: Electron microscope, Model EM6B. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article. The article will be used for biological research to include investigation into the following areas: Intestinal absorption of water salt, lipids, amino acids, and sugars. 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: (1) The guaranteed resolution of the foreign article is 5 Angstroms. The only known comparable domestic electron microscope is the Model EMU-4, manufactured by the Radio Corporation of America (RCA), which has a guaranteed resolution of eight Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capabilities.) The additional resolving capabilities of the foreign article are pertinent because the applicant requires the highest available resolution in order to accomplish the purposes for which the foreign article is intended to be used. (2) The foreign article has five accelerating voltages, 30, 40, 50, 60, and 80 kilovolts, whereas the RCA Model EMU-4 has only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltages provide optimum contrast for unstained biological specimens and that the voltages intermediate between 50 and 100 kilovolts provide optimum contrast for negatively stained biological specimens. The additional accelerating voltages of the foreign article are pertinent since the applicant requires the use of both unstained and negatively stained specimens to accomplish the purposes for which the foreign article is intended to be used. For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-7335; Filed, June 20, 1968; 8:45 a.m.]

MICHIGAN STATE 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. 68-00414-91-28500. Applicant: Michigan State University, East Lansing, Mich. 48823. Article: Free-flow electrophoretic separator and vacuum pressure pump. Manufacturer: Brinkmann Instruments, AG, West Germany. Intended use of article: The articles will be used for electrophoretic separation of proteins. 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 intends to use the foreign article for separating protein and other molecules in a liquid medium. The only known comparable domestic instrument is the Continuous Particle Electrophoresis System (CPE) manufactured by Beckman Instruments (Beckman). We have been advised by the Department of Health, Education, and Welfare (HEW) (see memorandum dated Apr. 23, 1968) that the Beckman CPE is designed for particle separation, but does not have a demonstrated capability for separating protein molecules. Since the separation of protein molecules is a pertinent characteristic, we find that the Beckman CPE is not of equivalent value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-7336; Filed, June 20, 1968; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

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. 68-00544-00-46040. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Electromagnetic shutter for Elmiskop IA electron microscope. Manufacturer: Siemens & Halske AG, West Germany. Intended use of article: The article will be used to eliminate shutter vibration associated with manually operated shutters. 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. 68-7333; Filed, June 20, 1968; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

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. 68–00453–98–34040. Applicant: University of California, Lawrence Radiation Laboratory, East End of Hearst Avenue, Berkeley, Calif. 94720. Article: Microwave generator, Model CO–40B. Manufacturer: Compagnie Generale de Telegraphic Sansfil, France. Intended use of article: The article will be used as a replacement for three existing tubes in a polarized proton target used in high energy physics experiments in conjunction with the laboratory's Bevatron accelerator, 184-inch synchrocyclotron, and the Stanford linear accelerator. 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 combines a frequency of 70 Gigahertz with a power output of 2 watts across the entire tuneable range with a minimum of 10 watts at approximately 69 to 70 Gigahertz. The power level of a microwave generator determines the polarization area in the sample, while the frequency determines the degree of polarization. For the purposes for which the foreign article is intended to be used, both the 10-watt power level and the 70 Gigahertz frequency are necessary.

The Department of Commerce knows of no instrument or apparatus being manufactured in the United States, which combines in a single unit the required frequency and required output range.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–7331; Filed, June 20, 1968; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA AT DAVIS

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. 68–00463–67–46040. Applicant: University of California at Davis, College of Engineering, Davis, Calif. 95616. Article: Electron microscope, Model JEM–7A and ALG–1 goniometer stage. Manufacturer: Japan Electron Optics Laboratory, Ltd., Japan. Intended use of article: The article will be used for particle size of emulsions and metal crystallites, and dislocation studies in bcc metals by large angle sample rotation. 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: (1) The foreign article provides a mechanical stage with a 30° tilt and beam deflection, with a large distortion free angular field. This combination is pertinent to the study of diffraction phenomena and particle size determination. The only known comparable domestic instrument is the Model EMU–4 electron microscope manufactured by the Radio Corporation of America (RCA). This domestic instrument provides only a 10° stage tilt and beam deflection. (2) The foreign article provides a resolution of 6 Angstroms, whereas the RCA Model EMU–4 provides a resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolution.) For the purposes for which the foreign article is intended to be used, the additional resolving capabilities of the foreign article are pertinent. For the foregoing reasons, we find that the RCA Model EMU–4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–7332; Filed, June 20, 1968; 8:45 a.m.]

UNIVERSITY OF MICHIGAN

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. 68–00431–33–46040. Applicant: The University of Michigan, Dental Research Institute, Laboratory of Cell Biology, 543 Church Street, Ann Arbor, Mich. 48104. Article: Electron miscroscope, Model JEM–5C. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used in research and research training of advanced graduate students, research associates and faculty members of both the School of Dentistry and several basic science departments. 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 a small air cooled electron microscope which can be readily moved from one location to another and operated by plugging into any ordinary electrical outlet. It permits a rapid observation of a large number of prepared samples. For training students in the elementary principles of electron microscopy, these characteristics are pertinent. The only known comparable domestic electron microscope is the Model EMU–4 manufactured by the Radio Corporation of America (RCA). The RCA Model EMU–4 is a relatively complex high resolution instrument designed primarily for advanced research. Furthermore, the domestic instrument requires a fixed installation with water cooling facilities. For the foregoing reasons, we find that the RCA Model EMU–4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus being manufactured in the United States, which is of equivalent scientific value to the foreign article for the purposes for which article is intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–7337; Filed, June 20, 1968; 8:45 a.m.]

UNIVERSITY OF MICHIGAN

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. 68–00399–33–46500. Applicant: The University of Michigan, Department of Pathology, 1335 East Catherine Street, Ann Arbor, Mich. 48104. Article: Ultrotome III ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to obtain reproducible sections of unfixed material which can be used for the ultrastructural localization of macromolecules using the enzyme-labeled antibody technique, which was developed by the applicant. 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: (1) The purposes for which the foreign article is intended to be used require an ultramicrotome capable of cutting the thinnest possible sections. The foreign article has the capability of cutting sections down to 50 Angstroms (page 6, 1965 catalogue for the "Ultrotome III" Ultramicrotome, LKB Produkter AB, Stockholm, Sweden). The only known comparable domestic ultramicrotome, the Model MT–2 manufactured by Ivan Sorvall, Inc. (Sorvall), has a specified thin-sectioning capability down to 100 Angstroms (page 11, 1966 catalogue for "Porter-Blum" MT–1 and MT–2 ultramicrotomes, Ivan Sorvall, Inc., Norwalk, Conn). The lower thin-sectioning capability of the foreign article is pertinent because the thinner the section that can be examined under an electron microscope, the more it is possible to take advantage of the ultimate resolving power of the microscope. (2) For its purposes, the applicant requires an instrument capable of reproducing a series of ultrathin sections with consistent accuracy and uniformity. We are advised by the Department of Health, Education, and Welfare (HEW) (memorandum dated Apr. 23, 1968) that only an ultramicrotome equipped with a thermal advance (feed) can meet this requirement. The foreign article incorporates both a thermal advance for ultrathin sections and a mechanical advance for thicker sections. The Sorvall Model MT–2 is equipped only with a mechanical feed. In connection with Docket No. 67–00024–33–46500, which relates to an identical foreign article, HEW advised that ultramicrotomes employing a mechanical system utilize a gear mechanism and inherent in such mechanisms are backlash and slippage. Hence, in mechanical systems, the variation in thickness and uniformity will be greater than in thermal systems when both are functioning at their best. We therefore find the thermal advance of the foreign article to be pertinent to the purposes for which such article is intended to be used. (3) The foreign article incorporates a device which permits measuring the knife angle setting to an accuracy of one degree (page 3 of catalogue on "Ultrotome III"), whereas no equivalent device is specified for the Sorvall Model MT–2. The capability of accurately measuring the knife-angle setting is pertinent because the angle at which the knife enters the specimen determines the thickness of the section.

For the foregoing reasons, we find that the Sorvall Model MT–2 ultramicrotome is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–7338; Filed, June 20, 1968; 8:45 a.m.]

UNIVERSITY OF NORTH CAROLINA

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. 68–00389–33–84500. Applicant: University of North Carolina, School of Medicine, Chapel Hill, N.C. 27514. Article: Vacuum evaporator. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used to clean apertures for an electron microscope and to do some shadow casting and carbon coating of specimens for the electron microscope. Comments: No comments have been received with respect to this application. Decision: Application denied. 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: There are two known manufacturers of vacuum evaporators in the United States: Denton Vacuum, Inc. (Model DV–502); and Kinney Vacuum, Inc. (Model K SE–2). Applicant admits that both of the domestic instruments are superior to the foreign article for the purposes for which such article is intended to be used.

Applicant alleges that (1) the domestic instruments are more expensive than the foreign article and (2), that the domestic instruments are too large for an already crowded laboratory. However, as defined in section 602.1(b)(7) of cited regulations, the term "pertinent characteristics" does not include a mere convenience that is not necessary for the accomplishment of the purposes for which the foreign article is intended to be used, nor does it include the cost of the instrument or apparatus. Consequently, we find that neither the cost of the domestic instruments nor their size are pertinent characteristics.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–7339; Filed, June 20, 1968; 8:46 a.m.]

UNIVERSITY OF TEXAS MEDICAL SCHOOL 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. 68–00620–33–46040. Applicant: The University of Texas Medical School, 715 Stadium Drive, San Antonio, Tex. 78212. Article: Electron microscope,

Model Elmiskop 101. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: The article will be used for biological research in the following areas:

(1) Ultrastructural studies of ovarian steroid-secreting cells will be carried out with emphasis on the localization of specific enzymes with mitochondria and associated with membranes of the endoplasmic reticulum.

(2) Investigations will be continued on the localization of indole amines and catecholamines in various areas of the central nervous system.

Application received by Commissioner of Customs: June 3, 1968.

Docket No. 68–00621–33–46040. Applicant: University of Southern California, School of Medicine, 2025 Zonal Avenue, Los Angeles, Calif. 90033. Article: Electron microscope, Model EM 300 and accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used to record ultrafine structural changes in animal lung tissue which has been exposed to a variety of environmental insults, such as nitrogen dioxide, smog, sulphur dioxide, tobacco smoke, and ozone. Application received by Commissioner of Customs: June 3, 1968.

Docket No. 68–00622–33–46040. Applicant: Western Michigan University, Department of Biology, Kalamazoo, Mich. Article: Electron microscope, Model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to make a detailed cytological study of the deficient cell organelles, specifically the mitochondria, with respect to cytoplasmic inclusions. Application received by Commissioner of Customs: June 3, 1968.

Docket No. 68–00625–33–46040. Applicant: Kansas State Teachers College of Emporia, 12th and Commercial, Emporia, Kans. 66801. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for both teaching and research purposes by the faculty members and students engaged in investigation of problems identified with several biological disciplines including Virology, Immunology, Mycology, Neurophysiology, Developmental Biology, and Botanical Taxonomy. Application received by Commissioner of Customs: June 3, 1968.

Docket No. 68–00626–33–46040. Applicant: Children's Hospital Research Foundation, Elland and Bethesda Avenues, Cincinnati, Ohio 45229. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used to teach medical students, pediatric fellows and pathology fellows to apply electron microscopy to research in the following areas: Genetic defects in granulocyte function; renal glomerular histiocytosis; fatty infiltration of the liver in childhood; ultrastructural effects of cardiopulmonary bypass; cardiopulmonary bypass and glycogen storage disease. Application received by Commissioner of Customs: June 3, 1968.

Docket No. 68–00627–33–46040. Applicant: Vanderbilt University, Nashville, Tenn. 37203. Article: Electron microscope, Model HU–11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in the study of correlated cell structure and function which encompasses the action of hormones on cells and embryonic differentiation in a variety of systems, with special reference to the role of cyclic AMP* (adenosine monophosphate) and "morphogenetic hormones." Application received by Commissioner of Customs: June 3, 1968.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–7340; Filed, June 20, 1968; 8:46 a.m.]

VETERINARY BIOLOGICS DIVISION ARS

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; 89 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. 68–00381–33–46040. Applicant: Veterinary Biologics Division ARS, U.S. Department of Agriculture, 313 Fifth Street, Ames, Iowa 50010. Article: Electron microscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for the detection of extraneous viral contaminants found in live modified virus vaccines. 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 provides accelerating voltages of 25 and 50 kilovolts. The 25-kilovolt accelerating voltage affords optimum contrast for unstained ultrathin specimens. For the purposes for which the foreign article is intended to be used, the high contrast available with the lower accelerating voltage is pertinent. The only known comparable domestic instrument is the Model EMU–4 electron microscope manufactured by the Radio Corporation of America (RCA). The RCA Model EMU–4 provides accelerating voltages of 50 and 100 kilovolts. Consequently, the domestic instrument cannot furnish the necessary contrast to accomplish the purposes for which the foreign article is intended to be used. We therefore find that the RCA Model EMU–4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment Business and Defense Services Administration.

[F.R. Doc. 68–7341; Filed, June 20, 1968; 8:46 a.m.]

Maritime Administration

AMERICAN EXPORT ISBRANDTSEN LINES, INC.

Notice of Application

Notice is hereby given that American Export Isbrandtsen Lines, Inc., has requested approval to modify its 1968 cruise program as previously published in the FEDERAL REGISTER of February 10, 1968 (33 F.R. 2864), and approved by the Maritime Subsidy Board on April 18, 1968, so that for the period beginning July 26, and ending August 30, 1968 the cruise schedule will read as follows:

Vessel	Sails New York	Returns New York	Itinerary
SS *Independence*	July 26	August 3	San Juan, St. Thomas, San Juan.
Do	August 5	August 13	San Juan, St. Thomas, San Juan.
Do	August 14	August 22	San Juan, St. Thomas, San Juan.
Do	August 22	August 30	San Juan, St. Thomas, San Juan.

Any person, firm or corporation having any interest, within the meaning of Public Law 87–45, in the foregoing who desires to offer data, views, or arguments should submit the same in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20235, by close of business on July 5, 1968.

In the event an opportunity to present oral argument is also desired, specific reason for such request should be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

Dated: June 19, 1968.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 68–7444; Filed, June 20, 1968; 8:51 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

W. R. GRACE & CO.

Notice of Withdrawal of Petition for Food Additives

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

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), W. R. Grace & Co., Dewey and Almy Chemical Division, 62 Whittemore Avenue, Cambridge, Mass. 02140, has withdrawn its petition (FAP 8B2263), notice of which was published in the FEDERAL REGISTER of March 15, 1968 (33 F.R. 4593), proposing an amendment to § 121.2550 *Closures with sealing gaskets for food containers* to provide for the safe use of zinc diethyl dithiocarbamate as an optional component of sealing gaskets for food containers.

Dated: June 13, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-7395; Filed, June 20, 1968; 8:50 a.m.]

HESS & CLARK

Notice of Filing of Petition for Food Additive Decoquinate (Ethyl 6-n-Decyloxy-7-Ethoxy-4-Hydroxyquinoline-3-Carboxylate)

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Hess & Clark, Division of Richardson-Merrell, Inc., Ashland, Ohio 44805, proposing the establishment of a food additive regulation to provide for the safe use of decoquinate (ethyl 6-*n*-decyloxy-7-ethoxy-4-hydroxyquinoline-3-carboxylate) containing silicon dioxide anticaking agent in chicken feed as an aid in the prevention of coccidiosis in broiler chickens caused by *E. tenella, E. necatrix, E. acervulina, E. mivati, E. maxima,* and *E. brunetti* and for weight improvement and feed efficiency in the presence of coccidia.

Dated: June 14, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-7396; Filed, June 20, 1968; 8:50 a.m.]

SALSBURY LABORATORIES

Notice of Withdrawal of Petition for Food Additives Dimetridazole, Reserpine

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

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52) Salsbury Laboratories, Charles City, Iowa 50616, has withdrawn its petition, notice of which was published in the FEDERAL REGISTER of January 17, 1968 (33 F.R. 599), proposing amendments to the food additive regulations to provide for the safe use in turkey feed of dimetridazole and reserpine for the prevention and control of outbreaks of blackhead and as an aid in the prevention or treatment of aortic rupture in turkeys.

Dated: June 14, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-7397; Filed, June 20, 1968; 8:51 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING ASSISTANT SECRETARY FOR RENEWAL AND HOUSING ASSISTANCE

Designation

The officials appointed to, or designated to serve as Acting during a vacancy in, the following listed positions are hereby designated to serve as Acting Assistant Secretary for Renewal and Housing Assistance during the absence of the Assistant Secretary for Renewal and Housing Assistance, with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Renewal and Housing Assistance: *Provided,* That no official is authorized to serve as Acting Assistant Secretary for Renewal and Housing Assistance unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

1. Deputy Assistant Secretary for Renewal and Housing Assistance.

2. Deputy Assistant Secretary for Renewal Assistance.

3. Deputy Assistant Secretary for Housing Assistance.

4. Associate General Counsel (Chief Counsel for Renewal and Housing Assistance).

This designation supersedes the designation of Acting Assistant Secretary for Renewal and Housing Assistance published at 32 F.R. 5523, April 4, 1967.

(Sec. E of Secretary's delegation effective July 1, 1966 (31 F.R. 8965, June 29, 1966))

Effective date. This designation shall be effective as of June 21, 1968.

DON HUMMEL,
Assistant Secretary for Renewal and Housing Assistance.

[F.R. Doc. 68-7379; Filed, June 20, 1968; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19797; Order E-26929]

AIRBORNE FREIGHT CORP. ET AL.

Order Denying Reconsideration and Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of June 1968.

Rule for substitution of other service for air transportation for Airborne Freight Corp., Barnett Aircargo, Inc., Emery Air Freight Corp., General Air Freight Corp., Wings and Wheels, Inc., Domestic Air Express, Inc., and for direct carriers listed in Appendix A.

By petitions filed April 26, 1968, Emery Air Freight Corp. (Emery), General Air Freight Corp. (General), and Wings and Wheels, Inc. (Wings and Wheels), request the Board to reconsider Order E-26605, dated April 2, 1968. In this order the Board instituted an investigation of the rules for substitution of other service for air transportation in effect for these forwarders and for Airborne Freight Corp. (Airborne) and Barnett Aircargo, Inc. (Barnett).

The rules in effect for Emery and for Wings and Wheels provide, inter alia, that, when other means of transport are substituted for air transportation in order to expedite a shipment, no reduction or refund of the air charges will be made.[1] General's rule provides that, regardless of the reason for substitution of other transportation modes, the applicable charge is the forwarder's published charge or the surface mode's charge, whichever is greater.[2]

The petitions variously assert, inter alia, that it would be unfair to investigate the rates of only the five forwarders named (and would place these forwarders at a competitive disadvantage), inasmuch as the practices involved are generally followed by numerous direct carriers and other forwarders; that the rule has been in effect for many years, with virtually no shipper complaint; that shippers usually pay lower charges under the rule than if they were charged the separate rate for the truck portion plus the forwarder rate for the air transportation; that in some cases forwarders pay more for the surface service which is substituted for air transportation; that most of the substituted truck service is provided in order to expedite shipments, the service of which would be delayed because of lack of available cargo space in general or at desirable departure times; and that the entire question should be resolved informally by the forwarders together with direct air carriers.

Wings and Wheels asserts, inter alia, that substitute service accounts for such a small percentage of its shipments as to make the issue de minimis and that the cost of levying the charge for substitute service would be unduly high. General

[1] Emery Air Freight Corp.'s Tariff, CAB No. 8, Rule No. 3.6(b). Wings and Wheels Express, Inc., Tariff CAB No. 1, Rule 64(b).

[2] General Air Freight Corp.'s Tariff CAB No. 9, Rule 3.9, A.

claims that it is not engaged primarily in domestic air freight forwarding, while the Board's order seems to apply to such operations.

Upon consideration of all relevant matters, the Board has concluded to deny the petitions for reconsideration and the requests for terminating the investigation.

The matter before the Board involves essentially two issues. One relates to the circumstances under which forwarders should substitute surface movements for air transportation. Under their current tariff rules, Barnett, Emery, General, and Wings and Wheels may use substitute service for any reason. Airborne's tariff limits its use of such service to emergency conditions arising from the inability of direct air carriers to perform air transportation because of causes beyond the latters' control, such as weather conditions.

The second issue is what rates should be charged the shipper when such substitute service is used. The Board instituted the investigation of the designated forwarders' rules on the ground that it appeared unjust and inequitable to require a shipper to pay the air freight rate when he is receiving lower-rated surface transport. Emery claims that in fact shippers generally pay lower charges under the current rules than if they paid for the substitute service separately in addition to the forwarder charge for the air portion. A number of examples are presented where the sum of the forwarder rate for the air portion plus the surface rate is greater than the fowarder rate from origin to destination.

All of Emery's examples involve short-haul truck movements plus much longer air movements. It is our understanding, however, that substitute service in some instances involves longer-haul truck transport as part of the through movement or comprises the entire movement from origin to destination in lieu of air transport.

It is important to note that, under the present situation, the shipper is not necessarily aware that he is obtaining, at air freight rates, a service consisting wholly or partially of surface line-haul transportation. Shippers may desire air transportation because of qualities attributed to air transport, such as more careful handling, lower claims, etc. Furthermore, we are concerned that forwarders might have an incentive to use surface transport at lower cost to themselves even where the service is no faster, or is even slower, than by air.

Emery proposes in its petition that the entire matter be resolved by informal discussions involving both forwarders and direct carriers. We are of the opinion, however, that the issues cannot effectively be handled by such discussions. We have, in the past, authorized carriers to hold informal discussions as a means of resolving divergent standpoints where the purpose and approximate results can readily be ascertained and appear to be in the public interest. This is not true in this case. Nowhere in its petition does Emery indicate how the informal discussions would meet the questions raised by the Board about its current rule.

In view of the foregoing, the Board will deny the petitions for reconsideration. It should be emphasized that the investigation is not intended to attack the substitution rule per se. It is obviously in the public interest for forwarders to substitute, in certain circumstances, other transport modes for air transport. The underlying issues that the investigation will attempt to resolve are under which circumstances such substitution is in the public interest and what the appropriate shipper charges should be. At present, the Board has practically no facts as to the extent of substituted service and the circumstances under which such service is provided. An investigation appears essential to develop these facts.

Emery asserts that the practice of substituting surface for air transportation is common among both forwarders and direct carriers. However, no forwarder other than the parties to this investigation had in effect, when the order of investigation was issued (Apr. 2, 1968), rules for substitute service.[3] For shipments involving substitute service, the forwarders which have no substitute rule must charge the rates under their tariffs for the air carriage actually performed plus the forwarders' advances for the surface transportation. The charging of other rates constitutes violation of their tariffs, the Board's regulations, and the Federal Aviation Act of 1958.[4]

The rule currently in effect for essentially all domestic direct certificated carriers is the following:

"When carrier determines that it is necessary to expedite delivery, carrier will deviate from any route shown on the Airbill or forward via any air carrier or other transportation agency at the rate prescribed by such agency, provided that when either of the foregoing actions is taken, the transportation charges shall be no greater than the air freight charges from origin to destination via the route shown on the Airbill." [5]

According to Emery, the direct carriers have been interpreting the foregoing rule as permitting them to charge air freight rates when other modes are substituted. Emery claims that the continuation of this practice would place its competitors at an advantage if Emery were forced to discontinue its rule.

While we doubt that the direct carrier rule can properly be read to provide that the all-air rate should be charged when the air-surface or all-surface rate is lower,[6] it may be that some carriers so interpret it. In any event, as with the forwarders, the Board does not have facts before it as to the extent of substitution service and the circumstances under which such service is provided by the direct carriers under their tariff rule.

The Board has found that inquiry should be made into the substitution rule and practices of the forwarders to determine the circumstances under which other transportation services should be utilized. Emery has alleged that it is in a competitive situation wherein it could be disadvantaged if restrictions were placed upon its substitution practices. In these circumstances, we will also inquire into the substitution rule and practices of the direct carriers. The Board, therefore, finds that the direct carriers' tariff rule and practices relating to the substitution of service other than air transportation may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated. We shall consolidate this investigation with that of the forwarders' rules. In this way, we shall assure that the forwarders would not be placed at a competitive disadvantage as a result of this investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. The petitions of Emery Air Freight Corp., General Air Freight Corp., and Wings and Wheels, Inc., for the reconsideration of Order E–26605, adopted April 2, 1968, are denied.

2. An investigation is instituted to determine whether the provisions of Rule No. 15(B) on 2d Revised Page 4 of Domestic Air Express, Inc.'s Tariff CAB No. 3 and Rule No. 42–B on 10th Revised Page 17 of Airline Tariff Publish-

2. An investigation is instituted to determine whether the provisions of Rule No. 15(B) on 2d Revised Page 4 of Domestic Air Express, Inc.'s Tariff CAB No. 3 and Rule No. 42–B on 10th Revised Page 17 of Airline Tariff Publishers, Inc., Agent's CAB No. 96, including subsequent revisions and reissues thereof, and rules, regulations, and practices affecting such provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial,

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[3] Effective May 8, 1968, Domestic Air Express, Inc., filed a rule almost identical to that published by Emery. By this order, we are including this rule in the instant investigation.

[4] The Board has recently ordered Pacific Air Freight, Inc., to cease and desist from this practice as well as from certain others (Order E–26813, dated May 20, 1968).

[5] Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 96, Rule No. 42(B).

[6] By Order E–25013, dated Apr. 19, 1967, the Board suspended and set for investigation a proposal by Trans World Airlines, Inc. (TWA), requiring the shipper to pay the air freight rate, even when higher than the rate for the transportation used. In that order, the Board stated that under the current rule the shipper should pay the surface carrier's charges but not to exceed the air freight charges. It also asserted that it appeared unjust and inequitable to require a shipper to pay the air freight rate when he is receiving lower-rated surface transport, even though the latter may be more expeditious for a particular movement. TWA canceled its proposed tariff after the Board issued the order of suspension and investigation.

or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions.

3. This investigation is consolidated with the proceeding in Docket 19797.

4. A copy of this order be served upon Domestic Air Express, Inc., and the carriers listed in Appendix A, which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

APPENDIX A—CARRIERS PARTICIPATING IN AIRLINE TARIFF PUBLISHERS, INC., AGENT'S CAB No. 96

Air West, Inc.
Airlift International, Inc.
Alaska Airlines, Inc.
Allegheny Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
Frontier Airlines, Inc.
Lake Central Airlines, Inc.
Mohawk Airlines, Inc.
National Airlines, Inc.
New York Airways, Inc.
North Central Airlines, Inc.
Northeast Airlines, Inc.
Northwest Airlines, Inc., Also operating as Northwest Orient Airlines.
Ozark Air Lines, Inc.
Piedmont Aviation, Inc.
Southern Airways, Inc.
The Flying Tiger Line, Inc.
Trans-Texas Airways, Inc.
Trans World Airlines, Inc.
United Air Lines, Inc.
Western Air Lines, Inc.

[F.R. Doc. 68-7382; Filed, June 20, 1968; 8:49 a.m.]

[Docket No. 19508; Order E-26925]

DOMESTIC TRUNKLINE CARRIERS

Order Vacating Suspension and Dismissing Investigation Regarding Family Fare

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of June 1968.

By Order E-26254, dated January 18, 1968, the Board suspended and set for investigation the family fare revisions proposed by the domestic trunkline carriers, except Continental Air Lines, Inc. (Continental), and Northwest Airlines, Inc. (Northwest).[1] The Board found that the carriers had shown no basis or economic justification for their proposal; the data furnished by the carriers had not shown adequately the likely effect of the proposed changes in terms of traffic carried and revenues realized; and while some of the carriers had furnished estimates of the dollar effect of the proposed family fare changes, the underlying assumptions had not generally been shown and the estimates appeared unreliable. Therefore, the Board suspended the filings pending receipt and review of reliable data. Subsequent to the suspension action, the carriers furnished comprehensive data showing family fare traffic and revenues related to the existing schedule of discounts and estimates related to the discounts proposed. This information substantially meets the problems inherent in the original data.

A comparison of the proposed family fare discounts against the present discounts is as follows:

Members of the family	Proposed	Present		
		First-class	Coach weekdays	Coach weekends
	Percent	*Percent*	*Percent*	*Percent*
Spouse	25	25	33⅓	25
Child, age 12-21	50	25	66⅔	25
Child, under 12	66⅔	50	66⅔	50

Under the proposed family fares, the accompanying spouse (assuming the head of the family pays a full adult fare) will pay 75 percent of the full adult first-class or coach fare. If no spouse is accompanying the head of the family, then the first child from 2 through 21 years of age will be charged 75 percent of the regular adult fare. Each additional child 12 through 21 years of age will be charged 50 percent of the regular fare and any additional child from 2 through 11 years of age 33⅓ percent of the applicable regular adult fare.

In support of their family fare proposal, the carriers stated that in the present form the family fares are unduly complex; that the numerous promotional fares the airlines have introduced in recent years have further complicated the reservation and ticketing processes and have increased airline costs; and that the proposed changes from nine discount situations to three would simplify the family fares for a substantial volume of traffic. It was asserted that the revised family fares would provide an increase in the discount for certain types of family travel and a reduction in the discount for other types; and that the changes will tend to offset each other, and the net effect on total passenger revenues will be minimal.

Upon consideration of the carriers' recent submissions and all other pertinent matters of record, the Board has concluded to vacate the suspension and dismiss the investigation previously ordered.

The proposed adjustments of first-class and coach family fares involve both increases and decreases of these fares and will have a minimal effect on the traffic and revenues of the carriers. These changes will result in a more simplified family fare discount structure, which will standardize the discounts for weekdays and weekend travel for both first-class and coach family fare passengers, speed up ticketing, facilitate fare quotation at the ticket counter or in making reservations, and simplify revenue accounting procedures. On the basis of the facts and considerations apparent at this time, we conclude that the proposed family fares, which will have a negligible net effect on transportation charges (0.15 percent of passenger revenue), do not appear to be unreasonable, and that an investigation is not now warranted. Therefore, we will dismiss the pending investigation and vacate the suspension of these fares. In order to allow adequate notice to the public of these fare changes, the suspension will be lifted 30 days from now.

Accordingly, pursuant to the Federal Aviation Act of 1958, particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. The suspension of family fares directed in Orders E-26254, January 18, 1968, and E-26631, April 8, 1968, is vacated effective July 17, 1968.

2. The investigation in Docket 19508 is dismissed.

3. A copy of this order will be filed with the aforesaid tariffs and be served on American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Northeast Airlines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-7383; Filed, June 20, 1968; 8:49 a.m.]

[1] Airline Tariff Publishers, Inc., agent, Local and Joint Passenger Rules Tariff CAB No. 43.

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 18213, 18214; FCC 68-613]

R. EDWARD CERIES AND JACK C. HUGHES

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of R. Edward Ceries, Albuquerque, N. Mex., Docket No. 18213, File No. BPH-6001; Requests: 100.3 mc, No. 262; 9 kw; 4,107 feet; Jack C. Hughes, Albuquerque, N. Mex., Docket No. 18214, File No. BPH-6041; Requests: 100.3 mc, No. 262; 9 kw; 4,100 feet; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. The information provided by R. Edward Ceries does not provide an adequate basis for determining the amounts required for construction and first-year operation. His original estimates were based on monaural operation from a common studio location and transmitter site, but this has been changed to a stereo operation using remote control. Since the additional costs for such operation do not

appear to have been reflected in his estimates, it is not possible to determine what his construction costs actually would be. This lack of certainty is also reflected in the matter of operational costs where provision does not appear to have been made for additional rental costs or for the increased monthly payments to equipment suppliers. As to such equipment purchases, Ceries has not made clear which of the three supplier commitments which have been submitted he intends to utilize. In addition, Ceries has not shown that the $6,240 estimate for salaries would be sufficient for the 80-hour-per-week operation proposed. Because of these matters an issue is required to determine the amounts required by Ceries for construction and initial operation. As to the funds available, Ceries lists a net worth of $115,756, but only $14,143 of this is in cash. Ceries relies on two other items, listed securities and his equity in a house, but the former have not been adequately described and the liquidity of the latter has not been demonstrated. Accordingly, a question also exists about the availability of funds to cover the balance of his costs.

3. Jack C. Hughes estimates that first-year operational costs would be $16,624, but has not demonstrated that this figure is adequate for the proposed 145-hour-per-week operation. In addition, he indicates reliance on a deferred payment plan for equipment but has not documented its availability. Because of these matters clarification of his requirements for construction and first-year operation is required. In addition, he has shown the availability of only $36,668 to meet costs which even by his estimate would approximate $41,559. This being the case, it will be necessary to determine the availability of the additional funds found to be required.

4. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing on the issues set forth below.

5. *It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the funds reasonably required by R. Edward Ceries to construct and operate his proposed station for 1 year without revenue and whether he has available funds in addition to cash of $14,143 to cover such costs and thus demonstrate his financial qualifications.

2. To determine the funds reasonably required by Jack C. Hughes to construct and operate his proposed station for 1 year without revenue and whether he has available to him funds in addition to the $36,668 shown in the application to cover such costs and thus demonstrate his financial qualifications.

3. To determine which of the proposals would better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

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

7. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: June 12, 1968.

Released: June 18, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 68-7384; Filed, June 20, 1968; 8:48 a.m.]

[Docket Nos. 18210-18212, FCC 68-612]

REGAL BROADCASTING CORP. (WHRL-FM) ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Regal Broadcasting Corp. (WHRL-FM), Albany, N.Y., Docket No. 18210, File No. BPH-6054; Has: 103.1 mc, No. 276; 3 kw; 245 feet; Requests: 107.7 mc, No. 299, 37 kw; 245 feet; Functional Broadcasting, Inc., Albany, N.Y., Docket No. 18211, File No. BPH-6124; Requests: 107.7 mc, No. 299, 12 kw; 890 feet; WPOW, Inc., Albany, N.Y., Docket No. 18212, File No. BPH-6129; Requests: 107.7 mc, No. 299, 9.4 kw; 983 feet; for construction permits.

1. The Commission has before it for consideration the above-captioned and described applications.

2. These applications are mutually exclusive in that operation by the applicants as proposed would cause mutually destructive interference.

3. In response to questions 1 A-C of section IV-A regarding the ascertainment of local needs and interests, WPOW, Inc., has shown that it has consulted members of the community, but it has not adequately indicated the suggestions received, its evaluation of these suggestions, nor the programing proposed to meet these needs, as evaluated. Accordingly, in line with Minshall Broadcasting Co., 11 FCC 2d 796 (1968), a Suburban issue against WPOW, Inc., is required to determine its awareness of and responsiveness to local programing needs and interests.

4. A Suburban issue is also required against Regal Broadcasting Corp. because it has failed to indicate that it has made any effort to ascertain the programing needs and interests of the substantial population which it would serve for the first time as a result of its proposal to substantially increase facilities on a new channel.

5. The area and population to be served by Regal Broadcasting Corp. differ markedly in size from the areas and populations to be served by the other two applicants. Accordingly, for the purposes of comparison between Regal Broadcasting Corp. and the other two applicants the areas and populations within the respective 1 mv/m contours together with the availability of other FM services of at least 1 mv/m in such areas will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. Each of the applicants is qualified to construct and operate as proposed. However, because of their mutual exclusivity the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

7. *It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the efforts made by Regal Broadcasting Corp. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

2. To determine the efforts made by WPOW, Inc., to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

3. To determine which of the proposals would best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications for construction permit should be granted.

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

[1] Commissioners Bartley and Wadsworth absent.

present evidence on the issues specified in this order.

9. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: June 12, 1968.

Released: June 18, 1968.

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

[F.R. Doc. 68-7385; Filed, June 20, 1968; 8:50 a.m.]

[Docket No. 18215; FCC 68-614]

VIRGINIA BROADCASTING CO.

Order Designating Application for Hearing on Stated Issues

In re application of Virginia Broadcasting Co., Virginia, Minn., Docket No. 18215, File No. BPH-6113; requests: 107.1 mc, No. 296; 3 kw; 105 feet; for construction permit.

1. The Commission has under consideration the above captioned and described application.

2. Applicant stockholders control the permittee of a new FM station in Hibbing, Minn. Because of their proximity, the stations would be precluded from significantly increasing facilities without causing 1 mv/m overlap in contravention of § 73.240(a)(1) of the Commission's rules. In this connection we have considered applicant's statements in support of a grant of its application but have concluded that a hearing is required on the question of the efficiency of the proposed use of the channel.

3. Except as indicated below, the applicant is qualified to construct and operate as proposed. However, because of the above matters, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

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

1. To determine the extent to which duopoly considerations would preclude future expansion of the proposed station or of the new FM station in Hibbing, Minn., controlled by applicant's stockholders, and in light of the evidence adduced in response to this question, whether the present proposal represents an efficient use of the channel within the meaning of section 307(b) of the Communications Act of 1934, as amended.

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

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

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

Adopted: June 12, 1968.

Released: June 18, 1968.

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

[F.R. Doc. 68-7386; Filed, June 20, 1968; 8:50 a.m.]

[Docket Nos. 18216, 18217; FCC 68-619]

WLUC, INC., AND NORBERTINE FATHERS

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of WLUC, Inc., Iron Mountain, Mich., Docket No. 18216, File No. BPTTV-2666; Norbertine Fathers, Iron Mountain, Mich., Docket No. 18217, File No. BPTTV-2713; for construction permit for new VHF television broadcast translator station.

1. The Commission has before it for consideration the above-captioned applications, each requesting a construction permit for a new 100-watt VHF television broadcast translator station to operate on assigned and unused Channel 8 in Iron Mountain, Mich., pursuant to § 74.702(g) of the Commission's rules.[1a] WLUC, Inc. (WLUC) proposes to rebroadcast its Station WLUC-TV, Channel 6, Marquette, Mich. (CBS), and Norbertine Fathers (WBAY) proposes to rebroadcast its Station WBAY-TV, Channel 2, Green Bay, Wis. (CBS). The Commission also has before it for consideration informal objections filed against both applications by The Association of Maximum Service Telecasters, Inc. (AMST), pursuant to § 1.587 of the Commission's rules, and various other pleadings.[2]

2. Iron Mountain is within the predicted Grade B contours of Stations WLUC-TV and WAEO-TV, Channel 12, Rhinelander, Wis. (NBC). In addition, there are three mutually exclusive applications pending for Channel 13, Marquette, Mich. Iron Mountain would be within the Grade A contour of the station proposed by Northland Television, Inc. (BPCT-4051), licensee of Station WAEO-TV; the Grade B contour of the station proposed by U.P. TV Systems, Inc. (BPCT-4090);[3] and the principal city contour of the noncommercial educational station proposed by Board of Control of Northern Michigan University (BPCT-4118). It would also be within Grade B contour of the station proposed by WFRV, Inc. (BPCT-3997), to operate on Channel 3, allocated to Escanaba, Mich., and intended to be used in Brampton, Mich., pursuant to § 73.607(b) of the rules (the so-called "15-mile rule"). Television service is presently provided to the community by three 100-watt UHF translators licensed to U.P. TV Systems, Inc., and a CATV system[4] which carries the three Green Bay, Wis., VHF television stations and WLUC-TV, Marquette.

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[1] Commissioners Bartley and Wadsworth absent.

[1] Commissioners Bartley and Wadsworth absent; Commissioners Lee and Johnson concurring in the result.

[1a] Section 74.702(g) of the Commission's rules provides:

"A VHF translator will also be authorized on any VHF assignment in the television table of assignments (section 73.606(b) of this chapter) provided it has not been assigned to a television broadcast station and provided a transmitter power of 100 watts is used in the listed city. Section 73.607(b) of this chapter will not be applicable to such assignments."

[2] The Commission has before it for consideration the informal objections filed by AMST against the application of WLUC on Dec. 20, 1965, and against the application of WBAY on Dec. 21, 1965; (a) a response thereto, filed Jan. 21, 1966, by WBAY; (b) a response thereto, filed Feb. 3, 1966, by WLUC; (c) a reply to (a), filed Feb. 4, 1966, by AMST; (d) a reply to (b), filed Feb. 10, 1966, by AMST; (e) a motion to dismiss application, filed Jan. 23, 1967, by WLUC seeking dismissal of the WBAY application; (f) an opposition thereto, filed Feb. 24, 1967, by WBAY; and (g) a reply, filed Mar. 8, 1967, by WLUC to WBAY's opposition.

[3] U.P. TV Systems, Inc., proposes to operate the station as a total "satellite" of Station WLUK-TV, Channel 11, Green Bay, Wis. (ABC), the licensee of which is wholly owned by The Post Corp., which also owns WLUC, Inc., one of the applicants herein. U.P. TV Systems, Inc., is also the licensee of three 100-watt UHF translators in Iron Mountain: W72AA, rebroadcasting Station WLUC-TV; W77AA, rebroadcasting Station WFRV, Channel 5, Green Bay, Wis.; and W75AE, rebroadcasting Station WLUK-TV, Green Bay. U.P. TV Systems also owns and operates a 100-watt VHF translator (W13AS) in Marquette, which rebroadcasts WLUK-TV, Green Bay, which would be replaced by U.P.'s proposed Marquette "satellite" station.

[4] The CATV system is owned and operated by American Cablevision Co. It is a 5-channel system serving approximately 3,000 subscribers. It carries the signals of Stations WLUK-TV, Green Bay (ABC) and WLUC-TV, Marquette (CBS) by off-the-air pickup and WFRV-TV, Green Bay (NBC) and WBAY-TV, Green Bay (CBS) by microwave.

3. AMST claims the status of an informal objector, pursuant to § 1.587 of the Commission's rules. AMST states that the transmitter sites proposed by the applicants are 183.6 miles from the reference point of the Channel 8 allocation in Sault Sainte Marie, Mich., whereas § 73.610 of the Commission's rules requires a minimum separation of 190 miles between cochannel stations in Zone II. The sites are, therefore, approximately 6 miles less than that required by § 73.610 of the rules. It is not disputed that the sites do not meet the separation requirements set forth in § 73.610 of the rules, but the question which we must decide is whether these separation requirements are applicable to 100-watt VHF translators.

4. As AMST points out, the Commission made no ruling in the report and order in Docket No. 15858 (1 FCC 2d 15, 5 RR 2d 1702) in which we authorized high-power translators to operate on assigned and unused channels, with regard to whether such translators would be required to meet separation requirements. We recognized, however, that because high-power translators would be operating on channels assigned at standard spacings, interference would not be expected to be a problem. This is the first case in which the question has been raised and we now rule that the separation requirements of § 73.610 of the Commission's rules are applicable to high-power translators. Each of the applicants has requested a waiver of § 73.610 of the rules in the event that the Commission determines that the rule applies. We think that, under the circumstances of this case, a waiver of the rule is warranted. The separations shortage is only approximately 6 miles, and this together with its low power and low proposed tower heights makes it extremely unlikely that interference will occur. Also, if interference were to be caused to direct reception, the offending translator would, under the provisions of § 74.703 (b) of the rules, be required to correct the conditions causing the interference or suspend operation. Waiver of the separation requirements should not be construed as an indication that we would permit a regular television station to operate on the channel from the same site.

5. The pleading filed by WLUC entitled "Motion to Dismiss Application" (see Footnote 1, supra) requests dismissal of WBAY's application on the grounds that the Columbia Broadcasting System, with which both proposed primary stations are affiliated, has denied WBAY's request for consent to rebroadcast WBAY–TV's CBS network programing on the proposed translator. This is so, WLUC suggests, because Iron Mountain is within WLUC–TV's predicted Grade B contour and is more than 20 miles outside WBAY–TV's predicted Grade B contour and CBS will not consent to the invasion of the service area of one of its affiliates by another of its affiliates by translator. WBAY concedes that CBS has not granted it permission to rebroadcast CBS programing in Iron Mountain by translator.

6. The matter of whether a translator applicant is required to obtain rebroadcast consent from a network if it has its primary station's rebroadcast consent (as it obviously has in this case) has been settled by the Commission in several recent cases. We have held that all that is required by section 325(a) of the Communications Act is the consent of the station whose signals are to be rebroadcast and the matter of network consent is one which must be left for resolution by the network and the translator applicant. Laramie Plains Antenna TV Association, Inc., 8 FCC 2d 884, 11 RR 2d 234; reconsideration denied, 11 FCC 2d 228, 11 RR 2d 1172;[6] Hubbard Broadcasting, Inc., 10 FCC 2d 381, 11 RR 2d 433; Earl W. Reynolds, 12 FCC 2d 117, 12 RR 2d 588; Spokane Television, Inc. (K14AA), FCC 68–390 released April 17, 1968. The motion will be denied. Our refusal to dismiss WBAY's application on this ground does not, however, vitiate the need to determine whether, under the circumstances, WBAY can effectuate its proposal, and an appropriate issue will, therefore, be specified.

7. Both of the applications specify operation on the same channel in Iron Mountain and they are, therefore, mutually exclusive. In The Montana Network, 9 FCC 2d 705, 10 RR 2d 1104, we indicated the problems inherent in drafting appropriate issues for a comparative hearing on applications for 100-watt translator stations and we attempted to formulate meaningful issues which could be the basis for the selection of the best applicant. Our experience in that proceeding (Docket Nos. 17656–17658) indicates that no changes should be made at this time in the type of evidence to be adduced. We believe that a determination should be made with respect to the off-the-air television service presently available (i.e. for which of the competing services is there the greater need), the extent to which the competing applicants would meet the local programing tastes, needs and interests of the community, and the extent to which each of the applicants offers the prospect for eventual construction and operation of a regular television broadcast station on the channel. The preferences of the residents of the area should be accorded great weight.

8. We find that the applicants are qualified to construct, own and operate the proposed new television broadcast translator station. The Commission, however, is unable to make the statutory finding that grant of the applications would serve the public interest, convenience, and necessity and is of the opinion that the applications must be designated for hearing in a consolidated proceeding upon the issues set forth below. We direct the presiding officer and the applicants to explore every possibility for the submission of the case in written form, including the use of a stipulated statement of the facts and of the testimony and other evidence with respect to the issues specified herein.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of WLUC, Inc., and Norbertine Fathers, are designated for hearing in a consolidated proceeding upon the following issues:

1. To determine whether Norbertine Fathers, to the extent that it proposes to rebroadcast CBS network programing, can effectuate its proposal.

2. To determine, on a comparative basis, which of the proposals would better meet the programing tastes, needs, and interests of the community.

3. To determine which of the applicants offers the better prospects for eventual construction and operation of a regular television broadcast station on the channel in Iron Mountain.

4. To determine which of the proposals would better serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That the hearing hereby ordered shall be held at a time and before a Hearing Examiner to be specified in a subsequent order.

It is further ordered, That this proceeding shall be expedited to the extent possible consistent with the requirements of procedural due process.

It is further ordered, That § 73.610 of the Commission's rules is waived with respect to the sites specified in the applications.

It is further ordered, That the informal objections filed herein by The Association of Maximum Service Telecasters, Inc., are denied.

It is further ordered, That the motion to dismiss application, filed herein by WLUC, Inc., is denied.

It is further ordered, That, in the event of a grant of the application of WLUC, Inc., the application shall be granted subject to the following condition:

The translator specified herein has not been type-accepted. Accordingly, prior to licensing, acceptable data shall be submitted for type acceptance in accordance with the requirements of § 74.750 of the Commission's rules.

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

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

[6] On appeal before the U.S. Court of Appeals for the District of Columbia Circuit, sub nom Frontier Broadcasting Company v. Federal Communications Commission, Case No. 21, 594.

of such notice as required by § 1.594(g) of the rules.

Adopted: June 12, 1968.

Released: June 18, 1968.

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

[F.R. Doc. 68-7387; Filed, June 20, 1968; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

FEDERAL HANSA MIDDLE EAST SERVICE

Notice of Agreement Filed for Approval

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

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

Notice of agreement filed for approval by:

Mr. Alan F. Wohlstetter, Denning and Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006.

Agreement No. 9729 between Federal Commerce and Navigation Co., Ltd., and Deutsche Dampfschiffahrts-Gesellschaft "Hansa" provides for the establishment of a joint service, designated as the "Federal Hansa Middle East Service" to operate in the trade from U.S. Great Lakes ports to ports on the Persian Gulf and Gulf of Oman in accordance with the terms and conditions set forth therein. In those trades within the scope of the agreement in which the rates, charges and practices are not prescribed by a conference of which the joint service is a member, it shall establish and maintain its own rates, charges and practices.

Dated: June 18, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-7380; Filed, June 20, 1968; 8:49 a.m.]

[Docket No. 68-31]

GULF-PUERTO RICO LINES, INC.

Increased Rates on Lard, in Packages From Gulf Coast Ports to Puerto Rico; Order of Investigation

There has been filed with the Federal Maritime Commission by Gulf-Puerto Rico Lines, Inc., 12th Revised Page 68 to Tariff FMC-F No. 1, United States Atlantic & Gulf-Puerto Rico Tariff, D. G. Massingale, Agent, which names increased rates on Lard, in packages, n.o.s. to become effective June 18, 1968.

Upon consideration of the said tariff schedule and a protest thereto, there is reason to believe that the above-designated increased rates should be made the subject of a public investigation and hearing to determine whether they would be unjust, unreasonable, or otherwise unlawful under section 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing therefore;

It is ordered, That pursuant to the authority of sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of the said increased rates contained in the aforementioned Tariff filing with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is changed or amended before this investigation has been concluded, such changed or amended matter will be included in this investigation.

It is further ordered, That the investigation in this proceeding shall not be confined to the matters and issues hereinbefore stated as the reason for instituting this investigation, but shall include all matters and issues with respect to the lawfulness of the said schedule under the Shipping Act, 1916, or the Intercoastal Act, 1933;

It is further ordered, That Gulf-Puerto Rico Lines, Inc., be named as respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

It is further ordered, That (I) a copy of this order shall forthwith be served on all respondents and protestants herein, (II) the said respondents and protestants be duly notified of the time and place of the hearing; and (III) this order be published in the FEDERAL REGISTER and notice of hearing be served upon respondents.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 68-7381; Filed, June 20, 1968; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI68-661 etc.]

AMERADA PETROLEUM CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates[1]

JUNE 13, 1968.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings 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 August 1, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[1] Commissioners Bartley and Wadsworth absent; Commissioner Cox concurring in part and dissenting in part and issuing a statement filed as part of the original document.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-661	Amerada, Petroleum Corp., Post Office Box 2040, Tulsa, Okla. 74102.	97	3	Lone Star Gas Co. (Stage Stand Field, Stephens County, Okla.) (Oklahoma "Other" Area).	$737	5-20-68	[2] 7-1-68	12-1-68	16.0	[3 4 5] 17.015	RI65-334.
RI68-662	Champlin Petroleum Co., Post Office Box 9365, Fort Worth, Tex. 76107.	43	7	Northern Natural Gas Co. (Hugoton Field, Texas County, Okla.) (Panhandle Area).	50	5-17-68	[2] 7-1-68	12-1-68	[6] 13.0	[3 4 6] 14.0	RI62-495.
RI68-663	Northern Natural Gas Producing Co., Post Office Box 2444, Houston, Tex. 77001.	33	3	Michigan Wisconsin Pipe Line Co. (Gageby Creek Field, Wheeler County, Tex.) (RR. District No. 10).	56,209	5-17-68	[2] 6-20-68	11-20-68	[7] 17.0	[3 4 7] 19.0	
RI68-664	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	135	4	Lone Star Gas Co. (Caddo Dome Field, Carter County, Okla.) (Oklahoma "Other" Area).	23,000	5-23-68	[2] 7-1-68	12-1-68	15.25	[3 4] 16.25	RI66-16.
RI68-665	Texaco, Inc. (Operator) et al, Post Office Box 2420, Tulsa, Okla. 74102.	133	40	Natural Gas Pipeline Co. of America (Southeast Camrick Field, Texas and Beaver Counties, Okla. (Panhandle Area) and Blakemore Area, Hansford County, Tex.) (RR. District No. 10).	49,000 8,618	[8] 5-17-68	[9] 6-17-68	11-17-68	[6 11 12] 16.0 [6 11 13] 16.1536	[4 6 10] 17.0 [4 6 10] 17.0	
RI68-666	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	130	19	Natural Gas Pipeline Co. of America (Boonesville Bend Conglomerate Gas and Ken-Rich Conglomerate Fields, Jack and Wise Counties, Tex.) (RR. District No. 9).	43,928	5-23-68	[2] 7-1-68	12-1-68	[14] 14.78	[3 4 14] 16.30	
RI68-667	Gulf Oil Corp. (Operator) et al.	177	3	Lone Star Gas Co. (Knox Field, Grady and Stephens County, Okla.) (Carter-Knox Area).	1,800	5-23-68	[2] 7-1-68	12-1-68	16.8	[4 10] 18.0	
RI68-668	Sunray DX Oil Co., Post Office Box 2039, Tulsa, Okla. 74101.	234	6	Arkansas Louisiana Gas Co. (Lacy Field, Kingfisher County, Okla.) (Oklahoma "Other" Area).	6,048	5-20-68	[2] 6-20-68	11-20-68	15.0	[4 16] 17.8	
RI68-669	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221, Attn: Edward J. Kremer, Esq.	271	2	Banquete Gas Co., a division of Cresmont Oil & Gas Co. [17] (East Plymouth Field, San Patricio County, Tex.) (RR. District No. 4).	373	5-15-68	[2] 7-1-68	12-1-68	[6 18] 7.0	[3 4 6] 8.0	
RI68-670	Landa Oil Co., 4300 North Central Expressway, Dallas, Tex. 75206.	2	[21] 10	United Gas Pipe Line Co. (Orange Grove, Quinto Creek and Fort Lipan Fields, Jim Wells and Nueces Counties, Tex.) (RR. District No. 4).	253	5-20-68	[2] 6-20-68	11-20-68	13.1664	[3 4] 14.1792	
RI68-671	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102, Attn: P. T. Davis, Manager, FPC Activity.	279	6	El Paso Natural Gas Co. (Brown Basset (Non-Ellenburger) Field, Turrel County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	19,168	5-23-68	[2] 6-23-68	11-23-68	[20] 14.11	[4 19] 16.50	

[2] The stated effective date is the effective date requested by Respondent.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Includes 0.015-cent tax reimbursement.
[6] Subject to a downward B.t.u. adjustment.
[7] Subject to upward and downward B.t.u. adjustment.
[8] Filing completed May 24, 1968, by correction letter dated May 22, 1968.
[9] The stated effective date is the first day after expiration of the statutory notice.
[10] "Fractured" rate increase. Respondent contractually due 18.4 cents per Mcf.
[11] Settlement rate in Texaco's company-wide settlement in Docket Nos. G-8969 et al. (order issued Dec. 30, 1963). Moratorium on filing increases in excess of area ceilings expired on Mar. 1, 1966.
[12] Oklahoma Panhandle Area.
[13] Texas Railroad District No. 10.
[14] Includes base rate of 14.5 cents plus 0.28-cent upward B.t.u. adjustment before ncrease and 16 cents plus 0.30 cent (1,019 B.t.u. gas) after increase. Base rate subject to upward and downward B.t.u. adjustment.
[16] "Fractured" rate increase. Respondent contractually due 19 cents per Mcf.
[16] Filing from conditioned certificated rate to first periodic increase under the contract. (Initial contract rate is 16.8 cents per Mcf).
[17] Banquete resells gas involved to United Gas Pipe Line Co. under Banquete's FPC Gas Rate Schedule No. 1 at a presently effective rate of 12.1536 cents per Mcf. Banquete's next periodic increase due Dec. 6, 1968.
[18] Settlement rate as approved by Commission order issued Oct. 8, 1964, in Docket Nos. G-9283 and G-9284 et al.
[19] Respondent filing from initial rate of 14.11 cents per Mcf to present contract rate of 16.5 cents per Mcf due as of Aug. 1, 1964.
[20] Initial rate which is quality statement rate as prescribed by Opinion No. 468.
[21] As amended by filing submitted May 27, 1968.

Texaco, Inc. (Operator), et al. (Texaco) request that their proposed rate increases be permitted to become effective as of May 17, 1968. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Texaco's rate filing and such request is denied.

Atlantic Richfield Co. (Atlantic) proposes a periodic rate increase from 7 cents to 8 cents per Mcf for gas sold to Banquete Gas Co., a division of Crestmont Oil & Gas Co. (Banquete), from the East Plymouth Field, San Patricio County, Tex. (RR. Dist. No. 4). Banquete gathers the subject gas, together with other gas produced in this area, and resells such gas to United Gas Pipe Line Co. under its FPC Gas Rate Schedule No. 1 at a presently effective initial rate of 12.1536 cents per Mcf. Banquete is contractually due a periodic increase to 14.1792-cent rate on December 6, 1968, which, if filed for, would be suspended as exceeding the applicable area increased ceiling. No further increases are provided for in Banquete's contract which has a primary term expiring on December 6, 1978. Although Atlantic's proposed rate increase to 8 cents per Mcf does not exceed the area increased rate ceiling of 14 cents per Mcf for Texas Railroad District No. 4 as announced in the Commission's statement of general policy No. 61-1, as amended, it should be suspended because such ceiling is applicable to Banquete's resale rate, not to Atlantic's rate. In view of the fact that Banquete's 14.1792-cent increase would be suspended, if filed for, we conclude that Atlantic's proposed rate increase should be suspended for 5 months from July 1, 1968, the proposed effective date.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR Ch. I, Part 2, § 2.56), with the exception of the rate increase filed by Atlantic which is suspended herein for the reason set forth above.

[F.R. Doc. 68-7342; Filed, June 20, 1968; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-347]

COLORADO INTERSTATE GAS CO.

Notice of Application

JUNE 14, 1968.

Take notice that on June 10, 1968, Colorado Interstate Gas Co. (Applicant), Post Office Box 1087, Colorado Springs, Colo. 80901, filed in Docket No. CP68-347 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of gas on a short-term basis with Natural Gas Pipeline Company of America (Natural) for ultimate sale to Arkansas Louisiana Gas Co. (Arkla), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests authority to sell to Arkla a maximum of 35,000 Mcf per day on a firm basis. Arkla has agreed to purchase a minimum of 3,650,000 Mcf at a price of 21.5 cents per Mcf during the 1-year term of the sale. Natural has agreed to deliver the stated volumes of gas to Arkla in Grady County, Okla., in exchange for gas delivered to Natural by Applicant in Beaver County, Okla. No new facilities will be required to make these deliveries.

Applicant states that the instant application is conditioned upon the issuance of certificate authority to exchange gas with Kansas-Nebraska Natural Gas Co., Inc., as recently filed for in Docket No. CP68-319.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before July 12, 1968.

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

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

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-7343; Filed, June 20, 1968; 8:46 a.m.]

[Docket No. CP68-341]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

JUNE 14, 1968.

Take notice that on June 7, 1968, Michigan Wisconsin Pipe Line Co. (Applicant), 1 Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP68-341 a "budget-type" application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing July 17, 1968, and operation of natural gas purchase facilities which will enable Applicant to take into its certificated main pipeline system natural gas which may be purchased from independent producers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of the instant application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas coextensive with said system.

The total cost of the proposed facilities, which may include gathering lines, lateral lines, valves, metering facilities, compressor stations, and treatment facilities, will not exceed $3 million and no single project will exceed a cost of $750,000 for any offshore facility and $500,000 for any onshore facility. Applicant requests a waiver of § 2.58(a)(2) of the Commission's rules of practice and procedure as to the cost of any single offshore facility. Applicant will finance the proposed facilities with cash generated from operations and no new financing will be necessary.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before July 11, 1968.

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

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

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-7344; Filed, June 20, 1968; 8:46 a.m.]

[Docket No. CP68-342]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

JUNE 14, 1968.

Take notice that on June 10, 1968, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP68-342 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to exchange up to 35,000 Mcf of natural gas per day with Colorado Interstate Gas Co. (Colorado), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Specifically, Applicant will deliver to Arkansas Louisiana Gas Co. (Arkansas), for Colorado's account through an existing interconnection of the lines of Applicant and Arkansas in Grady County, Okla.; and Colorado will deliver volumes of gas having an equivalent B.t.u. content to Applicant through an existing interconnection of the lines of Applicant and Colorado in Beaver County, Okla. No compensation is to be paid by either party to the exchange. The exchange will be undertaken pursuant to an agreement between Applicant, Colorado and Arkansas which provides for the termination thereof one year after commencement of deliveries thereunder.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before July 11, 1968.

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

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

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-7345; Filed, June 20, 1968; 8:46 a.m.]

[Docket No. CP68-344]

TRANSWESTERN PIPELINE CO.

Notice of Application

JUNE 14, 1968.

Take notice that on June 10, 1968, Transwestern Pipeline Co. (Applicant), Post Office Box 1502, Houston, Tex. 77001, filed in Docket No. CP68-344 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of gas through existing interconnections with Natural Gas Pipeline Company of America, at locations in Eddy County, N. Mex., Hansford County, Tex., and Gray County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization for the exchange of natural gas at the following locations:

(1) At the existing interconnections of Applicant's West Texas lateral and Natural's 20-inch pipeline extending from the Indian Basin and Dagger Draw areas, in Eddy County, N. Mex.

(2) At the existing interconnection of Applicant's Cactus lateral and Natural's pipeline in Hansford County, Tex.

(3) At the existing interconnection of Applicant's Lefors lateral and Natural's pipeline in Gray County, Tex.

The Applicant states that in the event of an emergency on either its or Natural's system, the exchange proposed herein will assure continuity of service to their respective customers.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before July 12, 1968.

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

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

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-7347; Filed, June 20, 1968; 8:46 a.m.]

[Docket No. E-7278]

VILLAGE OF ELBOW LAKE, MINN. AND OTTER TAIL POWER CO.

Order Providing for Investigation and Hearing

JUNE 14, 1968.

By this order we provide for an investigation and hearing under the Federal Power Act to determine whether it is necessary and appropriate for the purposes of that Act to direct an immediate interconnection of facilities of the village of Elbow Lake, Minn. (Applicant), and Otter Tail Power Co. (Otter Tail), pursuant to section 202(c); and whether it is necessary and appropriate to direct Otter Tail, pursuant to section 202(b) of the Act, to establish physical connection of its facilities with those of the Applicant village and to sell or exchange energy with Elbow Lake.

Docket No. E-7278 was commenced by an application of Elbow Lake [1] for relief under section 202(b) filed on March 16, 1966. It was directed primarily toward long-term bulk power supply arrangements for Elbow Lake. Applicant sought an electrical interconnection with facilities of Otter Tail and proposed to secure power supplies from generation of the U.S. Bureau of Reclamation, Missouri Basin System or Basin Electric Power Cooperative, Inc. Elbow Lake operates a municipally owned electric distribution system supplied by two diesel electric generators. The municipal system commenced operation in 1966. Formerly, Otter Tail served electric consumers in Elbow Lake at retail. Currently, the company owns a 41.6-kv line and substation structure in the village but has no physical connection with the electric facilities of Elbow Lake.

In an answer received April 20, 1966, and an amended answer received May 20, 1966, Otter Tail requested dismissal of the Application. On May 29, 1967, Elbow Lake amended its application under section 202(b). Otter Tail's answer, received August 3, 1967, restated its previously stated opposition to Elbow Lake's request.

On February 5, 1968, Applicant filed two letters. One requested deferral or suspension of consideration of the particular relief sought under section 202 (b) by the village's March 16, 1966, Application. It requested a staff analysis of power supply arrangements for the village. The letter states in part that the village seeks "* * * a coordination study of future power supply for the village of Elbow Lake with other power systems in the area." In the second letter, Elbow Lake asked for an immediate connection under section 202(c), with Otter Tail alleging that the village will be unable to meet its 1968 winter peak requirements from its existing diesel generation. Otter Tail responded to both letters on February 19, 1968, and disputed that Applicant had shown any facts as would warrant an immediate connection between the two systems, denied the existence of an emergency shortage of facilities and requested that a hearing be fixed in this matter.

The procedure prescribed hereinafter will allow Applicant, Otter Tail and the Commission staff to present facts and law bearing upon the foregoing matters without unduly delaying an emergency interconnection if one is warranted. The hearing procedure directs a trial of the issues on the appropriateness of an interim emergency interconnection under section 202(c) in advance of the matters raised under section 202(b) of the Federal Power Act. The examiner is directed to hear that question initially and upon an expedited basis.

Basic operating procedures currently being followed by the company and the village have resulted in substantial disputes between those parties. They have raised questions of service reliability. They have prompted inquiry as to their efficacy in achieving an abundant supply of electric energy for the consumers with the greatest possible economy and due regard to the proper utilization and conservation of natural resources.

The Commission further finds:

(1) It is necessary and appropriate for purposes of this proceeding and of the Federal Power Act that a public hearing be ordered respecting all issues which may be presented under sections 202(b) and 202(c) of the Act, as hereinafter provided.

(2) Due and timely execution of the Commission's functions imperatively and unavoidably requires that the intermediate decision procedure be waived with respect to the issues presented under section 202(c) of the Act.

The Commission orders:

(A) Pursuant to the authority contained in the Federal Power Act, particularly sections 202, 205, 206, 308, and 309 thereof, a public hearing shall be held at 10 a.m., d.s.t., July 9, 1968, at a place as shall be prescribed hereafter by notice of the Secretary.

(B) The Presiding Examiner is directed to consider separately, the issues presented under section 202(c) of the Act and to certify that portion of the hearing record to the Commission without an initial decision on those issues, all in advance of any decision by the Examiner on the issues of fact and law bearing on Applicant's request for relief under section 202(b) of the Act, including Otter Tail's motions to dismiss, Docket No. E-7278.

(C) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.1 and 1.37) on or before July 1, 1968.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68-7348; Filed, June 20, 1968; 8:46 a.m.]

[1] The application was styled a complaint. It was preceded by an informal complaint dated Mar. 5, 1965, and docketed as IN-971.

FEDERAL RESERVE SYSTEM

HAWKEYE BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Hawkeye Bancorporation, which is a bank holding company located in Red Oak, Iowa, for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of The Pella National Bank, Pella, Iowa.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result

in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Dated at Washington, D.C., this 14th day of June 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-7388; Filed, June 20, 1968; 8:50 a.m.]

HAWKEYE BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Hawkeye Bancorporation, which is a bank holding company located in Red Oak, Iowa, for the prior approval of the Board of the acquisition by Applicant of 69 percent or more of the voting shares of Burlington Bank and Trust Co., Burlington, Iowa.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Dated at Washington, D.C., this 14th day of June 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-7390; Filed, June 20, 1968; 8:50 a.m.]

HAWKEYE BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by Hawkeye Bancorporation, which is a bank holding company located in Red Oak, Iowa, for the prior approval of the Board of the acquisition by Applicant of 51 percent or more of the voting shares of First National Bank, Clinton, Iowa.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Dated at Washington, D.C., this 14th day of June 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-7391; Filed, June 20, 1968; 8:50 a.m.]

MARINE CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by The Marine Corp., which is a bank holding company located in Milwaukee, Wis., for the prior approval of the Board of the acquisition by Applicant of 80 percent or more of the voting shares of Meinhardt Bank, Burlington, Wis.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Dated at Washington, D.C., this 14th day of June 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-7389; Filed, June 20, 1968; 8:50 a.m.]

UNITED BANCSHARES OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842 (a)), by United Bancshares of Florida, Inc., which is a bank holding company located in Coral Gables, Fla., for the prior approval of the Board of the acquisition by Applicant of 66⅔ percent or more of the voting shares of United National Bank of Dadeland, Miami, Fla., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 14th day of June 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-7392; Filed, June 20, 1968; 8:50 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 673]

MINNESOTA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of June 1968, because of the effects of certain disasters, damage resulted to residences and business property located in the county of Lyon, in the State of Minnesota;

Whereas, the Small Business Administration has investigated and received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in the aforesaid county, and areas adjacent thereto, suffered damage or destruction resulting from tornado occurring on June 13, 1968.

OFFICE

Small Business Administration Regional Office, 816 Second Avenue South, Minneapolis, Minn. 55402.

2. A temporary office will be established in Tracy, Minn., address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to December 31, 1968.

Dated: June 14, 1968.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 68-7360; Filed, June 20, 1968; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 18, 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. 41366—*Frozen fruit juices from Alcoma, Fla.* Filed by O. W. South, Jr., agent (No. A6024), for interested rail carriers. Rates on frozen citrus fruit or pineapple juices and related articles, in carloads, as described in the application, from Alcoma, Fla., to points in southern, official (including Illinois), and western trunkline territories.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 27 to Southern Freight Association, agent, tariff ICC S-676.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-7373; Filed, June 20, 1968; 8:48 a.m.]

[Notice 632]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 18, 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 Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized 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 30837 (Sub-No. 352 TA), filed June 13, 1968. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wheeled amphibious craft*, from Chico, Calif., to points in the United States, excluding Hawaii and Alaska, for 180 days. Supporting shipper: Coot, Inc., Suite 291, Ferry Building, San Francisco, Calif. 94111 (R. R. Mauser, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 66746 (Sub-No. 11 TA), filed June 11, 1968. Applicant: JOHN L. KERR AND G. O. KERR, JR., a partnership, doing business at SHIPPERS EXPRESS, Post Office Box 8665, 1651 Kerr Drive,

Jackson, Miss. 39204. Applicant's representative: Harold D. Miller, Jr., Post Office Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Clarksdale and Shelby, Miss., on the one hand, and, on the other, Jackson, Miss., for 180 days. NOTE: Applicant proposes to tack this authority with its certificate MC-66746 Sub 5, and to interline with other carriers at Jackson, Miss. Supporting Shippers: Shelby Die Casting Co., Shelby, Miss. 38774 (Bert W. Hayes, General Manager); Southern Bell Telephone and Telegraph Co., Clarksdale, Miss. 38614 (M. C. Burnette, Plant Manager); Clarksdale Plant, New Britain Division, Emhart Corp., Post Office Box 760, Clarksdale, Miss. 38614; (Win Collins, Traffic Manager); Coahoma Chemical Co., Inc., Post Office Box 550, Clarksdale, Miss. 38614; (William H. Gresham, Vice President); The KBH Corp., Post Office Box 246, Clarksdale, Miss. 38614; (Robert H. Canon, Jr., General Manger); Stephens-Adamson Manufacturing Co., Post Office Box 248, Clarksdale, Miss. 38614; (W. A. Herren, General Manager); Cooper Tire & Rubber Co., Clarksdale, Miss. 38614; (Darrel Kelly, Plant T.M.). Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 312-A Post Office Building, Jackson, Miss. 39201.

No. MC 105007 (Sub-No. 20 TA), filed June 13, 1968. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, Minn. 56007. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood products, lumber, related articles, and accessories thereof*, from Weyerhaeuser Co. plants and facilities in Minnesota, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Weyerhaeuser Co., 100 South Wacker Drive, Chicago, Ill. 60606. Send protests to: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 107515 (Sub-No. 617 TA), filed June 14, 1968. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Post Office Box 10799, Station A, Atlanta, Ga. 30310. Applicant's representative: B. L. Gundlach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from Salem, Va., to points in Florida, Georgia, Alabama, North Carolina, South Carolina, Tennessee, Mississippi, Louisiana, and Texas, for 180 days. Supporting shipper: Old Dominion Candies, Inc., Salem, Va. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 109435 (Sub-No. 53 TA), filed June 14, 1968. Applicant: ELLSWORTH BROS. TRUCK LINE, INC., Drawer J, 116 North Allied Road, Stroud, Okla. 74079. Applicant's representative: Jim Banks, Ellsworth Bros. Truck Line, Inc., Drawer J, Stroud, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry cement*, in bulk, from Woodward, Okla., to points in Stanton, Grant, Haskell, Gray, Ford, Kiowa, Pratt, Harper, Barber, Comanche, Clark, Meade, Stevens, Morton, and Seward Counties, Kans., and points in Texas, for 180 days. Supporting shipper: Oklahoma Cement Co., J. W. Ettinger, Vice President, General Manager, First National Building, Tulsa, Okla. 74103. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 109609 (Sub-No. 10 TA), filed June 12, 1968. Applicant: ALGER & SMITH TRANSPORTATION CO., 21 Stone Avenue, Post Office Box 33, Shrewsbury, Mass. 01545. Applicant's representative: Arthur A. Wentzell, 275 Cherry Street, Shrewsbury, Mass. 01545. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal grease*, liquid, in bulk in insulated tank vehicles, from Ellsworth, Maine, to Worcester, Mass., for 150 days. Supporting shipper: The White & Bagley Co., 100 Foster Street, Worcester, Mass. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 113328 (Sub-No. 149 TA), filed June 14, 1968. Applicant: O'BOYLE TANK LINES, 4848 Cordell Avenue, Washington, D.C. 20014. Applicant's representative: Fred H. Daly, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica gel catalyst*, from Baltimore, Md., to Institute, W. Va., for 180 days. Supporting shipper: W. R. Grace & Co., Davison Chemical Division, Baltimore, Md. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 115876 (Sub-No. 18 TA), filed June 13, 1968. Applicant: ERWIN HURNER, 2605 South Rivershore Drive, Moorhead, Minn. 56560. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, frozen foods, and beverages*, from Moorhead, Minn., to Rapid City, S. Dak., for 180 days. Supporting shipper: Fairmont Foods Co., 124 Eighth Street North, Moorhead, Minn. 56560. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 116273 (Sub-No. 107 TA), filed June 13, 1968. Applicant: D&L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: Robert G. Paluch, 3800 South Laramie Avenue, Cicero, Ill. 60650. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and liquefied petroleum*, from Frankfort, Ill., to points in Georgia, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee (except Kingsport), and Wisconsin, for 150 days. NOTE: Applicant intends to tack with MC-116273 Sub-No. 6; and interline with General Movers, Inc., MC-No. 120879, point of tacking and interline at Frankfort, Ill. Supporting shipper: Diversified Chemicals & Propellants Co., Suite 415, Oak Brook Executive Plaza, Oak Brook, Ill. 60521. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 129200 (Sub-No. 2 TA), filed June 13, 1968. Applicant: WELDON MOVING AND STORAGE CO., INC., Post Office Box 1442, Cocoa, Fla. 32922. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as described by the Commission, between points in Brevard, Osceola, Indiana, Okeechobee, St. Lucie, and Martin Counties, Fla., moving under contract by Patrick AFB, Fla.; restricted to traffic having either a prior or subsequent movement in interstate or foreign commerce, for 150 days. Supporting shipper: Military Traffic Management & Terminal Services (MTMTS), Washington, D.C. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 129958 (Sub-No. 1 TA), filed June 13, 1968. Applicant: HARRY T. GERBER, doing business as HARRY T. GERBER TRUCKING, Rural Route 4, Bluffton, Ind., to points in Ohio, on and tive: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete slats*, from the plantsite of the Thrive Center Division of Honeggers' & Co., Inc., at or near Bluffton, Ind., to points in Ohio, on and west of Interstate Highway 75, from the Ohio-Kentucky line to the Ohio-Michigan line, for 180 days. Supporting

shipper: Honeggers' & Co., Inc., Fairbury, Ill. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

MOTOR CARRIER OF PASSENGERS

No. MC 129969 TA, filed June 13, 1968. Applicant: LAKELAND BUS LINES, INC., East Blackwell Street, Dover, N.J. 07801. Applicant's representative: F. Theodore Massoth, Raymond-Commerce Building, 1180 Raymond Boulevard, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* who are employees of Clay-Adams, Inc., Division of Becton, Dickinson & Co., between New York, N.Y., and Parsippany, N.J., for 150 days. NOTE: Applicant does not intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shipper: Clay-Adams, Inc., Division of Becton, Dickinson & Co., 141 East 25th Street, New York, N.Y.; New Plantsite, 299 Webro Road, Parsippany, N.J. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

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

[F.R. Doc. 68-7374; Filed, June 20, 1968; 8:49 a.m.]

[Notice 161]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 18, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70157. By order of June 11, 1968, the Transfer Board approved the transfer to Don McAden Co., a corporation, Gordonville, Tex., of portions of certificates in Nos. MC-114098 (Sub-No. 13), and MC-114098 (Sub-No. 38), issued June 14, 1961, and June 27, 1963, respectively, to Lowther Trucking Co., a corporation, Charlotte, N.C., authorizing the transportation of conduit and pipe and fitting and attachments, from Landisville, N.J., to points in Oklahoma and Texas; and, conduit and pipe and fittings and attachments except commodities which because of size or weight requires the use of special equipment, from Landisville, N.J., to points in Kentucky, Louisiana, New Mexico, Colorado, Wyoming, Montana, Idaho, Washington, Oregon, California, Nevada, Arizona, Alabama, Mississippi, Tennessee, and Utah. Louis J. Amato, Post Office Box E, Bowling Green, Ky. 42101, attorney for applicants.

No. MC-FC-70412. By order of June 14, 1968, the Transfer Board approved the transfer to Franklin's Moving & Storage, Inc., Grants Pass, Oreg., of the operating rights in certificate No. MC-112523 issued March 29, 1965, to Pines E. Dunn, doing business as Franklin's Moving & Storage, Grants Pass, Oreg., authorizing the transportation of household goods as defined by the Commission between points in Josephine County, Oreg. William B. Adams, 624 Pacific Building, Portland, Oreg. 97204, attorney for applicants.

No. MC-FC-70430. By order of June 14, 1968, the Transfer Board approved the transfer to Dwight Cheek, doing business as Dwight Cheek Trucking, Amarillo, Tex., of the operating rights in certificate No. MC-117878 issued June 2, 1960, to Leo Fields and J. J. Simons, a partnership, doing business as Leo Fields Trucking Co., Memphis, Tex., authorizing the transportation of bananas, from New Orleans, La., and El Paso and Galveston, Tex., to Amarillo, Tex. Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex. 78701, attorney for applicants.

No. MC-FC-70527. By order of June 14, 1968, the Transfer Board approved the transfer to Paone Trucking, Inc., Cranston, R.I., of the operating rights in permit No. MC-126467, issued June 16, 1965, to Frank A. Paone, doing business as F. Paone Trucking Co., Cranston, R.I., authorizing the transportation of concrete products, and related materials, between points in Connecticut, Rhode Island, and Massachusetts. Russell B. Curnett, Practitioner, 36 Circuit Drive, Providence, R.I. 02905, representative for applicants.

No. MC-FC-70545. By order of June 14, 1968, the Transfer Board approved the transfer to V.I.A., Inc., Albany, Ill., of the certificate of registration No. MC-98704 (Sub-No. 1), issued October 18, 1963, to Congress Express, Inc., Chicago, Ill., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Illinois, corresponding in scope to the service authorized by certificate of convenience and necessity granted in No. 3301MC-R, approved February 9, 1962, by the Illinois Commerce Commission. Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603, attorney for applicants.

No. MC-FC-70546. By order of June 14, 1968, the Transfer Board, approved the transfer to Madden's Transfer & Storage, Inc., Saranac Lake, N.Y., the follow-in described operating rights and permits of William F. Madden, doing business as Madden's Transfer, Saranac Lake, N.Y., (a) certificate No. MC-94170, issued March 28, 1941, authorizing transportation service in interstate or foreign commerce over irregular routes of household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between Saranac Lake, N.Y., and points and places within 10 miles of Saranac Lake, on the one hand, and, on the other, points and places in Connecticut, Massachusetts, New Jersey, Pennsylvania, and Vermont; (b) certificate No. MC-94170 (Sub-No. 2) issued May 24, 1950, authorizing transportation service in interstate or foreign commerce over irregular routes of household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between Saranac Lake, N.Y., and points and places in New York, within 40 miles thereof, on the one hand, and, on the other, points and places in Connecticut, Delaware, Illinois, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Vermont, Virginia, West Virginia, and the District of Columbia, traversing Indiana and New Hampshire for operating convenience only, except between Saranac Lake, N.Y., and points and places within 10 miles thereof on the one hand, and on the other, points and places in Connecticut, Massachusetts, New Jersey, Pennsylvania, and Vermont; (c) certificate No. MC-94170 (Sub-No. 4), issued September 17, 1965, authorizing transportation service in interstate or foreign commerce over irregular routes of equipment and materials used in the construction, installation, maintenance, and repair of telephone systems, between points in 10 named counties in New York State, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, Pennsylvania, Delaware, Maryland, and Ohio; (d) permit No. MC-101915, issued October 11, 1941, authorizing transportation service in interstate or foreign commerce, over irregular routes, of fresh meats and packinghouse products, from Saranac Lake, N.Y., to points and places in Clinton, Franklin, and Essex Counties, N.Y.; and (e) permit No. MC-101915 (Sub-No. 2), issued July 22, 1960, authorizing transportation service in interstate or foreign commerce, over irregular routes, of fresh meats and packinghouse products, and dairy products, as described in appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Saranac Lake, N.Y., to points in St. Lawrence County, N.Y., and damaged and defective shipments of the above-specfied commodities, from points in St. Lawrence County, N.Y., to Saranac Lake, N.Y., limited to operations to be performed under continuing contract or contracts with Wilson & Co., Chicago, Ill. Robert J. Gallagher, 111 State Street, Boston, Mass. 02109, attorney for applicants.

No. MC-FC-70548. By order of June 14, 1968, the Transfer Board approved the transfer to Eagle Drayage Co., Inc., St. Louis, Mo., of the operating rights in certificate No. MC-32427 issued June 7, 1943, to Clarence W. Koeller, doing business as Eagle Drayage Co., St. Louis, Mo., authorizing the transportation of general commodities, with the usual exceptions, between points in the St. Louis, Mo., East St. Louis, Ill., commercial zone,

as defined by the Commission. Austin C. Knetzger, 722 Chestnut Street, St. Louis, Mo. 63101, attorney for applicants.

No. MC–FC–70550. By order of June 14, 1968, the Transfer Board approved the transfer to Central Plains Transport Co., a corporation, Midland, Tex., of certificate of registration No. MC–96992 (Sub-No. 1) issued August 9, 1965, to Thomas Graves, doing business as Thomas Graves Transport Co., Midland, Tex., evidencing a right to engage in interstate or foreign commerce in Texas. Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701, attorney for applicants.

No. MC–FC–70566. By order of June 14, 1968, the Transfer Board approved the transfer to Arnold Dee White and Erma M. White, a partnership, doing business as World Wide Fiesta Tours, 1795 East 3170 South, Salt Lake City, Utah 84106, of License No. MC–12719 issued July 21, 1960, to Mary P. Losee, doing business as Mrs. W. E. Losee Tours, 2450 North 795 East, Provo City, Utah, authorizing operations as a broker in the transportation of: Passengers and their baggage, in the same vehicle with passengers, in all-expense charter tours, beginning and ending at Provo, Utah, and extending to points in the United States, including Alaska and Hawaii. Applicant is authorized to engage in the above-specified operations as a broker at Provo, Utah.

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

[F.R. Doc. 68–7375; Filed, June 20, 1968; 8:49 a.m.]

[S.O. 994; Amdt. 1]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting Traffic or Diversion of Traffic

Upon further consideration of ICC Order No. 1 (Chicago, Rock Island, and Pacific Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 1 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., December 31, 1968, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1968, and that this order shall be served upon the Association of American Railroads, car service division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 17, 1968.

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

[F.R. Doc. 68–7376; Filed, June 20, 1968; 8:49 a.m.]

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FEDERAL REGISTER

VOLUME 33 • NUMBER 121

Friday, June 21, 1968 • Washington, D.C.

PART II

Indian Claims Commission

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General Rules of Procedure

Title 25—INDIANS

Chapter III—Indian Claims Commission

Chapter III of Title 25, Part 503, is amended to read as follows:

PART 503—GENERAL RULES OF PROCEDURE

Sec.
503.1 Petitioners.
503.2 Commencement of action.
503.3 Service of petition.
503.4 Service and filing of other papers.
503.5 Time.
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503.7 General rules of pleading.
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503.10 Signing of pleadings.
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503.12 Counterclaim, cross-claim and set-off.
503.13 Amended and supplemental pleadings.
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AUTHORITY: The provisions of this Part 503 issued under sec. 9, 60 Stat. 1051; 25 U.S.C. 70h.

§ 503.1 Petitioners.

(a) Claims within the jurisdiction of the Indian Claims Commission of the United States (60 Stat. 1049), hereafter referred to in this part as the Commission, may be presented by any Indian tribe, band or other identifiable group of American Indians.

(b) Claims by Indian tribes, bands or groups which have tribal organizations recognized by the Secretary of the Interior as having authority to represent such tribe, band or group shall be filed and presented by the duly appointed or elected officers of such organization, except as provided in paragraph (c) of this section.

(c) Where by virtue of fraud, collusion or laches on the part of a recognized tribal organization a claim has not been presented (or has not been included as part of a presented claim), any member of such tribe, band or group may file claim on behalf of all the other members of such tribe, band or group upon complying with the provisions of § 503.8 (a).

(d) Claims on behalf of any unorganized tribe, band or other identifiable group may be filed by any member of such tribe, band or identifiable group as the representative of all its members.

§ 503.2 Commencement of action.

(a) A claim shall be commenced by the filing of a petition with the Commission.

(b) Twenty printed copies of each petition shall be filed. The Commission on motion accompanying a typewritten petition assigning good and sufficient cause, may waive or postpone printing of the petition. When printing of the petition is waived 8 legible typewritten copies thereof shall be filed.

§ 503.3 Service of petition.

Service shall be made upon the United States as follows:

By sending 15 copies of the printed petition or four copies of the typed petition by certified or registered mail (return receipt requested) to the Attorney General of the United States at Washington 25, D.C. Service by mail is complete upon mailing. The return receipt shall be delivered to the Clerk of the Commission to be filed in the case.

§ 503.4 Service and filing of other papers.

(a) *Service*—(1) *When required.* Every order required by its terms to be served, every pleading subsequent to the original petition, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar papers shall be served upon each of the parties affected thereby, but no service need be made on parties in default for failure to appear, except that pleadings asserting new or additional claims for relief shall be served in the manner provided for service in § 503.3.

(2) *How made.* Whenever under the rules in this part service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney of record (provided for in this paragraph) unless service upon the party himself is ordered by the Commission. Service upon the attorney of record or upon a party shall be made by delivering a copy to him or by mailing it to him at his address registered with the Clerk as required by § 503.35. Delivery of a copy within the provisions of this section means: Handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

(b) *Proof of service*—(1) *File before taking action.* Proof of service of papers required or permitted to be served, other than those for which a method of proof is prescribed by the Federal rules of civil procedure, shall be filed before action is to be taken thereon.

(2) *Form of.* The proof shall show the time and manner of service, and may be by written acknowledgment of service, by affidavit of the person making service, by certificate of a member of the bar of this Commission, or by other proof satisfactory to the Commission.

(3) *Failure to make.* Failure to make proof of service will not affect the validity thereof. The Commission may at any time allow the proof to be amended or supplied, unless to do so would result in material prejudice to a party.

(c) *Filing.* All papers after the petition required to be served upon a party shall be filed with the Commission either before service or within a reasonable time thereafter.

(d) *Filing with the Commission defined.* The filing of pleadings and other papers with the Commission as required by the rules in this part shall be made by filing them with the Clerk of the Commission, except that a Commissioner or Examiner when a claim is being heard by him may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the Clerk.

§ 503.5 Time.

(a) *Computation.* In computing any period of time prescribed or allowed by the rules in this part by order of Commission, Commissioner or Examiner or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday in the District of Columbia, in which event the period runs until the end of the next day upon which the Commission is open for business. Legal holidays in the District of Columbia are as follows:

1st day of January, New Year's Day;
Day of the inauguration of the President in every fourth year, January 20;
22d day of February, Washington's Birthday;
30th day of May, Decoration Day;
4th day of July, Independence Day;
First Monday in September, Labor's Holiday;
11th day of November, Veterans Day;
Any day appointed or recommended by the President of the United States as a day of public fasting or thanksgiving (Thanksgiving, generally the fourth Thursday in November);
25th day of December, Christmas Day.

(Code of Law for the District of Columbia, sec. 1389, 31 Stat. 1405.)

When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

(b) *Enlargement.* When by the rules in this part or by a notice given thereunder or by order of the Commission an act is required or allowed to be done at or within a specified time, the Commission, or a Commissioner or Examiner in a case being heard by him, or by stipulation of the parties, for cause shown may at any time in its or his discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

(c) *For motions; affidavits.* A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by the rules in this part or by order of the Commission. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; opposing affidavits may be served not later than 1 day before the hearing, unless the Commission permits them to be served at some other time.

(d) *Additional time after service by mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

§ 503.6 Pleadings allowed, form of motions.

(a) *Pleadings.* There shall be a petition and an answer; and there shall be a reply to a counterclaim denominated as such. No other pleading shall be allowed, except that the Commission may order a reply to an answer.

(b) *Motions and other papers.* (1) An application to the Commission for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by the rules in this part.

(3) A motion for an extension of time within which to comply with any rule or order of the Commission shall, in addition to stating the grounds therefor, also set forth any previous requests by the movant for an extension of time for the same purpose and the action taken by the Commission thereon.

(c) *Demurrers, pleas, etc.* Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.

§ 503.7 General rules of pleading.

(a) *Pleading to be concise and direct; consistency.* (1) Each averment of a pleading shall be simple, concise and direct. No technical forms of pleading or motions are required. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(2) A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them, if made independently, would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has, regardless of consistency and regardless of the nature of the grounds on which they are based. All statements shall be made subject to the obligations set forth in § 503.10 (b).

(b) *Statement of petition.* A petition shall state with particularity. (1) Any action on the claim previously taken by Congress or by any department of the Government or in any judicial proceeding and whether the claim or any part thereof is included in any suit pending in the Court of Claims or in the Supreme Court of the United States or whether the same has been filed in the Court of Claims under any legislation in effect on the date of the approval of the Indian Claims Commission Act.

(2) If the claim or defense is founded upon an act of Congress or upon the regulation of an executive department or independent establishment, the act and the section thereof on which the pleader relies shall be specified and the particular regulation of the department or independent establishment stated, and a copy of such regulation attached to the petition.

(3) If the claim or defense is founded on a contract or treaty with the United States or an Executive order of the President, the substance of the same shall be set forth in the petition; if in writing, the original or a copy thereof shall be annexed thereto. All parts immaterial to the claim or defense or to the relief sought may be omitted.

(c) *Construction of pleadings.* All pleadings shall be so construed as to do substantial justice.

§ 503.8 Capacity.

(a) Petitions filed by any tribal organization recognized by the Secretary of the Interior as having authority to represent a tribe, band or group need not aver the capacity of such organization to sue except to the extent required to show the jurisdiction of the Commission. When the United States desires to raise an issue as to the capacity of such a recognized tribal organization to sue, it shall do so by specific negative averments, which shall include supporting particulars.

(b) If a petition is filed by one or more members of a tribe, band or other identifiable group having a tribal organization which is recognized by the Secretary of the Interior because the tribal organization has failed or refused to take any action authorized by the act, the petition shall be verified and shall aver that the petitioner is a member of the tribe, band or group. The petitioner shall also set forth with particularity the efforts of the petitioner to secure from the duly constituted and recognized officers of said tribal organization such action as he desires and the reasons for his failure to obtain such action (such as fraud, collusion or laches) or the reasons for not making such effort.

(c) Petitions filed by one or more members on behalf of an unorganized tribe, band or other identifiable group shall be verified and shall aver (1) that the petition or petitioners are members of the tribe, band or group (2) a description of the unorganized tribe, band or group of sufficient comprehension to identify the tribe, band or group on whose behalf the petition is filed.

§ 503.9 Form of pleadings.

(a) *Caption; names of parties.* Every pleading shall contain a caption setting forth the name of the Commission, and the title of the action, and a designation as in § 503.6(a). A petition filed on behalf of a tribal organization under the provisions of § 503.1 (b) shall be commenced in the name of such tribe, band or group. A petition filed on behalf of an organized tribe, band or group under the provisions of § 503.1 (c), or an unorganized group under § 503.1 (d), shall be in the name of the member or members filing the same on the relation of the tribe, band or group. In the petition, the title of the action shall include the names of all the parties, but in other pleadings it shall be unnecessary to name more than one of the petitioners.

(b) *Paragraphs; separate statements.* All averments of claims or defenses shall be made in numbered paragraphs, the contents of each of which shall be limited as far as possible to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(c) *Adoption by reference; exhibits.* Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

§ 503.10 Signing of pleadings.

(a) *Petitioner.* Every pleading of a party other than the United States represented by an attorney shall be signed by the attorney of record, designated under

§ 503.35 in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign its pleading and state its address.

(b) *Effect of.* The signature of an attorney constitutes a certificate by him that he has read the pleadings; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

§ 503.11 Defenses and objections.

(a) *When presented.* The United States shall serve its answer to the petition except a demand for a counterclaim or setoff, within 60 days after service on the Attorney General as provided in this part. The service of any motion permitted under this section alters this period of time as follows, unless a different time is fixed by order of the Commission: (1) If the Commission denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 30 days after notice of the Commission's action or before the expiration of 60 days from the service of the petition, whichever is latest; (2) if the Commission grants a motion for a more definite statement the responsive pleading shall be served within 60 days after the service of the more definite statement.

(b) *How presented.* Every defense to a claim for relief in any pleading, except a counterclaim or set-off by the United States, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) insufficiency of service, (4) failure to state a claim upon which relief can be granted. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, it may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (4) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the Commission, the motion shall be treated as one for summary judgment and disposed of, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion.

(c) *Motion for judgment on the pleadings.* After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the Commission, the motion shall be treated as one for summary judgment and disposed of, and all parties shall be given a reasonable opportunity to present all material pertinent to such a motion.

(d) *Preliminary hearings.* The defenses specifically enumerated as subparagraphs (1) through (4) in paragraph (b) of this section, whether made in a pleading or by motion, and the motion for judgment mentioned in paragraph (c) of this section shall be heard and determined before trial on application of any party, unless the Commission orders that the hearing and determination thereof be deferred until the trial. Any pleading which includes any of the defenses enumerated in paragraph (b) of this section shall be accompanied by the statement of points and authorities required by § 503.22 (a) (1).

(e) *Motion for more definite statement.* If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, it may move for a more definite statement before interposing its responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the Commission is not obeyed within 10 days after notice of the order or within such other time as the Commission may fix, the Commission may strike the pleading to which the motion was directed or make such order as it deems just.

(f) *Motion to strike.* Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by this part, upon motion made by a party within 20 days after the service of the pleading upon it or upon the Commission's own initiative at any time, the Commission may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

(g) *Consolidation of motions.* A party who makes a motion under this section may join with it the other motions provided for in this section and then available to it. If a party makes a motion under this section and does not include therein all defenses and objections then available to it which this section permits to be raised by motion, it shall not thereafter make a motion based on any of the defenses or objections so omitted, except as provided in paragraph (h) of this section.

(h) *Waiver of defenses.* The United States waives all defenses and objections which it does not present either by motion as hereinbefore provided in this section or, if it has made no motion, in its answer or reply, except (1) that the defense of failure to state a claim upon which relief can be granted, and the objection of failure to state a defense to a claim may also be made by a later pleading, if one is permitted, or by motion for judgment on the pleading or at the trial on the merits, and except (2) that whenever it appears by suggestion of the parties or otherwise that the Commission lacks jurisdiction of the subject matter, the Commission shall dismiss the action. The objection or defense, if made at the trial, shall be disposed of as provided in § 503.13 (b) in the light of any evidence that may have been received.

(i) *Default by United States.* Unless the Attorney General shall within 60 days after the service of the petition serve a defensive pleading upon the petitioner, if the time is not extended by order of the Commission, or consent of the parties, the Commission may, on motion of the petitioner and after notice to the Attorney General, have the Clerk note on the docket that no answer has been filed and the Commission shall hear the petitioner's evidence and such facts as the Investigation Division of the Commission may assemble, before making its final determination.

§ 503.12 Counterclaim, cross-claim and set-off.

(a) *Set-offs.* If, after a preliminary hearing under § 503.22(f) it is determined that the United States is liable to the petitioner in any amount, the United States shall, within 60 days after the entry of the final order determining that right, unless extended by the Commission, amend its answer by setting forth the amount of any set-offs, counter-claims or any other demands against the petitioner authorized by the act.

(b) *Omitted counterclaim or set-off.* When the United States fails to set up a counterclaim or set-off, through oversight, inadvertence, or excusable neglect, or when justice requires, it may by leave of the Commission set up the counterclaim or set-off by amendment.

(c) *Answer to counterclaim or set-off.* Within 40 days after the filing of a set-off or counterclaim or other demand by the defendant, the petitioner or his attorney shall serve a reply thereto.

§ 503.13 Amended and supplemental pleadings.

(a) *Amendments.* (1) A party may amend its pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been set for hearing, it may so amend it at any time within 20 days after it is served. Otherwise a party may amend its pleading only by leave of the Commission or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time allowed for responding to an original pleading, unless the Commission otherwise orders.

(2) Amended petitions shall be printed and the same number filed as in the case of original petitions, unless printing is waived by the Commission. Where the amendments are slight and can be understood without a reprint of the entire petition they may either be interlined in the existing petition or printed pasters may be attached to the original petition.

Where a petition is amended in accordance with that portion of this section which permits interlineations or printed pasters to be attached to the original petition, the Clerk shall endorse on its face the fact that it is an amended peti-

tion and also the date of the amendment or amendments and such amended petition shall be verified when required by § 503.8.

(b) *Amendments to conform to the evidence.* When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure to so amend does not affect the result of the trial of these issues. If evidence not within the issues made by the pleadings is offered at a hearing held by a Commissioner or an Examiner, upon objection such evidence shall be rejected; whereupon the party may make an offer of proof. Upon motion to amend the pleading the Commission shall after notice to the adverse party allow the pleading to be amended to conform to the offered evidence and shall do so freely when the presentation of the merits of the claim or defense will be subserved thereby and the objecting party fails to satisfy the Commission that the amendment of the pleading and the admission of such evidence would prejudice it in maintaining its claim or defense. The Commission may grant a continuance to enable the objecting party to meet such evidence.

(c) *Relation back of amendments.* Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

§ 503.14 Interrogatories to parties and depositions pending action.

(a) *Interrogatories to parties.* (1) Any party may serve upon any adverse party written interrogatories to be answered by the party served or, if the party served is the United States, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may be served after commencement of the action and without leave of the Commission. The interrogatories shall be answered separately and fully in writing under oath. The answers shall be signed by the person making them; and the party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within 15 days after the service of the interrogatories, unless the Commission, on motion and notice and for good cause shown, enlarges or shortens the time. Within 10 days after service of interrogatories a party may serve written objections thereto together with a notice of hearing the objections at the earliest practicable time. Answers to interrogatories to which objection is made shall be deferred until the objections are determined.

(2) Interrogatories may relate to any matters which can be inquired into under paragraph (c) of this section, and the answers may be used to the same extent as provided in paragraph (e) of this section for the use of the deposition of a party. Interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered. The number of interrogatories or of sets of interrogatories to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment, or oppression.

(b) *When depositions may be taken.* Any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or for both purposes. After service of the petition the deposition may be taken without leave of the Commission, except that leave, granted with or without notice, must be obtained if notice of the taking is served by the petitioner within 20 days after service of the petition. The attendance of witnesses may be compelled by the use of subpoena as provided in § 503.24 (a) (1). Depositions shall be taken only in accordance with the rules in this part.

(c) *Scope of examination.* Unless otherwise ordered by the Commission, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence.

(d) *Examination and cross-examination.* Examination and cross-examination of deponents may proceed as permitted at the hearings under the provisions of § 503.23.

(e) *Use of depositions.* At a hearing before the Commission, a Commissioner or Examiner or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the Commission, Commissioner or Examiner finds: (i) that the witness is dead; or (ii) that the witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend or testify because of age, sickness, infirmity or imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) upon application and notice, but such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(3) If only a part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.

(f) *Objections to admissibility.* Subject to the provisions of § 503.19 (c), objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(g) *Effect of taking or using depositions.* A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition. At the hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

§ 503.15 Depositions to perpetuate testimony.

Depositions taken under the provisions of section 13(a) of the act creating the Commission shall be taken pursuant to the notices provided for in this part, which shall be given to the Attorney General of the United States, and if a petition has been filed, to the attorney of record for the petitioner, of which the aged or invalid Indians whose depositions are to be taken are members, provided that the Commission may, if it deems it necessary, authorize the taking of such depositions on shorter notice than that provided for in this part. Depositions of such aged or invalid Indians may be used in any case in which the same may be material.

§ 503.16 Persons before whom depositions may be taken.

(a) *Within the United States.* Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, or before a person appointed by the Commission. A person so appointed has power to administer oaths and take testimony.

(b) *Disqualification for interest.* No deposition shall be taken before a person who is directly or indirectly interested in the outcome of the claim.

§ 503.17 Depositions upon oral examination.

(a) *Notice of examination; time and place.* A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of any party upon whom the notice is served, the Commission may for cause shown enlarge or shorten the time.

(b) *Witnesses by other party.* When depositions are taken on notice, as provided in this part, if both parties are present or represented at the time and place specified in the notice, either party may, after the examination of the witnesses summoned under the notice, be entitled to summon and examine other witnesses; but in such case one day's notice shall be given to the adverse party or its attorney there present, unless such notice is waived.

(c) *Record of examinations; oath; objections.* The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) *Interpreter.* If a witness is in need of an interpreter the interpreter shall be sworn to well and truly translate all questions asked and answers given.

(e) *Submission to witness; changes; signing.* When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness. If the witness refuses to sign the deposition, the officer shall sign it and state on the record the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress under § 503.19 (d) the Commission holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) *Certification and filing by officer; copies; notice of filing.* (1) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly file it with the Commission or send it by certified or registered mail to the Clerk thereof for filing.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

(3) The party taking the deposition shall give prompt notice of its filing to all other parties.

§ 503.18 Depositions of witnesses upon written interrogatories.

(a) *Serving interrogatories; notice.* A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within 10 days thereafter, a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within 5 days thereafter, the latter may serve redirect interrogatories upon a party who has served cross-interrogatories. Within 3 days after being served with redirect interrogatories, a party may serve recross interrogatories upon the party proposing to take the deposition.

(b) *Officer to take responses and prepare record.* A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by § 503.17 (c), (d) and (e) to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him.

(c) *Notice of filing.* When the deposition is filed, the party taking it shall promptly give notice thereof to all other parties.

§ 503.19 Effect of errors and irregularities in depositions.

(a) *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(b) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) *As to taking of deposition.* (1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(3) Objections to the form of written interrogatories submitted under § 503.18 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other interrogatories and within 3 days after service of the last interrogatories authorized. Answers to interrogatories to which objection is made shall be deferred until the objections are determined.

(d) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under §§ 503.17 and 503.18 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

§ 503.20 Calls on departments or agencies of the Government.

(a) A call will be made on any department or agency of the Government on motion of any party upon the approval of the Commission.

(b) The motion shall show with particularity what is sought to be proved by the papers or information desired, and how or in what respect they are relevant and material to the issues of the case.

(c) Motions for calls upon any department or agency of the Government shall be filed in the Clerk's office. If no objection is filed with the Clerk within 10 days after the motion has been served on the Attorney General, the motion will be presented to and acted upon by the Chairman or a Commissioner acting in his stead, as in the case of other motions.

(d) The Attorney General may offer in evidence duly certified information and papers from any department or agency of the Government without calling for the same under the provisions of paragraph (a) of this section.

(e) All information and papers furnished by any department or agency of the Government in response to a call or offered in evidence by the Attorney General shall be subject to objection by either party; but as to duly certified copies furnished on call or offered by the Attorney General, neither party will be required to produce the originals of such papers or prove their execution.

(f) Since, under the provisions of the second paragraph of section 14, Public Law 726, 79th Cong. (Sec. 14, 60 Stat. 1052; 25 U. S. C. 70m), the officers, departments and courts of the United States and committees of each House of Congress, are required, upon written request, to furnish the attorneys for claimants certified copies of official letters, papers, documents, maps or records in their or its possession, no call for such documentary evidence will be made by the Commission on any such officers, departments, courts or commissions, unless the claimant, or the attorney for a claimant, is unable to obtain the same, and then only upon motion therefor made in conformity with this section.

§ 503.21 Documentary evidence.

(a) At any hearing held under the rules in this part, any official letter, paper, document, map or record in the possession of any officer or department or court of the United States, or committee of Congress (or a certified copy thereof), may be used in evidence insofar as the same is relevant or material.

(b) Original depositions or original transcripts of other testimony of record (or certified copies of either) in any suit or proceeding in any court of the United States to which an Indian or Indian tribe or group was a party may be used in evidence insofar as relevant and material.

(c) Objections to the competency, relevancy and materiality of any evidence hereunder shall be made at the time it is offered in evidence.

§ 503.22 Hearings.

(a) *Motions.* (1) With each motion there shall be filed and served a separate paper stating the specific points of law and authorities to support the motion. Such statement shall be additional to a statement of grounds in the motion itself, and shall be entered on the docket but shall not be a part of the record. A statement of opposing points and authorities shall be similarly filed, noted and served within 10 days or such further time as the Commission may grant or the parties agree upon. If not filed within the prescribed time, the Commission may treat the motion as conceded. If so filed, the motion shall be treated as submitted unless the Commission directs or either party requests an oral hearing.

(2) *Nonappearance of parties.* If at the time set for hearing there be no appearance for the moving party, the Commission may treat the motion as submitted or waived, or continue or strike it from the motion calendar. If there be no appearance for the opposing side, it may be treated as submitted or conceded.

(b) Assignment of case. When a claim is at issue the same shall be heard by the Commission: *Provided, however,* The Commission may assign it to a Commissioner or an Examiner to take all or part of the evidence. When a Commissioner or an Examiner takes only a part of the evidence in any phase of a case § 503.26 shall not apply, but the evidence so taken shall be filed with the Clerk and become part of the evidence in the case.

(c) *Authority of Commissioner or Examiner.* When a claim has been assigned to a Commissioner or to an Examiner to take evidence, such Commissioner or Examiner shall act in the name of the Commission and all rulings and orders made and directions given by such Commissioner or Examiner shall have the same force and effect as though made by the Commission, but any party feeling himself aggrieved by any ruling or order made or direction given may have such order or direction reviewed by the Commission by motion to review filed within a reasonable time thereafter, and prior to the final determination of the case by the Commission.

(d) *Evidence.* The Commission, the Commissioner or the Examiner shall rule on the competency, materiality and relevancy of all evidence offered.

(e) *Pre-trial procedure; formulating issues.* In any proceeding the Commission may in its discretion direct the attorneys for the parties to appear before it, a Commissioner or an Examiner designated for that purpose for a conference to consider:

(1) The simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(4) The limitation of the number of expert witnesses;

(5) Manner of submission of testimony;

(6) Schedule for future procedural steps;

(7) Such other matters as may aid in the disposition of the action. If the proceeding has been assigned to a Commissioner or Examiner he shall be present. The Commissioner or Examiner shall make an order which recites the action taken at the conference, and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice.

(f) *On merits.* (1) In every case, unless otherwise ordered, the hearing before the Commission, a Commissioner or an Examiner in the first instance shall be limited to the issue of fact and law relating to the right of the plaintiff to recover.

(2) The burden of going forward with its proof shall be on the petitioner and the defendant shall not be required to produce any evidence until the petitioner has closed its proof. When hearings are being held in any place other than the District of Columbia, the defendant, may, if it so desires, take the testimony or present the evidence of any witness available at the time and place. If the hearing at any other place than the District of Columbia is on the part of the defendant, the petitioner may, at the same time and place, produce evidence in rebuttal of any evidence theretofore or then being produced.

(3) When the Commissioner or the Examiner has reason to believe that there are other material witnesses and evidence which have not been procured by either party, he may, after reasonable notice to the parties, summon and examine such witnesses and procure such evidence and consider the same in connection with the proof submitted by the parties. When the Commissioner or the Examiner has reason to believe that the case is being unnecessarily delayed by the failure of either or both parties to produce witnesses, he may fix a reasonable time in which said party delaying the same must close the testimony.

(g) *Swearing witnesses.* Witnesses shall be sworn or affirmed by the Comsioner or Examiner. When testimony is taken orally before a Commissioner or Examiner at a hearing, it shall not be necessary for the witness to sign the same.

(h) *Date and place.* When a claim has been assigned for hearing, the Commission, the Commissioner or the Examiner shall notify the interested parties to produce before it or him witnesses or evidence within such reasonable time and at such place as it or he may designate.

(i) *Reporter.* At all hearings, whether before the Commission, a Commissioner or an Examiner, the testimony shall be taken by a disinterested reporter named by the Commission, a Commissioner or an Examiner, as the case may be, who shall take the testimony and transcribe the same. The reporter shall be sworn by a member of the Commission or an Examiner to well and truly take down and transcribe the questions propounded to and the answers given by the witnesses, and to do all other things required of him by the Commission, a Commissioner or an Examiner. A reporter who is in the regular employ of the Commission shall take the oath required by section 4 of the act creating the Commission and the oath prescribed in this paragraph and need not thereafter take the latter oath, but reporters selected for a particular case must be sworn as herein provided in this paragraph.

(j) Time limitations of oral arguments. Parties making or responding to a motion for oral argument may state the amount of time they desire for argument. At the earliest practicable time prior to the date of such oral argument the Chairman will determine the amount of time to be allotted to each party and will notify all parties thereof. All parties thereby will be limited in their argument to the amount of time allotted.

§ 503.23 Evidence.

(a) Form and admissibility. All evidence shall be admitted which is admissible under the statutes of the United States or under the rules of evidence heretofore applied in the courts of the United States on the hearing of suits in equity, or under the rules of evidence at common law. In any case, the statute or rule which favors the reception of the evidence governs and the evidence shall be presented according to the most convenient method prescribed in any of the statutes or rules to which reference is made in this part. The competency of a witness to testify shall be determined in like manner. On and after October 1, 1968, unless otherwise specified by the

Commission, a Commissioner, or an Examiner the direct testimony of any witness will be offered in written form as an exhibit: *Provided,* That copies of such written testimony shall have been served upon all parties to the proceeding or their attorneys of record as provided in § 503.23e(2) relating to documentary evidence. When written testimony is offered, its author must be available for cross-examination, and the written testimony will be subject to motions to strike.

(b) *Record of excluded evidence.* If an objection to a question propounded to a witness is sustained, the examining attorney may make a specific offer of what he expects to prove by the answer of the witness, except that upon request the evidence shall be reported in full, unless it clearly appears that the evidence is not admissible on any ground or that the evidence of the witness is privileged.

(c) *Affirmation in lieu of oath.* Whenever under the rules in this part an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

(d) *Rulings; exceptions unnecessary.* The Commission or person presiding at any hearing shall rule on the competency, relevancy and materiality of all evidence offered. Formal exceptions to rulings or orders are unnecessary.

(e) *Documentary evidence.* (1) When at any hearing documentary evidence is offered and objection is made thereto the Commission, Commissioner, or Examiner conducting the hearing, shall rule upon the same and, if the ruling is adverse to the party offering said evidence, the document may be marked for identification and added to the record.

(2) All documentary evidence (including excerpts from documents and written testimony of any witness) which is to be offered on any question before the Commission shall be filed with the Clerk and copies thereof delivered by mail, or otherwise, to the opposing parties at least 30 days in advance of the day on which such evidence is to be used, unless otherwise ordered. This will be done to permit study, cross-examination and rebuttal evidence. Each party shall have 20 days after the filing of such documentary evidence with the Clerk within which to file with the Clerk and deliver to the opposing parties countervailing or rebuttal evidence. Countervailing or rebuttal evidence is evidence in rebuttal of specific evidence previously filed.

(3) When portions only of a document are to be relied upon, the offering party shall prepare, file and deliver, as provided in subparagraph (2) of this paragraph, the pertinent excerpts, adequately identified as to source and place where source is located, and only such excerpts will be received in the record. When excerpts from a document not available within the District of Columbia are relied upon the entire document shall be filed with the excerpt for examination by the opposing party.

(4) Accompanying the documents and excerpts of documents filed with the Clerk shall be a list thereof which shall include the following: (1) Exhibit number, (2) date of the document, (3) a general description of the exhibit including a very brief digest of its contents and very briefly what is claimed for the exhibit as a matter of evidence, and (4) a reference identifying the document and its source. Such documents shall be, by the Clerk, kept separate from the other files in the case and shall not become part of the record in any case until admitted therein by the Commission. Documents not offered in evidence by any party shall at the close of the evidence be returned to the party filing the same, unless the Commission shall order their retention by the Clerk. The Clerk shall stamp on such list the date the documents were received and also note thereon the documents which were returned.

(5) Documentary evidence not filed and delivered in advance in accordance with subparagraphs (2) and (3) of this paragraph shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner.

(6) That the authenticity of all documents filed in advance in a proceeding in which such filing is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

§ 503.24 Subpoena.

(a) *For attendance of witnesses; form; issuance; fees.* (1) Every subpoena shall be issued in the name of the Commission and shall be signed by the Clerk under the seal of the Commission. Every subpoena shall state the title of the claim and the number and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. The Clerk shall issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service.

(2) The fees and mileage of witnesses shall be such as are now or may hereafter be prescribed by statute, for like service in the District Courts of the United States, and shall be paid by the party at whose instance the witnesses appear.

(b) *For production of documentary evidence.* A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the Commission, upon motion made promptly and, in any event, at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive, or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(c) *Service.* (1) A subpoena may be served by any person who is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to him the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States, fees and mileage need not be tendered.

(2) The fees and mileage shall be the same as allowed by law for service of subpoenas issued by United States District Courts, which shall be paid by the party requesting the service.

(d) *Return.* The person serving the process shall make proof of service thereon to the Commission promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States Marshal or his deputy, he shall make affidavit thereof. Failure to make proof of service does not affect the validity of the service.

§ 503.25 [Reserved]

§ 503.26 Preliminary decisions and report.

(a) Upon the closing of proof by the parties, the Commissioner or Examiner who has heard the case may request the parties to submit proposed statements of the ultimate issues to be decided. After defining such issues, the Commissioner or Examiner may request oral argument within one (1) day or such other period as he may specify.

(b) The Commissioner or Examiner shall issue to the Commission and to the parties a report containing his preliminary decisions on the issues within fourteen (14) days of the closing of proof, or within that time report to the Commission and to the parties that no decision will be issued.

§ 503.27 Exceptions to the report.

Exceptions, if any, to the issues decided or to the decisions made by the Commissioner or Examiner under the procedure of § 503.26 shall be stated in the briefs submitted under § 503.28 or shall be deemed to be waived.

§ 503.28 Briefs.

(a) *Petitioner.* (1) The petitioner shall, within 40 days after the closing of proof in cases heard by the Commission, or within a like time from the filing of the report of a Commissioner or Examiner under the provisions of § 503.26, file its request for findings of fact and brief, which findings of fact and brief shall be printed. The copies required by § 503.41 shall be filed with the Clerk and 10 copies thereof served on the Attorney General.

(2) The petitioner's brief shall begin with a clear statement of the case and may include in the statement references to parts of the record. It shall present and discuss in its original brief all propositions upon which it relies for a recovery.

(b) *Defendant.* Within 40 days from the filing of petitioner's brief (or if none has been filed within the time on which it should have been filed under paragraph (a)(1) of this section) the defendant shall file with the Clerk its request for findings of fact and brief with copies thereof as required by § 503.41 and serve 10 copies thereof on the petitioner's attorney of record, or if the petitioner has no attorney of record the same shall be mailed to any petitioner or to any one member of a group of petitioners, at its or his known address.

§ 503.29 Reply brief.

(a) Petitioner may file a printed reply brief within 20 days after the filing of defendant's brief, unless the time is extended by order of the Commission, and no brief shall be received after the prescribed time except upon order of the Commission for cause shown; nor shall any briefs other than those described in § 503.28 and this section be received at any time except upon such order.

(b) Statements of fact or propositions of law presented in defendant's brief as matters of defense, and not properly within the scope of petitioner's original brief, may be discussed by petitioner in a reply brief, but matters within the proper scope of petitioner's original brief shall not again be discussed in a reply brief.

(c) After a cause has been submitted, any stipulation or additional authorities which counsel desires to call to the attention of the Commission shall by leave of the Commission be submitted by appropriate supplemental memorandum of at least 8 copies filed with the Clerk of the Commission, and not by letter. The Clerk shall serve a copy upon opposing counsel.

Supplemental or reply briefs shall be permitted only in accordance with the rules in this part.

§ 503.30 Trial calendar.

(a) The Commission shall dispose of (1) all motions or other pleadings containing the defenses enumerated in § 503.11(b) and all other motions or requests for action by the Commission, (2) all exceptions to the report of a Commissioner or Examiner, (3) all motions for rehearing and amendments of findings.

(b) Said matters when ordered by the Commission shall be placed on a trial calendar by the Clerk and a copy of said trial calendar mailed to the attorneys of record interested therein in sufficient time to permit the attorneys of record to appear before the Commission on the date and place appointed for the hearing.

(c) All matters shall be calendared for hearing as follows:

(1) Motions and pleadings containing the defenses enumerated in § 503.11(b) when the opposing points and authorities have been filed as required by § 503.22 (a)(1).

(2) All other motions or requests for action by the Commission upon the filing of a responsive pleading as provided for in this part.

(3) All exceptions to the report of a Commissioner or Examiner when the briefs have been filed as provided in §§ 503.28 and 503.29.

(4) Motions for rehearing and amendments of findings when the briefs have been filed as provided in § 503.39.

(d) *Nonappearance of parties.* If at the time set for hearing there be no appearance for the moving party, the Commission may treat the motion as submitted or waived, or, for good cause shown, continue or strike it from the motion calendar. If there be no appearance for the opposing side, it may be treated as conceded.

§ 503.31 Evidence in other cases.

(a) *Documents.* Any information or papers duly certified from any department or agency of the Government and filed in any case may, by leave of the Commission, a Commissioner or an Examiner in a case being heard by him, on motion made therefor, be used and applied in any other pending cause to which the same may be applicable or pertinent.

(b) *Depositions.* The deposition of a witness, subjected to cross-examination, on file in a case may be used by leave of the Commission in another case, notice of the purpose to use it being given the adverse party; or if the Commission desires the benefit of evidence appearing in another case it may, by appropriate order and upon reasonable notice to the parties and an opportunity to them to be heard, consider the same.

§ 503.32 Stipulations.

All stipulations shall be signed on behalf of the petitioner by the attorney of record, and on behalf of the United States by the Attorney General, his assistant or other representative, unless made at a hearing or other proceeding before the Commission, a Commissioner or an Examiner and recorded by the reporter.

§ 503.33 Motions for rehearing and for amendment of findings.

(a) Whenever either party desires to question the correctness or the sufficiency of the Commission's conclusions on its findings of fact or to amend the same, the complaining party shall file a motion which shall be known as a motion for a rehearing. All grounds relied upon for any or all of said objections shall be included in one motion. After the Commission has announced its decision upon such motion no other motion for a rehearing shall be filed by the same party unless by leave of the Commission. Motions for a rehearing shall be filed within 30 days from the time the final determination of the Commission is filed with the Clerk.

(b) A motion for hearing shall be founded upon one or more of the following grounds: First, error of fact; second, error of law; and, third, newly discovered evidence.

(1) A motion founded upon an error of fact shall specify with minuteness the fact or facts which are regarded as erroneously found or erroneously omitted to be found by the Commission, with full references to the evidence which is relied upon to support the motion.

(2) A motion founded upon error of law shall specify with like minuteness the points upon which the Commission is supposed to have erred, with references to the authorities relied upon to support the motion.

(3) A motion by either plaintiff or defendant upon the ground of newly discovered evidence shall not be entertained unless it appears therein that the newly discovered evidence came to the knowledge of such party, its attorneys of record, or counsel, after the hearing and before the motion was made; that it was not for want of due diligence that it did not sooner come to its knowledge; that it is so material that it would probably produce a different determination if the rehearing were granted; and that it is not cumulative.

Such motion shall be accompanied by the affidavit of the party or the attorney of record, setting forth:

(i) The facts in detail which the party expects to be able to prove, and whether the same are to be proved by witnesses or by documentary evidence.

(ii) The name, occupation, and residence of each and every witness whom it is proposed to call to prove said facts.

(iii) That the said facts were unknown to either the party or the attorney of record, and, if other counsel was employed at the hearing, were unknown to such counsel until after the close of the hearing.

(iv) The reason why the party, the attorney of record, or counsel, could not have discovered said evidence before the hearing by the exercise of due diligence.

(c) A motion for a rehearing shall also be accompanied by the brief of the moving party, a copy of which shall be served upon the opposing party, who may file its brief in response thereto within 15 days, unless the time is extended by the Commission.

(d) All motions for rehearing or for amendment of findings, and briefs thereon, and briefs in reply to such motions, exceeding ten typewritten pages in length, shall be printed before presentation for filing in the Clerk's office, unless by order of the Commission first obtained the time for printing is extended.

§ 503.34 Claims filed by attorney.

Claims may be filed on behalf of a claimant by an attorney or firm of attorneys retained for that purpose under the provisions of section 15 of the act creating the Commission. Where a claimant has retained more than one attorney or more than one firm of attorneys, only one of said attorneys shall be designated individually as the attorney of record. All pleadings, notices or other papers required by these rules or by orders of the Commission to be served upon a claimant, shall be sent to such attorney of record at the address designated by him, and service upon him shall be deemed to be service upon the claimant.

§ 503.34a Attorney's contracts to be filed.

(a) There shall be filed with the Clerk a certified copy of the contract under which the attorney, or attorneys, representing a claimant may act. It shall not be necessary to file more than one contract even though the attorney,

or attorneys, representing a claimant files more than one petition for the same claimant.

(b) The Clerk shall keep in a file, separate from the petition, all contracts filed pursuant hereto; they shall be consecutively numbered, show the date filed, and the Clerk shall endorse thereon the docket numbers of the cases to which they apply. The Clerk shall also note on the appearance docket the number of the contract of the attorney, or attorneys, representing the claimant. The Clerk shall prepare and maintain an index, alphabetically arranged, of all contracts filed with him.

§ 503.34b Attorney's fees and expenses.

(a) All applications of attorneys for Indian claimants for fees or reimbursable expenses shall be by petition prepared in clear typewritten or reproduced form. The petition for reimbursable expenses shall be itemized showing time, place, purpose and amount of each item incurred or paid by the applicants, and as to items paid by or on behalf of the applicants there shall be filed with the petition, receipts or other evidences of payment. The petition for reimbursable expenses shall be verified by affidavit of an applicant stating that the allegations of the petition are true to the best of the knowledge and belief of the affiant, and that no part of any of the items set forth in the petition has been paid by the Indian claimant, or on its behalf, by any officer or agency of the United States, except as shown in the petition.

(b) An original and seven copies of such petitions shall be filed with the Clerk of the Commission and four copies thereof shall be served upon the Attorney General in the manner provided by § 503.3 but the vouchers covering payments referred to above need be filed only with the original petition. Upon receipt of such petitions, the Clerk shall mail two copies thereof to the Commissioner of Indian Affairs.

(c) If the Commission determines that a hearing should be held on any such petition it shall cause notice thereof to be given by the Clerk to the Attorney General, to the chief or other head officer of the claimant, if there be one, otherwise to the claimant in care of the agency superintendent under whose jurisdiction the claimant may be, to the Commissioner of Indian Affairs, to the attorney of record for claimant, and to such agency superintendent. The notice of hearing sent to the claimant shall be accompanied by a copy of the petition, or petitions, as the case may be.

§ 503.35 Attorneys to register.

An attorney of record, on appearing in a case, shall register with the Clerk of the Commission his name and post office address or the designation as such and his post office address may be shown at the end of the petition.

§ 503.36 Attorney's death or incapacitation.

If the attorney of record dies or is incapacitated, a suggestion of his death or incapacity shall be made and a motion to substitute any other attorney shall be made by plaintiff or an attorney authorized by it.

§ 503.37 Attorney's qualification.

Any person of good moral character who has been admitted to practice in the Supreme Court of the United States or in any other Federal court, or in the highest court of any State or Territory, and is in good standing therein, may practice as an attorney before the Commission.

§ 503.38 Disbarment and suspension.

Where it is shown to the Commission that any member of the bar representing a party before the Commission has been disbarred or suspended from practice in the Supreme Court of the United States or in any other Federal court, or in any court of record of any State or Territory, he shall be forthwith suspended from practice before this Commission; and unless, upon notice mailed to him at the address shown in the Clerk's records and to the clerk of any of the courts mentioned in which he shall have been disbarred, or suspended, he shows good cause to the contrary within 30 days, he shall be barred from appearing before the Commission as attorney for any claimant.

§ 503.39 Clerk, docket and journal.

(a) The administrative officer of the Commission, unless one is otherwise designated, shall be the clerk who shall receive and file all pleadings, reports, orders, briefs, documents and other papers, and shall keep all records connected with all claims filed with the Commission. He shall also perform such other duties as the Commission may from time to time prescribe.

(b) The Clerk shall, after filing, promptly mail or deliver to the party not filing the same, the required number of copies of all pleadings, motions, briefs, notices, or other papers, not required to be served by a party, and shall note on the docket the date the same were so mailed or delivered.

(c) The Clerk shall be custodian of the seal of the Commission and shall affix the same to all papers, subpoenas, or insruments that he is now or may hereafter be required to sign or certify in his official capacity. He shall authenticate all papers where an authentication is required, under his hand and the seal of the Commission.

(d) It shall be the duty of the Clerk to keep an appearance docket in which there shall be separately entered the title of each claim, the names of the attorneys filing the same and the designated attorney of record; and there shall be entered thereon, on the date received, each pleading, motion, demurrer, brief, and other paper filed in a cause. Following each entry showing the filing of a paper required to be recorded in the Journal of the Commission, there shall be shown the volume number of the Journal, and the page thereof in which the paper is recorded.

(e) (1) The Clerk shall keep a journal in which shall be recorded in each cause all orders (except orders setting claims, motions and objections down for hearing, and orders changing time to plead, filing of proposed findings of fact and objections thereto, and briefs) made by the Commission or a Commissioner, the final determination of each claim, including the way each Commissioner voted thereon, but the Commission's findings of fact need not be recorded as part of an interlocutory or final order.

(2) The instrument or instruments by which employees of the Commission are designated by the Chairman for the purpose of administering oaths and examining witnesses shall be recorded in the journal.

(3) The journal shall be approved by the Commission, or any three members thereof.

§ 503.40 Seal.

The Commission shall have an official seal, around the border of which shall be the name: "Indian Claims Commission", and in the center shall be the words: "Official Seal".

§ 503.41 Copies.

There shall be filed with the Clerk of this Commission 10 printed copies of requested findings of fact, objections to requested findings of fact, and briefs by the respective parties, and there shall be filed with said Clerk an original and seven copies of all motions and pleadings which may be required or permitted to be filed by this Commission. In addition to the number of printed copies herein specified there shall be filed with the said Clerk one additional printed copy for each separately docketed claim which has been joined by consolidation, intervention, or otherwise in the matter to which said requested findings of fact, objections, briefs, motions, or pleadings relate. The foregoing rule shall not apply to the General Services Administration Accounting Report of which the original copy shall be filed with the Clerk of this Commission.

§ 503.42 Method of citing.

These general rules of procedure shall be cited by the rule number following the decimal point, thereby omitting the prefix numbers "503.".

John T. Vance,
Chairman.
Wm. M. Holt,
Commissioner.
T. Harold Scott,
Commissioner.
Jerome K. Kuykendall,
Commissioner.
Richard W. Yarborough,
Commissioner.

By order, dated June 14, 1968, the foregoing general rules of procedure were adopted by the Indian Claims Commission, to be effective on and after July 15, 1968.

[SEAL] TIMOTHY G. O'SHEA,
Clerk of the Commission.

[F.R. Doc. 68-7369; Filed, June 20, 1968; 8:48 a.m.]