

FEDERAL REGISTER

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Agencies in this issue—

Agricultural Stabilization and
Conservation Service
Civil Aeronautics Board
Coast Guard
Commerce Department
Consumer and Marketing Service
Federal Communications Commission
Federal Power Commission
Federal Reserve System
Fish and Wildlife Service
Food and Drug Administration
General Services Administration
Health, Education, and Welfare
Department
Housing and Urban Development
Department
Indian Claims Commission
Interior Department
International Commerce Bureau
Interstate Commerce Commission
Land Management Bureau
National Bureau of Standards
Tariff Commission

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Volume 80

UNITED STATES STATUTES AT LARGE

89th Congress, 2d Session
1966

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Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart M—Organization

WASHINGTON HEADQUARTERS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 2.171 is amended to update the description of the Bureau of Medicine by revising the units listed thereunder to read as follows:

§ 2.171 Washington headquarters.

BUREAU OF MEDICINE

Office of Marketed Drugs:
Division of Cardiopulmonary-Renal Drug Surveillance.
Division of Metabolic-Endocrine Drug Surveillance.
Division of Neuropharmacological Drug Surveillance.
Division of Surgical-Dental Drug Surveillance.

Office of Medical Review:
Division of Case Review.
Division of Clinical Devices.
Division of Hazardous Substances.
Division of Medical Devices.

Office of Medical Support:
Division of Drug Experience.
Division of Medical Advertising.
Division of Research and Liaison.
Division of Scientific Investigations.
Division of Statistics.

Office of New Drugs:
Division of Anti-Infective Drugs.
Division of Cardiopulmonary and Renal Drugs.
Division of Dental and Surgical Adjuncts.
Division of Metabolism and Endocrine Drugs.
Division of Neuropharmacological Drugs.
Division of Oncology and Radiopharmaceuticals.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: July 18, 1968.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 68-8985; Filed, July 26, 1968; 8:47 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RELATED PRODUCTS

Subpart A—Wheat Flour and Related Products

FLOUR; CONFIRMATION OF EFFECTIVE DATE OF ORDER AMENDING STANDARD REGARDING ASCORBIC ACID

In the matter of amending the standard of identity for flour, white flour, wheat flour, and plain flour (21 CFR 15.1) to list ascorbic acid as an optional ingredient:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of June 8, 1968 (33 F.R. 8485). Accordingly, the amendments promulgated by that order will become effective August 7, 1968.

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

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8982; Filed, July 26, 1968; 8:47 a.m.]

PART 27—CANNED FRUITS AND FRUIT JUICES

Diluted Fruit Juice Beverages; Order Staying Effective Date of Identity Standards

In the matter of establishing definitions and standards of identity for lemonade (§ 27.99), colored lemonade (§ 27.100), orange juice-drink (§ 27.120), orangeade (§ 27.121), orange drink (§ 27.122), canned pineapple-grapefruit juice-drink (§ 27.125), canned fruit nectars (§ 27.126), and limeade (§ 27.131):

In response to the orders in the above-identified matter published in the FEDERAL REGISTER of May 7, 1968 (33 F.R. 6862-66), objections were filed by adversely affected persons and requests made for a public hearing concerning among other things: (1) The labeling of the beverages, (2) the minimum percentage of equivalent single strength juice required, (3) the provision for and

lack of provision for adding color, and (4) the omission of certain optional ingredients.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120): *It is ordered*, That the effective date of §§ 27.99, 27.100, 27.120, 27.121, 27.122, 27.125, 27.126, and 27.131, the subject standards be stayed in their entirety pending resolution of the issues raised by the objections at a public hearing. An announcement scheduling the hearing and specifying the issues therefor will be published at a later date.

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

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8980; Filed, July 26, 1968; 8:47 a.m.]

[Docket No. FDC-76]

PART 46—NUT PRODUCTS

Peanut Butter, Definition and Standard of Identity; Findings of Fact, Conclusions, and Final Order

Correction

In F.R. Doc. 68-8812 appearing at page 10506 in the issue of Wednesday, July 24, 1968, the following correction should be made: On page 10509 in the third column, conclusion 5. should read as follows:

5. Partially defatted wheat germ is a safe and suitable seasoning ingredient for peanut butter.

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

Trifluralin

A petition (PP 8F0721) was filed with the Food and Drug Administration by the Elanco Products Co., a division of Eli Lilly & Co., Indianapolis, Ind. 46206, proposing the establishment of tolerances for negligible residues of the herbicide trifluralin (α, α, α -trifluoro-2,6-dinitro-*N,N*-dipropyl-*p*-toluidine) in or on the raw agricultural commodity

groups nuts and stone fruits at 0.05 part per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner (21 CFR 2.120), § 120.207 is amended to establish the subject tolerances by revising the paragraph "0.05 part per million * * *" to read as follows:

§ 120.207 Trifluralin; tolerances for residues.

0.05 part per million (negligible residue) in or on alfalfa (fresh), cottonseed, cucurbits, forage legumes, fruiting vegetables, leafy vegetables, nuts, peanuts, potatoes, safflower seed, seed and pod vegetables, stone fruits, sugar beets, sugarcane, sunflower seed.

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

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

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8984; Filed, July 26, 1968; 8:47 a.m.]

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

Streptomycin

For the past 15 years streptomycin has been widely used early in the growing

season on apples and pears for the control of fire blight. Registered uses were on the basis of no residues of this antibiotic substance being present at time of harvest as determined by an analytical method sensitive to 0.25 part per million. To replace the no-residue registration, a petition (PP 8F0693) was filed with the Food and Drug Administration by Chas. Pfizer & Co., 235 East 42d Street, New York, N.Y. 10017, and Merck and Co., Rahway, N.J. 07065, proposing the establishment of a tolerance of 0.25 part per million for negligible residues of the fungicide streptomycin in or on the raw agricultural commodity group pome fruits.

An Advisory Committee on the Veterinary Medical and Nonmedical Uses of Antibiotics in their report to the Food and Drug Administration in May 1966 recommended against the food preservation use of antibiotics used in human and veterinary medicine except in unusual cases to solve serious problems. The Advisory Committee also stated that although no major public health problems have been reported from the agricultural use of antibiotics that incur no residues in food, the possibility should not be overlooked.

The Secretary of Agriculture has: (1) Certified that this pesticide chemical is useful for the purpose for which the tolerance is being established; (2) advised that certain commercial varieties of apples and pears are highly susceptible and are severely damaged by fire blight; and (3) advised that streptomycin is the only nonphytotoxic chemical that gives effective control.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the serious problem of fire blight control justifies this use of the antibiotic on pome fruits and that the tolerance established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner (21 CFR 2.120), Part 120 is amended by adding to Subpart C the following new section:

§ 120.245 Streptomycin; tolerances for residues.

A tolerance of 0.25 part per million is established for negligible residues of the fungicide streptomycin in or on the raw agricultural commodity group pome fruits for controlling fire blight.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the ob-

jections 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(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: July 19, 1968.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 68-8983; Filed, July 26, 1968; 8:47 a.m.]

PART 121—FOOD ADDITIVES

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

FINISHES ON NYLON TWINE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8B2217) filed by E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898, and other relevant material, has concluded that the food additive regulations should be amended to provide for use of tetraethylene glycol di-(2-ethylhexoate) and polyethylene glycol (400) monolaurate as finishes on nylon twine used for tying meat. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new sections:

§ 121.2606 Tetraethylene glycol di-(2-ethylhexoate).

Tetraethylene glycol di-(2-ethylhexoate) containing not more than 22 parts per million ethylene and/or diethylene glycols may be used at a level not to exceed 0.7 percent by weight of twine as a finish on twine to be used for tying meat provided the twine fibers are produced from nylon resins complying with § 121.2502.

§ 121.2607 Polyethylene glycol (400) monolaurate.

Polyethylene glycol (400) monolaurate containing not more than 0.1 percent by weight of ethylene and/or diethylene glycol may be used at a level not to exceed 0.3 percent by weight of twine as a finish on twine to be used for tying meat provided the twine fibers are produced from nylon resins complying with § 121.2502.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW.,

Washington, D.C. 20201, written objections thereto, preferably in triplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8981; Filed, July 26, 1968;
8:47 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Carbon Tetrachloride; Stay of Effective Date of Order Classifying as Banned Hazardous Substance

In the matter of classifying carbon tetrachloride and mixtures containing it (including that used in fire extinguishers) as "banned hazardous substances" (21 CFR 191.9) within the meaning of section 2(q)(1)(B) of the Federal Hazardous Substances Act:

A notice of proposed rulemaking in the above-identified matter was published in the FEDERAL REGISTER of February 16, 1968 (33 F.R. 3076). Based on consideration given the comments received in response thereto, and other relevant information, the Commissioner of Food and Drugs published an order May 24, 1968 (33 F.R. 7685), adopting the proposal.

An objection requesting a hearing has been received from the Chemical Specialties Manufacturers Association, Inc., 50 East 41st Street, New York, N.Y. 10017, stating that the facts do not support the finding that notwithstanding cautionary labeling the degree or nature of the hazard involved in the presence or use of carbon tetrachloride or mixtures containing it in households is such that the public health and safety cannot be adequately protected, thus justifying classification of these products as banned hazardous substances.

The Commissioner concludes that the objection gives sufficient grounds for staying the order and granting a public hearing.

Therefore, pursuant to the provisions of said act (sec. 2(q)(1)(B), (2), 74 Stat. 372, 80 Stat. 1304; 15 U.S.C. 1261)

and of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under the authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That the effective date of § 191.9(a)(2) be stayed pending the resolution of issues at a public hearing. An announcement scheduling the hearing and stating the issues therefor will be published at a later date.

(Secs. 2(q)(1)(B), (2), 74 Stat. 372, 80 Stat. 1304; 15 U.S.C. 1261; sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e))

Dated: July 15, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8979; Filed, July 26, 1968;
8:47 a.m.]

Title 25—INDIANS

Chapter III—Indian Claims Commission

PART 500—STANDARDS OF CONDUCT

Outside Employment, Off-Job Activity

JULY 22, 1968.

Pursuant to Federal Personnel Manual Letter No. 735-4, the following amendments are made to Title 25, Chapter III, Code of Federal Regulations:

§ 500.735-105 Outside employment, off-job activity.

(c) Employees are encouraged to engage in teaching, lecturing and writing that is not prohibited by law, the Executive order, this part, or by 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 non-public 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 Executive Order 11408 of April 25, 1968, 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.

(d) [Revoked]

JOHN T. VANCE,
Chairman.

[F.R. Doc. 68-8978; Filed, July 26, 1968;
8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

EQUAL OPPORTUNITY IN EMPLOYMENT

This amendment of the Federal Procurement Regulations revises Subpart 1-12.8, Equal Opportunity in Employment, in its entirety. The amendment reflects the Secretary of Labor's May 21, 1968, revision of 41 CFR Part 60-1 (33 F.R. 7804, May 28, 1968) pertaining to the obligations of contractors and subcontractors regarding equal opportunity in employment. Editorial changes in Part 1-16, Procurement Forms, also are included.

PART 1-12—LABOR

Part 1-12 is amended by the revision of Subpart 1-12.8, as follows:

Subpart 1-12.8—Equal Opportunity in Employment

Sec.	
1-12.800	Scope of subpart.
1-12.801	General.
1-12.802	Definitions.
1-12.803	Basic requirements.
1-12.803-1	Government contracts.
1-12.803-2	Equal Opportunity clause.
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1-12.803-4	Equal Opportunity (Applicant) clause.
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1-12.804	Exemptions.
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1-12.805-6	Complaints.
1-12.805-7	Processing of matters by agencies.
1-12.805-8	Assumption of jurisdiction by or referrals to the Director.
1-12.805-9	Sanctions and penalties.
1-12.805-10	Disputed matters related to the equal opportunity program.
1-12.805-11	Preaward notices.
1-12.806	[Reserved]

Sec.	
1-12.807	Hearings.
1-12.807-1	General.
1-12.807-2	Informal hearings.
1-12.807-3	Formal hearings.
1-12.808	Reinstatement of ineligible contractors or subcontractors.
1-12.809	Intimidation and interference.
1-12.810	Affirmative action compliance programs.
1-12.811	Access to records of employment.
1-12.812	Rulings and interpretations.
1-12.813	Solicitations or advertisements for employees.
1-12.814	Existing contracts and subcontracts.

AUTHORITY: The provisions of this Subpart 1-12.8 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 1-12.8—Equal Opportunity in Employment

§ 1-12.800 Scope of subpart.

This subpart sets forth policies and procedures for carrying out the requirements of Executive Order No. 11246 of September 24, 1965 (30 F.R. 12319), Executive Order No. 11375 of October 13, 1967 (32 F.R. 14303), and the rules and regulations of the Secretary of Labor (33 F.R. 7804). The provisions of the subpart shall be employed by agencies with respect to Government contracts and subcontracts and may be adopted by agencies for use in connection with programs involving Federal assistance.

§ 1-12.801 General.

(a) Executive Order No. 11246 sets forth policies regarding equal employment opportunity. It provides in section 201 that "the Secretary of Labor shall be responsible for the administration of Parts II and III of this Order and shall adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof." Parts II and III of the order concern "Nondiscrimination in Employment by Government Contractors and Subcontractors" and "Nondiscrimination Provisions in Federally Assisted Construction Contracts," respectively.

(b) The regulations of the Secretary of Labor (see § 1-12.800) apply to all contracting agencies of the Government and to contractors and subcontractors who perform under Government contracts, to the extent set forth in Chapter 60, Part 1, Obligations of Contractors and Subcontractors, of this title. The regulations also apply to all agencies of the Government administering programs involving Federal financial assistance which may include a construction contract, and to all contractors and subcontractors performing under construction contracts which are related to any such programs. The procedures set forth in those regulations govern all disputes relative to a contractor's compliance with his obligations under the equal opportunity clause regardless of whether or not his contract contains a "Disputes" clause (see § 1-12.805-10).

(c) The rights and remedies of the Government under the rules and regulations of the Secretary of Labor are not exclusive and do not affect rights and

remedies provided elsewhere by law, regulation, or contract; neither do the regulations limit the exercise by the Secretary or Government agencies of powers not therein specifically set forth, but granted to them by the order.

(d) The functions vested in the Secretary of Labor by Executive Order No. 11246 were previously exercised by the President's Committee on Equal Employment Opportunity pursuant to Executive Order No. 10925 of March 6, 1961, and Executive Order No. 11114 of June 22, 1963 (3 CRF, 1959-1963 comp., pages 448 and 774, respectively). The rules and regulations prescribed by the committee in Part 60-1 of this title for the administration of those orders were adopted by the Secretary of Labor on October 24, 1965 (30 F.R. 13441), pending the promulgation of revised rules and regulations. Such revised rules and regulations subsequently were adopted by the Secretary of Labor (see § 1-12.800).

§ 1-12.802 Definitions.

As used in this subpart, the following terms have the meanings stated.

(a) "Administering agency" means any department, agency, and establishment in the executive branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

(b) "Agency" means any contracting or any administering agency of the Government.

(c) "Applicant" means an applicant for Federal assistance involving a construction contract or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.

(d) "Compliance agency" means the agency designated by the Director on a geographical, industry, or other basis to conduct compliance reviews and to undertake such other responsibilities in connection with the administration of the order as the Director may determine to be appropriate. In the absence of such a designation, the compliance agency will be determined as follows:

(1) In the case of a prime contractor not involved in construction work, the compliance agency will be the agency whose contracts with the prime contractor have the largest aggregate dollar value;

(2) In the case of a subcontractor not involved in construction work, the compliance agency will be the compliance agency of the prime contractor with which the subcontractor has the largest aggregate value of subcontracts or purchase orders for the performance of work under contracts;

(3) In the case of a prime contractor or subcontractor involved in construction work, the compliance agency for each construction project will be the agency providing the largest dollar value for the construction project; and

(4) In the case of a contractor who is both a prime contractor and subcontractor, the compliance agency will be

determined as if such contractor is a prime contractor only.

(e) "Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

(f) "Contract" means any Government contract or any federally assisted construction contract.

(g) "Contracting agency" means any department, agency, establishment, or instrumentality in the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts.

(h) "Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

(i) "Director" means the Director, Office of Federal Contract Compliance, U.S. Department of Labor, or any person to whom he delegates authority under these regulations.

(j) "Equal Opportunity clause" means the contract provisions set forth in § 1-12.803-2 or § 1-12.803-4, as appropriate.

(k) "Federally assisted construction contract" means any agreement, or modification thereof, between any applicant and a person for construction work which is paid for, in whole or in part, with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(l) "Government" means the Government of the United States of America.

(m) "Government contract" means any agreement, or modification thereof, between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services," as used in this paragraph (m) includes, but is not limited to, the following services: Utility, construction, transportation, research, insurance, and fund depository. The term "Government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, (2) federally assisted construction contracts, and (3) contracts for the sale of real and personal property by the Government.

(n) "Hearing officer" means the individual or board of individuals designated to conduct hearings.

(o) "Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

(p) "Order" means Parts II, III, and IV of Executive Order No. 11246 of September 24, 1965 (30 F.R. 12319), any Executive order amending such order, and any other Executive order superseding such order.

(q) "Person" means any natural person, corporation, partnership, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

(r) "Prime contractor" means any person holding a contract and, for the purposes of §§ 1-12.805-5 through 1-12.805-11 and § 1-12.807, any person who has held a contract subject to the order.

(s) "Recruiting and training agency" means any person who refers workers to any contractor, or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

(t) "Rules, regulations, and relevant orders of the Secretary of Labor" as used in the Equal Opportunity clause means rules, regulations, and relevant orders of the Secretary of Labor, or his designee, issued pursuant to the order.

(u) "Secretary" means the Secretary of Labor, U.S. Department of Labor.

(v) "Site of construction" means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair, and any temporary location or facility at which a contractor, subcontractor, or other participating party meets a demand or performs a function relating to the contract or subcontract.

(w) "Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(x) "Subcontractor" means any person holding a subcontract and, for the purposes of §§ 1-12.805-5 through 1-12.805-11 and § 1-12.807, any person who has held a subcontract subject to the order. The term "first-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

(y) "United States" as used herein shall include the States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

§ 1-12.803 Basic requirements.

§ 1-12.803-1 Government contracts.

Except as otherwise provided, each contracting agency shall include the Equal Opportunity clause prescribed in § 1-12.803-2 in each of its Govern-

ment contracts (including modifications thereof).

§ 1-12.803-2 Equal Opportunity clause.

EQUAL OPPORTUNITY¹

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60).)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's non-compliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

¹ On and after Oct. 14, 1968, the term "race, color, religion, sex, or national origin" is substituted for the term "race, creed, color, or national origin," as provided by Executive Order No. 11375, Oct. 13, 1967 (32 F.R. 14303).

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

§ 1-12.803-3 Federally assisted construction contracts.

Except as otherwise provided, each administering agency shall require the inclusion of the Equal Opportunity (Applicant) clause prescribed in § 1-12.803-4 as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the Equal Opportunity (Federally Assisted Construction) clause contained therein.

§ 1-12.803-4 Equal Opportunity (Applicant) clause.

EQUAL OPPORTUNITY (APPLICANT)

(a) The applicant hereby agrees to incorporate, or cause to be incorporated, into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is paid for, in whole or in part, with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following Equal Opportunity (Federally Assisted Construction) clause:

EQUAL OPPORTUNITY¹ (FEDERALLY ASSISTED CONSTRUCTION)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity (Federally Assisted Construction) clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by

¹ On and after Oct. 14, 1968, the term "race, color, religion, sex, or national origin" is substituted for the term "race, creed, color, or national origin," as provided by Executive Order No. 11375, Oct. 13, 1967 (32 F.R. 14303).

or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The Contractor will send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's non-compliance with the Equal Opportunity (Federally Assisted Construction) clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(g) The Contractor will include this Equal Opportunity (Federally Assisted Construction) clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) The applicant further agrees that it will be bound by the above Equal Opportunity (Federally Assisted Construction) clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided, however*, That if the applicant so participating is a State or local government, the above Equal Opportunity (Federally Assisted Construction) clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

(c) The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the Equal Opportunity (Federally Assisted Construction) clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and

the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

(d) The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the Equal Opportunity (Federally Assisted Construction) clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D, of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings the administering agency may take any or all of the following actions: Cancel, terminate, or suspend, in whole or in part, this grant [contract, loan, insurance, guarantee]; refrain from extending any further assistance to the applicant under the program with respect to which its failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

§ 1-12.803-5 Subcontracts.

(a) Each nonexempt prime contractor and subcontractor under a Government contract shall include the Equal Opportunity clause prescribed in § 1-12.803-2 in each of their nonexempt subcontracts.

(b) Each nonexempt prime contractor and subcontractor under a federally assisted construction contract shall include in each of their nonexempt subcontracts the Equal Opportunity (Federally Assisted Construction) clause contained in the Equal Opportunity (Applicant) clause prescribed in § 1-12.803-4.

§ 1-12.803-6 Adaptation of language.

Such necessary changes in language may be made in the Equal Opportunity clause (see § 1-12.803-2 and 1-12.803-4) as shall be appropriate to identify properly the parties and their undertakings.

§ 1-12.803-7 Incorporation by reference.

The Equal Opportunity clause may be incorporated by reference in Government bills of lading, transportation requests, contracts for deposit of Government funds, contracts for issuing and paying U.S. savings bonds and notes, contracts and subcontracts less than \$50,000, and such other contracts as the Director may designate.

§ 1-12.803-8 Incorporation by operation of the order and agency regulations.

By operation of the order, the Equal Opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts. The clause may also be applied by agency regulations to every nonexempt contract where there is no written contract between the agency and the contractor.

§ 1-12.803-9 Notice to bidders regarding preaward equal opportunity compliance reviews.

The following notice (see § 1-12.805-5(d)) shall be included in the invitation for bids for each formally advertised supply contract which may result in an award of \$1 million or more:

PREAWARD EQUAL OPPORTUNITY COMPLIANCE REVIEWS

Where the bid of the apparent low responsible bidder is in the amount of \$1 million or more, the bidder and his known first-tier subcontractors which will be awarded subcontracts of \$1 million or more will be subject to full, preaward equal opportunity compliance reviews before the award of the contract for the purpose of determining whether the bidder and his subcontractors are able to comply with the provisions of the Equal Opportunity clause.

§ 1-12.803-10 Elimination of segregated facilities.²

(a) Prime contractors, subcontractors, and applicants subject to the Equal Opportunity clause must ensure that the facilities provided for employees are provided in a manner that segregation on the basis of race, creed, color, or national origin cannot result. They may neither require such segregated use by explicit directives nor tolerate such use by employee custom. The obligation extends further to ensuring that employees are not assigned to perform their services at any location under the prime contractor's, subcontractor's, or applicant's (where he is himself performing federally assisted construction) control where the facilities are segregated. Such segregation at any facility provided by a prime contractor, subcontractor, or applicant is an unacceptable failure to comply with the contractor's equal opportunity obligations. Discharge of this obligation in no way whatsoever diminishes or relieves a prime contractor, subcontractor, or applicant of his responsibility to carry out fully the other nondiscrimination and affirmative action requirements of his contract.

(b) The notice to bidders prescribed in § 1-2.201(a)(29) of this chapter shall be included in invitations for bids. A similar provision shall be included in requests for proposals.

(c) Agencies shall make appropriate provision for the giving of the notice prescribed by this paragraph (c) to, and for its inclusion in agreements with applicants which may involve federally assisted construction contracts and related subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause. The notice to be included in agreements with applicants is as follows:

NOTICE TO APPLICANTS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

(a) A Certification of Nonsegregated Facilities must be submitted by the applicant prior to any agreement for Federal financial assistance where the applicant will himself

² On and after Oct. 14, 1968, the term "race, color, religion, or national origin" is substituted for the term "race, creed, color, or national origin."

perform a federally assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

(b) Applicants for Federal assistance shall notify prospective federally assisted construction contractors of the Certification of Nonsegregated Facilities required, as follows:

NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS

(a) A Certification of Nonsegregated Facilities must be submitted prior to the award of a federally assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

(b) Contractors receiving federally assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES

(a) A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

(b) Contractors receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

(d) Agencies shall include a requirement for a certification of nonsegregated facilities in their (1) invitation for bids, (2) requests for proposals, (3) modifications of contracts (in the absence of a certification), (4) contracts resulting from unsolicited proposals, (5) federally assisted construction contracts of applicants, and (6) agreements with applicants. Pursuant to this requirement, bidders, offerors, recipients of contract awards and contract modifications, applicants performing federally assisted construction contracts, federally assisted construction contractors, and their respective subcontractors, shall submit the certification prescribed by this paragraph (d) in connection with their bids, proposals, contracts, contract modifications, and agreements where awards and agreements may result in contracts and subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause. Certifications shall be individually signed except where the certification is executed by reason of the signature on the bid or offer (see § 1-2.201(a)(29) of this chapter). The certifications submitted by subcontractors shall be retained in the files of the prime contractor or subcontractor receiving the certification. Where a prime contractor or subcontractor does business with a concern on a continuing basis, a single certification may be submitted periodically (quarterly, semiannually, or annually) rather than with each transaction.

(1) Certification to be submitted by (i) bidders, (ii) offerors, (iii) contractors, (iv) subcontractors, and (v) applicants who are themselves performing federally assisted construction contracts:

CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to (1) contracts, (2) subcontracts, and (3) agreements with applicants who are themselves performing federally assisted construction contracts, exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause.)

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

(2) Certification to be submitted by federally assisted construction contractors of applicants and their subcontractors:

CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to federally assisted construction contracts and related subcontracts exceeding \$10,000 which are not exempt from the Equal Opportunity clause.)

The federally assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are

maintained. The federally assisted construction contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The federally assisted construction contractor agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

(e) The failure of a prime contractor or subcontractor to comply with the terms of his Certification of Nonsegregated Facilities or with the terms of the Equal Opportunity clause as construed by paragraph (a) of this section shall be a ground for termination or cancellation of contracts or subcontracts as provided in § 1-12.805-9.

§ 1-12.804 Exemptions.

§ 1-12.804-1 General.

Contracts and subcontracts are exempt from the requirements of the Equal Opportunity clause as provided in this section.

(a) *Transactions of \$10,000 or under.* Contracts and subcontracts not exceeding \$10,000, other than Government bills of lading, are exempt. In determining the applicability of this exemption to any federally assisted construction contract, or subcontract thereunder, the amount of such contract or subcontract rather than the amount of the Federal financial assistance shall govern. No agency, contractor, or subcontractor shall procure supplies or services in less than usual quantities to avoid applicability of the Equal Opportunity clause.

(b) *Contracts and subcontracts for indefinite quantities.* Contracts and subcontracts for indefinite quantities (including, but not limited to, open-end contracts, requirement-type contracts, Federal Supply Schedule contracts, call-type contracts, and purchase notice agreements) shall include the Equal Opportunity clause unless the purchaser has reason to believe that the amount to be ordered in any year under such contract will not exceed \$10,000. The applicability of the Equal Opportunity clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding

the above, the Equal Opportunity clause shall be applied to such contract whenever the amount of a single order exceeds \$10,000. Once the Equal Opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(c) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the Equal Opportunity clause with regard to work performed outside the United States by employees who were not recruited within the United States.

(d) *Contracts with State or local governments.* The requirements of the Equal Opportunity clause in any contract or subcontract with a State or local government (or any agency, instrumentality, or subdivision thereof) shall not be applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract or subcontract. In addition, State and local governments are exempt from the requirements of filing the annual compliance report provided for by § 1-12.805-4 and maintaining a written affirmative action compliance program prescribed by § 1-12.810.

(e) *National security.* Any requirement set forth in the regulations in this subpart shall not apply to any contract or subcontract whenever the head of the agency determines that such contract or subcontract is essential to the national security and that its award without complying with such requirement is necessary to the national security. Upon making such a determination, the head of the agency shall notify the Director in writing within 30 days.

(f) *Sales contracts.* Contracts providing for the sale of Government real and personal property are exempt from the requirements of the Equal Opportunity clause by reason of the definition of the term "Government contract" (see § 1-12.802(m)).

§ 1-12.804-2 Specific contracts.

The Director may exempt any agency or any person from requiring the inclusion of any or all of the Equal Opportunity clause in any specific contract, or subcontract, when he deems that special circumstances in the national interest so require. The Director may also exempt groups or categories of contracts or subcontracts of the same type where he finds it impracticable to act upon each request individually or where group exemptions will contribute to convenience in the administration of the order.

§ 1-12.804-3 Facilities not connected with contracts.

The Director may exempt from the requirements of the Equal Opportunity clause any of a prime contractor's or subcontractor's facilities which he finds to be in all respects separate and distinct from the activities of the prime contractor, or subcontractor, related to the performance of the contract, or subcontract, provided that he also finds that such

an exemption will not interfere with or impede the effectuation of the order.

§ 1-12.804-4 Effect of exemption.

Notwithstanding the inclusion in any contract or subcontract of the Equal Opportunity clause, the contractor or subcontractor shall be exempt from compliance therewith if the contract or subcontract containing such a clause is exempt.

§ 1-12.804-5 Withdrawal of exemption.

When any contract or subcontract is of a class exempted under this § 1-12.804, the Director may withdraw the exemption for a specific contract, or subcontract, or group of contracts or subcontracts when in his judgment such action is necessary or appropriate to achieve the purposes of the order. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of bids.

§ 1-12.805 Administration.

§ 1-12.805-1 Duties of agencies.

(a) *General responsibility.* Each agency shall be primarily responsible for obtaining compliance with the Equal Opportunity clause, the order, the regulations of the Secretary of Labor, and orders issued pursuant thereto. Each agency shall cooperate with the Director and shall furnish him such information and assistance as he may require in the performance of his functions under the order. Such information shall include compliance review reports, schedules of compliance reviews, and any other information relevant to the administration of the order.

(b) *Agency programs.* The head of each agency shall, subject to the prior approval of the Director, establish a program and promulgate procedures to carry out the agency's responsibilities for obtaining compliance with the order and regulations and orders issued pursuant thereto. Each agency head shall also designate a Contract Compliance Officer, who (unless otherwise approved by the Director) shall be appointed by the head of the agency from among the agency's executive personnel to whom the Executive Schedule applies, and such officer shall be subject to the immediate supervision of the head of the agency. All compliance reviews required pursuant to this Subpart 1-12.8 and such other compliance reviews as the Contract Compliance Officer determines to be appropriate shall be conducted by him or his designee. The head of the agency or the Contract Compliance Officer may also designate a Deputy Contract Compliance Officer and Assistant Compliance Officers to assist the Contract Compliance Officer in the performance of his duties. The names of the Contract Compliance Officers and the Deputy Contract Compliance Officers, their addresses, and telephone numbers, and any changes made in their

designation shall be furnished to the Director.

(c) *Agency regulations.* Agency implementation and supplementation of and deviations from this subpart shall be submitted to the Director for review and approval prior to issuance and may be enforced upon approval of the Director, or 60 days after submission if not disapproved by the Director. Deviations from this subpart so submitted to the Director will be deemed to satisfy the requirements of § 1-1.009 of this chapter.

(d) *Award of contracts.* Sixty days after the effective date (July 1, 1968) of the rules, regulations, and relevant orders of the Secretary of Labor, each agency shall follow the procedures described in this paragraph (d) before the award of any nonexempt contract, unless agency regulations providing alternative procedures have been issued or are under review by the Director, in accordance with paragraph (c) of this § 1-12.805-1. Such alternative procedures may include monetary cutoffs and other limitations consistent with the agency resources and contracting processes.

(1) All contracting officers and officers approving applications for Federal financial assistance involving a construction contract shall notify the Contract Compliance Officer or appropriate Deputy or Assistant as soon as practicable of the impending award of each nonexempt contract, the name and address of the prime contractor, anticipated time of performance, name and address of each known subcontractor, whether the prime contractor and known subcontractors have previously held any Government contracts or federally assisted construction contracts subject to Executive Orders No. 10925, 11114, or 11246, and whether the prime contractor has previously filed compliance reports required by Executive Orders No. 10925, 11114, or 11246, or by regulations of the Equal Employment Opportunity Commission issued pursuant to Title VII of the Civil Rights Act of 1964.

(2) The Contract Compliance Officer or appropriate Deputy or Assistant shall review the available information relative to the prospective prime contractor's equal opportunity compliance status and notify the contracting officer or approving officer of any deficiencies found to exist. A copy of such report shall be forwarded to the Director.

(3) Contracting officers or approving officers shall: (i) Notify the bidder, offeror, or applicant of any deficiencies found to exist by the Contract Compliance Officer (or appropriate Deputy or Assistant), and (ii) direct any bidder, offeror, or applicant so notified to negotiate with the Contract Compliance Officer (or appropriate Deputy or Assistant), and to take such actions as he may require.

(4) The award of any such contract shall be conditioned upon the Contract Compliance Officer's (or appropriate Deputy's or Assistant's) notification to the contracting officer or approving officer that the bidder, offeror, or applicant

has taken action or has agreed to take action satisfactory to the Contract Compliance Officer (or appropriate Deputy or Assistant), or the head of the agency as provided in this Subpart 1-12.8. Any such agreement to take action shall be stated in the contract, if the Contract Compliance Officer (or appropriate Deputy or Assistant) so requires.

(e) *Evaluations.* The Director may, from time to time, evaluate the programs, procedures, and policies of agencies in order to assure their compliance with the order and these regulations and the compliance of prime contractors and subcontractors with the Equal Opportunity clause.

§ 1-12.805-2 Educational responsibility.

(a) Contracting officers and other personnel concerned with procurement shall be apprised of their responsibilities for obtaining compliance with the Equal Opportunity clause.

(b) The agency shall publicize the equal opportunity policy to prospective bidders and contractors; and shall make available to contractors information concerning their responsibilities under the clause.

§ 1-12.805-3 Notices to be posted.

(a) *Requirement.* Unless alternative notices are prescribed by the Director, or by the agency with the approval of the Director, prime contractors and subcontractors shall post the notice entitled "Equal Employment Opportunity Is The Law," as provided by the notice posting requirements of the Equal Opportunity clause.

(b) *Acquisition of notices.* The notice "Equal Employment Opportunity Is The Law" is available in all GSA supply depots. Copies of the notice may be obtained from GSA through the contracting or administering agency. The stock numbers for the notice are as follows:

Stock number	Description
English — 7690-926-8988.	Equal Employment Opportunity Is The Law.
Spanish — 7690-926-9118.	Equal Employment Opportunity Is The Law.

§ 1-12.805-4 Reports and other required information.

(a) *Requirements for prime contractors and subcontractors.* (1) Each agency shall require each prime contractor and each prime contractor and subcontractor shall cause its subcontractors to file annually, on or before March 31, complete and accurate reports on Standard Form 100 (EEO-1) promulgated jointly by the Office of Federal Contract Compliance, the Equal Employment Opportunity Commission, and Plans for Progress, or on such form as may hereafter be promulgated in its place, if such prime contractor or subcontractor (i) is not exempt from the provisions of this regulation in accordance with § 1-12.804; (ii) has 50 or more employees; (iii) is a prime contractor or first-tier subcontractor; and (iv) has a contract, subcontract, or purchase order amounting to \$50,000, or

more, or serves as a depository of Government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes: *Provided*, That any subcontractor below the first tier which performs construction work at the site of construction shall be required to file such a report if it meets the requirements in subdivisions (i), (ii), and (iv) of this paragraph (a) (1).

(2) Each person required by subparagraph (1) of this paragraph to submit reports shall file such a report with the contracting or administering agency within 30 days after the award to him of a contract or subcontract, unless such person has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually in accordance with subparagraph (1) of this paragraph, or at such other intervals as the agency or the Director may require. The agency, with the approval of the Director, may extend the time for filing any report.

(3) The Director, the agency, or the applicant, on their own motions, may require a prime contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Director, agency, or the applicant deems necessary for the administration of the order.

(4) The failure to file timely, complete, and accurate reports, as required, constitutes noncompliance with the prime contractor's or subcontractor's obligations under the Equal Opportunity clause and is a ground for the imposition by the agency, the Director, an applicant, prime contractor or subcontractor, of any sanctions authorized by the order and the regulations in this subpart. Any such failure shall be reported in writing to the Director by the agency as soon as practicable after it occurs.

(b) *Requirements for bidders or prospective contractors.* (1) Each agency shall require each bidder or prospective prime contractor and proposed subcontractor, where appropriate, to state in the bid or at the outset of negotiations for the contract whether it has participated in any previous contract or subcontract subject to the Equal Opportunity clause; and, if so, whether it has filed with the Joint Reporting Committee, the Director, an agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements. The statement shall be in the form of a representation by the bidder or offeror substantially as follows:

The bidder (or offeror) represents that he [] has, [] has not, participated in a previous contract or subcontract subject to the Equal Opportunity clause herein, or the clause originally contained in section 301 of Executive Order No. 10925, or the clause contained in section 201 of Executive Order No. 11114; that he [] has, [] has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in con-

nection with contracts or subcontracts which are exempt from the clause.)

Where a bidder or offeror fails to execute the representation, the omission shall be considered a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

(2) In any case in which a bidder or prospective prime contractor or proposed subcontractor, which participated in a previous contract or subcontract subject to Executive Orders No. 10925, 11114, or 11246, has not filed a report due under the applicable filing requirements, no contract or subcontract shall be awarded, unless such contractor submits a report covering the delinquent period or such other period specified by the agency or the Director.

(3) A bidder or prospective prime contractor or proposed subcontractor shall be required to submit such information as the agency or the Director requests prior to the award of the contract or subcontract. When a determination has been made to award the contract or subcontract to a specific contractor, such contractor shall be required, prior to award, or after the award, or both, to furnish such other information as the agency, the applicant, or the Director requests.

(c) *Use of reports.* Reports filed pursuant to this § 1-12.805-4 shall be used only in connection with the administration of the order, the Civil Rights Act of 1964, or in furtherance of the purposes of the order and said Act.

(d) *Acquisition of report forms.* Standard Form 100 is available in all GSA supply depots. Copies of the form may be obtained from GSA through the contracting or administering agency. The stock number for the form is as follows:

Standard Form No.	Stock No.	Title
100	7540-926-2049	Equal employment opportunity employer information report.

§ 1-12.805-5 Compliance reviews.¹

(a) The purpose of a compliance review is to determine if the prime contractor or subcontractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to ensure that applicants are employed and that employees are placed, trained, upgraded, promoted, and otherwise treated during employment without regard to race, creed, color, or national origin. It shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned practices, policies, and conditions resulting therefrom. Where necessary, recommendations for appropriate sanctions shall be made.

(b) Where deficiencies are found to exist, reasonable efforts shall be made

¹ On and after Oct. 14, 1968, the term "race, color, religion, sex, or national origin" is substituted for the term "race, creed, color, or national origin," as provided by Executive Order No. 11375, Oct. 13, 1967 (32 F.R. 14303).

to secure compliance through conciliation and persuasion. Before the contractor can be found to be in compliance with the order, he must make a specific commitment, in writing, to correct any such deficiencies. The commitment must include the precise action to be taken and dates for completion. The time period allotted shall be no longer than the minimum period necessary to effect such changes. Upon approval of such commitment by the Contract Compliance Officer, appropriate Deputy or Assistant, or the agency head, the contractor may be considered in compliance, on condition that the commitments are faithfully kept. The contractor shall be notified that making such commitments does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

(c) The compliance agency shall have the primary responsibility for the conduct of compliance reviews. Agencies shall institute programs for the regular conduct of compliance reviews in accordance with the Director's guidelines, and shall also conduct compliance reviews in accordance with any special requests or instructions of the Director. Compliance reviews may also be conducted by the Director. Compliance reviews should be conducted by qualified specialists regularly involved in equal opportunity programs.

(d) Before the award of any formally advertised supply contract which may result in an award of \$1 million or more, a preaward compliance review of the prospective contractor and his known first-tier subcontractors which will be awarded subcontracts of \$1 million or more must be conducted by the compliance agency within 6 months prior to the award of the contract. If an agency other than the awarding agency is the compliance agency, the awarding agency shall notify the compliance agency and request appropriate action and finding in accordance with this paragraph (d). Compliance agencies shall provide awarding agencies with written reports of compliance reviews within 30 days following the requests. In order to qualify for the award of a contract, a contractor and such first-tier subcontractors must be found on the basis of such review to be able to comply with the Equal Opportunity clause or carry out an acceptable program for compliance as provided in paragraph (b) of this § 1-12.805-5 (see § 1-12.803-9 regarding the notice required to be included in formally advertised supply contracts which may result in awards of \$1 million or more).

§ 1-12.805-6 Complaints.

(a) Any employee of any contractor or applicant for employment with such contractor may, by himself or by an authorized representative, file in writing a complaint of alleged discrimination in violation of the Equal Opportunity clause. Such complaint is to be filed not later than 180 days from the date of the alleged discrimination, unless the time

for filing is extended by the agency or the Director upon good cause shown.

(b) Complaints may be filed with the agency or with the Director. Those filed with the Director may be referred to the agency for processing, or they may be processed in accordance with § 1-12.805-8.

(c) Complaints will be required to be signed by the complainants or their authorized representatives and to contain the following information:

(1) Name and address (including telephone number) of the complainant;

(2) Name and address of the contractor or subcontractor who committed the alleged act of discrimination;

(3) A description of the act or acts considered to be discriminatory; and

(4) Other pertinent information which will assist in the investigation and resolution of the complaint.

(d) Where a complaint contains incomplete information, the agency or the Director shall seek promptly the needed information from the complainant. In the event such information is not furnished to the agency or the Director within 60 days of the date of such request, the case may be closed.

§ 1-12.805-7 Processing of matters by agencies.

(a) *Complaints.* Where complaints are filed with the agency, the Contract Compliance Officer shall transmit a copy of the complaint to the Director within 10 days after receipt.

(b) *Investigations.* The agency or compliance agency shall institute a prompt investigation of each complaint filed with it or referred to it, and shall be responsible for developing a complete case record. A complete case record consists of the following:

(1) Name and address of each person interviewed;

(2) A summary of his statement;

(3) Copies or summaries of pertinent documents; and

(4) A narrative summary of the evidence disclosed in the investigation as it relates to each violation revealed.

When a complaint is filed against a prime contractor or subcontractor who has contracts involving more than one agency, unless otherwise provided, the compliance agency shall conduct the investigation and make such findings and determinations as shall be appropriate for the administration of the order.

(c) *Resolution of matters.* (1) If the investigation of a complaint by an agency pursuant to paragraph (b) of this § 1-12.805-7 shows no violation of the Equal Opportunity clause, the agency shall so inform the Director. The Director may review the findings of the agency, and he may request further investigation by the agency or may undertake such investigation as he may deem appropriate.

(2) If any complaint investigation or compliance review indicates a violation of the Equal Opportunity clause, the matter should be resolved by informal means whenever possible. Such informal means may include the holding of a com-

pliance conference by the agency. Each prime contractor and subcontractor shall be advised that the resolution is subject to review by the Director and may be disapproved if he determines that such resolution is not sufficient to achieve compliance.

(3) Hearings shall be conducted in connection with the processing of matters in accordance with the provisions of § 1-12.807.

(4) For reasonable cause shown, the Director or an agency head may reconsider or cause to be reconsidered any matter on his own motion or pursuant to a request.

(d) *Reports to the Director.* (1) Within 60 days from receipt of a complaint by the agency, or within such additional time as may be allowed by the Director for good cause shown, the agency or the compliance agency shall process the complaint and submit to the Director the case record and a summary report containing the following information:

(i) Name and address of the complainant;

(ii) Brief summary of findings, including a statement as to the agency's conclusions regarding the contractor's compliance or noncompliance with the requirements of the Equal Opportunity clause; and

(iii) A statement of the disposition of the case, including any corrective action taken and any sanctions or penalties imposed or, whenever appropriate, the recommended corrective action and sanctions or penalties.

(2) A written report of every preaward compliance review required by this Subpart 1-12.8 or otherwise required by the Director, including findings, shall be forwarded to the Director within 10 days after the award for a postaward review.

(3) A written report of every other compliance review or any other matter processed by the agency involving an apparent violation of the Equal Opportunity clause shall be submitted to the Director. Such report shall contain a brief summary of the findings, including a statement of conclusions regarding the contractor's compliance or noncompliance with the requirements of the order, and a statement of the disposition of the case, including any corrective action taken or recommended, and any sanctions or penalties imposed or recommended.

§ 1-12.805-8 Assumption of jurisdiction by or referrals to the Director.

The Director may inquire into the status of any matter pending before an agency or a compliance agency, including complaints and matters arising out of reports, reviews, and other investigations. Where he considers it necessary or appropriate to the achievement of the purposes of the order, he may assume jurisdiction over the matter and proceed as provided herein. Whenever the Director assumes jurisdiction over any matter, or an agency refers any matter, he may conduct, or have conducted, such investigations, hold such hearings, make

such findings, issue such recommendations and directives, order such sanctions and penalties, and take such other action as may be necessary or appropriate to achieve the purposes of the order. The Director shall promptly notify the agency of any corrective action to be taken or any sanctions to be taken or any sanction to be imposed by the agency. The agency shall take such action, and report the results thereof to the Director within the time specified.

§ 1-12.805-9 Sanctions and penalties.

(a) *General.* (1) In every case where any complaint investigation or compliance review indicates the existence of a violation of the Equal Opportunity clause, the matter should be resolved by informal means, including conference, conciliation, mediation, and persuasion, whenever possible. This will also include, where appropriate, establishing a program for future compliance approved by the head of the agency. Where the apparent violation is not resolved by informal means, the agency shall afford the contractor or subcontractor an opportunity for a hearing (see § 1-12.807). If a prime contractor or subcontractor, without a hearing, has complied with the recommendations or orders of an agency or the Director and believes such orders or recommendations to be erroneous, he shall, upon filing a request therefor within 10 days of such compliance, be accorded an opportunity for a hearing and review as provided in § 1-12.807.

(2) The sanctions described in paragraphs (1), (5), and (6) of section 209(a) of the order regarding the (i) publication of the names of contractors or unions, (ii) cancellation, termination, and suspension of contracts, and (iii) entering into contracts or extensions or modifications of contracts with noncomplying contractors may be exercised only by or with the approval of the Director.

(b) *Termination.* (1) A contract or subcontract may be canceled or terminated, in whole or in part, for failure to comply with the provisions of the Equal Opportunity clause. Whenever the Director or the head of the agency, or his designee, upon prior notification to the Director proposes to cancel or terminate, or cause to be canceled or terminated, in whole or in part, a contract or contracts, a notice of the proposed action, signed by the Director or head of the agency, or his designee, shall be sent to the last known address of the prime contractor or subcontractor, return receipt requested. A copy of such notice shall be sent to all agencies. The prime contractor or subcontractor shall be given at least 10 days from the receipt of the notice either to comply with the provisions of the contract or to mail a request for a hearing to the Director, or the agency, as appropriate, under § 1-12.807. During the 10-day notice period, reasonable efforts shall continue to be made to secure compliance by conference, mediation, and persuasion.

(2) If at the end of the 10-day period no request for a hearing has been received, the Director or the head of the

agency may cancel, suspend, or terminate, or cause to be canceled, suspended, or terminated, such contracts or subcontracts.

(c) *Debarment.* (1) A prime contractor or subcontractor may be debarred from receiving contracts for failure to comply with the provisions of the Equal Opportunity clause. Whenever the Director, or the head of an agency or his designee, upon prior notification to the Director, proposes to debar a prime contractor or subcontractor from further contracts or subcontracts under section 209 of the order, a notice of the proposed action, in writing and signed by the Director or head of the agency or his designee, shall be sent to the last known address of the prime contractor or subcontractor, return receipt requested. A copy of such notice shall be sent to all agencies. The prime contractor or subcontractor shall be given at least 10 days from the receipt of such notice in which to mail a request for a hearing to the Director or the agency. During the 10-day notice period, reasonable efforts shall continue to be made to secure compliance by conference, mediation, and persuasion.

(2) If at the end of the 10-day period no request has been received, the Director or the head of the agency may enter an order debarring the contractor or subcontractor from further contracts, subcontracts, or extensions or other modifications of existing contracts, until such contractor or subcontractor shall have satisfied the Director that he has established and will carry out personnel and employment policies and practices in compliance with the provisions of the Equal Opportunity clause.

(d) *Referrals.* Referral of any matter arising under the Order to the Department of Justice or to the Equal Employment Opportunity Commission shall be made by the Director.

(e) *Show cause notices.* When the Director has reasonable cause to believe that a contractor has violated the Equal Opportunity clause he may issue a notice requiring the contractor to show cause, within 30 days, why monitoring, enforcement proceedings, or other appropriate action to ensure compliance should not be instituted.

§ 1-12.805-10 Disputed matters related to the equal opportunity program.

Disputes related to matters pertaining to the equal opportunity program shall be handled pursuant to the provisions of the Equal Opportunity clause in Government contracts, agreements, and subcontracts, rather than the Disputes clause contained therein. This relationship stems largely from the provision "except as otherwise provided in this contract" which appears in the standard Disputes clauses (see clauses 6 and 12 of Standard Forms 23-A and 32, respectively). The Equal Opportunity clause prescribed by § 1-12.803 does so "otherwise provide" in paragraph (d), which specifies that the contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor. Those rules, regulations, and relevant orders prescribe par-

ticular procedures for handling disputed matters pertaining to the equal opportunity program (see Chapter 60, Subpart B, of this title) which are implemented by §§ 1-12.805 and 1-12.807 (see also 41 CFR 60-1.1 of this title).

§ 1-12.805-11 Preaward notices.

(a) *Preaward compliance reviews.* Upon the request of the Director, agencies shall not enter into contracts or approve the entry into contracts or subcontracts with any bidder, prospective prime contractor, or proposed subcontractor named by the Director, until a preaward compliance review has been conducted and the Director or designated agency head or his designee has approved a determination that the bidder, prospective prime contractor, or proposed subcontractor will be able to comply with the provisions of the Equal Opportunity clause.

(b) *Other special preaward procedures.* Upon the request of the Director, agencies shall not enter into contracts or approve the entry into subcontracts with any bidder, prospective prime contractor, or proposed subcontractor, specified by the Director until the agency has complied with the directions contained in the request.

§ 1-12.806 [Reserved]

§ 1-12.807 Hearings.

§ 1-12.807-1 General.

An opportunity for a formal hearing shall be afforded to a prime contractor or a subcontractor by the Director or by the agency where:

(a) An apparent violation of the Equal Opportunity clause by a contractor, as shown by any complaint investigation or compliance review, is not resolved by informal means and a hearing is requested pursuant to § 1-12.805-9(a).

(b) The prime contractor or subcontractor, without a hearing, shall have complied with the recommendations or orders of the agency, believes such recommendations or orders to be erroneous and requests a hearing and review pursuant to § 1-12.805-9(a).

(c) The Director or an agency proposes to cancel or terminate a contract or subcontract, in whole or in part, and a hearing is requested pursuant to § 1-12.805-9(b). The contract or subcontract may be suspended, in the discretion of the Director, during the pendency of the hearing.

(d) The Director or an agency proposes to debar the prime contractor or subcontractor and a hearing is requested pursuant to § 1-12.805-9(c). The contract or subcontract may be suspended, in the discretion of the Director, during the pendency of the hearing.

§ 1-12.807-2 Informal hearings.

(a) *Purpose.* The Director or any agency head, with the approval of the Director, may convene such informal hearings as may be deemed appropriate for the purpose of inquiring into the status of compliance by any prime contractor or subcontractor with the terms of the Equal Opportunity clause.

(b) *Notice.* Contractors and subcontractors shall be advised in writing as to the time and place of the informal hearing and may be directed to bring specific documents and records, or furnish other relevant information concerning their compliance status. When so requested, the prime contractor or subcontractor shall attend and bring requested documents and records, or other requested information.

(c) *Conduct of hearings.* The hearing shall be conducted by hearing officers appointed by the Director or an agency head. Parties to informal hearings may be represented by counsel and shall have a fair opportunity to present any relevant material. Formal rules of evidence will not apply to such proceedings.

§ 1-12.807-3 Formal hearings.

(a) *General procedure.* The Director or the agency head, with the approval of the Director, may convene formal hearings pursuant to this Subpart 1-12.8. Such hearings shall be conducted in accordance with procedures prescribed by the Director or the agency head. Reasonable notice of a hearing shall be sent by registered mail, return receipt requested, to the last known address of the prime contractor or subcontractor complained against. Such notice shall contain the following:

- (1) The time and place of hearing;
- (2) A statement of the provisions of the order and regulations pursuant to which the hearing is to be held; and
- (3) A concise statement of the matters pursuant to which the action furnishing the basis of the hearing has been taken or is proposed to be taken.

Copies of such notice shall be sent to all agencies. Hearings shall be held before a hearing officer designated by the Director or an agency head. Each party shall have the right to counsel, a fair opportunity to present evidence and argument, and to cross-examine. Whenever a formal hearing is based in whole or in part on matters subject to a collective bargaining agreement and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party. Any other person or organization shall be permitted to participate upon a showing that such person or organization has an interest in the proceedings and may contribute materially to its proper disposition. The hearing officer shall make his proposed findings and conclusions upon the basis of the record before him.

(b) *Suspension during pendency of hearing.* Whenever the prime contractor or subcontractor requests a hearing in accordance with § 1-12.805-9 (b) and (c), his contracts or subcontracts may be suspended, in the discretion of the Director, during the pendency of the hearing.

(c) *Decision following hearing.* When the hearing is conducted by an agency, the hearing officer shall make recommendations to the head of the agency who shall make a decision. No decision by the head of the agency, or his rep-

resentatives, shall be final without the prior approval of the Director. When the hearing is conducted by a hearing officer appointed by the Director, the hearing officer shall make recommendations to the Director, who shall make the final decision. Parties shall be furnished with copies of the hearing officer's recommendations, and shall be given an opportunity to submit their views.

§ 1-12.808 Reinstatement of ineligible contractors or subcontractors.

Any prime contractor or subcontractor declared ineligible for further contracts or subcontracts under the order may request reinstatement in a letter directed to the Director. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that he has established and will carry out employment policies and practices in compliance with the Equal Opportunity clause.

§ 1-12.809 Intimidation and interference.

The sanctions and penalties contained in Subpart D of the order may be exercised by the agency or the Director against any prime contractor, subcontractor, or applicant who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the order or any other Federal, State, or local laws requiring equal employment opportunity.

§ 1-12.810 Affirmative action compliance programs.

(a) *Requirements of programs.* Each agency or applicant shall require each prime contractor who has 50 or more employees and a contract of \$50,000 or more and each prime contractor and subcontractor shall require each subcontractor who has 50 or more employees and a subcontract of \$50,000 or more to develop a written affirmative action compliance program for each of its establishments. A necessary prerequisite to the development of a satisfactory affirmative action program is the identification and analysis of problem areas inherent in minority employment and an evaluation of opportunities for utilization of minority group personnel. The contractor programs shall provide in detail for specific steps to guarantee equal employment opportunity keyed to the problems and needs of members of minority groups, including, when there are deficiencies, the development of specific goals and time tables for the prompt achievement of full and equal employment opportunity. Each contractor shall include in his affirmative action compliance program a table of job classifications. This table should include, but need not be limited to, job titles, principal duties (and auxiliary duties, if any), rates of pay, and where more than one rate of pay applies (because of length

of time in the job or other factors), the applicable rates. The affirmative action compliance program shall be signed by an executive official of the contractor.

(b) *Utilization evaluation.* The evaluation of utilization of minority group personnel shall include the following:

- (1) An analysis of minority group representation in all job categories;
- (2) An analysis of hiring practices for the past year, including recruitment sources and testing, to determine whether equal employment opportunity is being afforded in all job categories; and
- (3) An analysis of upgrading, transfer, and promotion for the past year to determine whether equal employment opportunity is being afforded.

(c) *Maintenance of programs.* Within 120 days from the commencement of the contract, each contractor shall maintain a copy of separate affirmative action compliance programs for each establishment, including evaluations of utilization of minority group personnel and the job classification tables, at each local office responsible for the personnel matters of such establishment. An affirmative action compliance program shall be part of the manpower and training plans for each new establishment and shall be developed and made available prior to the staffing of such establishment. A report of the results of such program shall be compiled annually and the program shall be updated at that time. This information shall be made available to representatives of the agency or Director upon request and the contractor's affirmative action program and the result it produces shall be evaluated as part of the compliance review activities.

§ 1-12.811 Access to records of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to his books, records, and accounts pertinent to compliance with the order, and all rules and regulations promulgated pursuant thereto by the agency or the Director for purposes of investigation to ascertain compliance with the Equal Opportunity clause of the contract or subcontract. Information obtained in this manner shall be used only in connection with the administration of the order, the administration of the Civil Rights Act of 1964, and in furtherance of the order and that Act.

§ 1-12.812 Rulings and interpretations.

Rulings under or interpretations of the order, the regulations of the Secretary of Labor, and the regulations contained in this Subpart 1-12.8, shall be made by the Secretary, or his designee.

§ 1-12.813 Solicitations or advertisements for employees.¹

The requirements of the Equal Opportunity clause regarding solicitations or advertisements for employees placed by

¹ On and after Oct. 14, 1968, the term "race, color, religion, sex, or national origin" is substituted for the term "race, creed, color, or national origin," as provided by Executive Order No. 11375, Oct. 13, 1967 (32 F.R. 14303).

or on behalf of a contractor or subcontractor will be satisfied whenever the contractor or subcontractor complies with any of the following:

(a) States expressly in the solicitations or advertising that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin;

(b) Uses display or other advertising, and the advertising includes an appropriate insignia prescribed by the Director. The use of the insignia is considered subject to the provisions of 18 U.S.C. 701;

(c) Uses a single advertisement, and the advertisement is grouped with other advertisements under a caption which clearly states that all employers in the group assure all qualified applicants equal consideration for employment without regard to race, creed, color, or national origin; and

(d) Uses a single advertisement in which appears in clearly distinguishable type the phrase "an equal opportunity employer."

§ 1-12.814 Existing contracts and subcontracts.

All contracts and subcontracts in effect prior to October 24, 1965, which are not subsequently modified shall be administered in accordance with the nondiscrimination provisions of any prior applicable Executive orders. Any contract or subcontract modified on or after October 24, 1965, shall be subject to Executive Order No. 11246. Complaints received by and violations coming to the attention of agencies regarding contracts and subcontracts which were subject to Executive Orders Nos. 10925 and 11114 shall be processed as if they were complaints regarding violations of this order.

PART 1-16—PROCUREMENT FORMS

The table of contents for Part 1-16 is amended to delete the entries for §§ 1-16.901-40, 1-16.901-40A, and 1-16.901-41.

Subpart 1-16.1—Forms for Advertised Supply Contracts

Section 1-16.101 is amended as follows:

§ 1-16.101 Contract forms.

(c) General Provisions (Supply Contract) (Standard Form 32, June 1964 edition). Pending the publication of a new edition of the form, the clause prescribed in § 1-1.805-3(a) of this chapter shall be substituted for the present provision of Article 22, Utilization of Concerns in Labor Surplus Areas, and the clause prescribed in § 1-12.803-2 of this chapter shall be substituted for the present provision of Article 18, Equal Opportunity.

Subpart 1-16.4—Forms for Advertised Construction Contracts

Section 1-16.401 is amended as follows:

§ 1-16.401 Forms prescribed.

(h) General Provisions (Construction Contract) (Standard Form 23-A, June 1964 edition). Pending revision of Standard Form 23-A, agencies shall modify this form by deleting Clause 3, "Changes," Clause 4, "Changed Conditions," and Clause 21, Equal Opportunity, and by substituting the clauses prescribed in §§ 1-7.601-2, 1-7.601-3, and 1-12.803-2, respectively, of this chapter. Agencies also shall add the "Suspension of Work" clause prescribed in § 1-7.601-4 of this chapter.

Subpart 1-16.6—Forms of Leases for Real Property

Section 1-16.601 is amended as follows:

§ 1-16.601 Forms prescribed.

(b) Standard Form 2-A, February 1965 edition, U.S. Government Lease for Real Property. Pending the publication of a new edition of Standard Form 2-A, the Certification of Nonsegregated Facilities prescribed in § 1-12.803-7(d) (1) of this chapter shall be made an additional provision of the form, and the clause prescribed in § 1-12.803-2 of this chapter shall be substituted for the present provision of Article 9, Equal Opportunity.

Subpart 1-16.9—Illustrations of Forms

§§ 1-16.901-40, 1-16.901-40A, 1-16.901-41 [Deleted]

Sections 1-16.901-40, 1-16.901-40A, and 1-16.901-41 are deleted.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective July 1, 1968, for all invitations for bids, or requests for proposals issued by an agency or an applicant for Federal assistance on or after that date, and for all negotiated contracts or contract modifications executed on or after that date. Contracts executed prior to the effective date of these regulations shall be governed by the prior provisions of the Federal Procurement Regulations. Notwithstanding the foregoing, this amendment is effective as to all contracts or contract modifications executed on and after the 120th day following July 1, 1968.

Dated: July 23, 1968.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 68-8958; Filed, July 26, 1968; 8:45 a.m.]

Chapter 24—Department of Housing and Urban Development

PART 24-1—GENERAL

Subpart 24-1.7—Small Business Concerns

In Subtitle A, Chapter 24, a new Subpart 24-1.7 is added as follows:

Subpart 24-1.7—Small Business Concerns

Sec.

24-1.700 General.

24-1.701 [Reserved]

24-1.702 Small business policies.

24-1.703 [Reserved]

24-1.704 Program direction and operation.

24-1.705—24-1.709 [Reserved]

AUTHORITY: The provisions of this Subpart 24-1.7 issued under sec. 7(d), Department of Housing and Urban Development Act; 42 U.S.C. 3535(d).

§ 24-1.700 General.

This subpart implements and supplements general policies and procedures set forth in FPR 1-1.7.

§ 24-1.701 [Reserved]

§ 24-1.702 Small business policies.

In addition to the policies prescribed in FPR 1-1.702, organizational units of HUD having responsibility for procurement of personal property and nonpersonal services (including construction) shall cooperate with the Small Business Administration in implementing the policies and procedures in FPR 1-1.7 and in this subpart.

§ 24-1.703 [Reserved]

§ 24-1.704 Program direction and operation.

The Director, Contracts and Agreements Division, Office of General Services, shall serve as liaison representative for the Department with Headquarters, Small Business Administration, Washington, D.C., on all procurement matters, and shall be responsible for Department compliance with the policies and procedures set forth in FPR 1-1.7 and this subpart.

§§ 24-1.705—24-1.709 [Reserved]

Effective date: Date of publication in the FEDERAL REGISTER.

DWIGHT A. INK,
Assistant Secretary
for Administration.

[F.R. Doc. 68-8977; Filed, July 26, 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 4502]

[New Mexico 4073 (Oklahoma)]

OKLAHOMA

Partial Restoration of Lands Withdrawn Under Departmental Order of September 19, 1934

By virtue of the authority vested in the Secretary of the Interior by section 4 of the act of March 3, 1927 (44 Stat. 1347; 25 U.S.C. 398d), it is ordered as follows:

1. The departmental order of September 19, 1934, temporarily withdrawing vacant and undisposed of lands of certain Indian Reservations, pending restoration of such lands to tribal ownership is hereby revoked so far as it affects the following described undisposed of lands, within the ceded Wichita, Cheyenne, and Arapahoe, and Kiowa, Comanche, and Apache reservations in Oklahoma:

INDIAN MERIDIAN

- T. 11 N., R. 9 W.,
Sec. 9, lot 2.
T. 7 N., R. 10 W.,
Sec. 15, lot 1.
T. 12 N., R. 10 W.,
Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 7 N., R. 11 W.,
Sec. 15, lot 4.
T. 5 N., R. 12 W.,
Sec. 32, SE $\frac{1}{4}$.
T. 4 N., R. 13 W.,
Sec. 3, SW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 14 N., R. 13 W.,
Sec. 17, lots 1a and 2a.
T. 1 N., R. 19 W.,
Sec. 1, NE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 4 N., R. 20 W.,
Sec. 12, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 7 N., R. 21 W.,
Sec. 2, lot 14;
Sec. 25, SW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 6 S., R. 8 W.,
Sec. 26, lot 9.
T. 5 S., R. 9 W.,
Sec. 9, lot 7.
T. 6 S., R. 9 W.,
Sec. 2, lots 3, 4, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, lots 1 and 3.
T. 4 S., R. 17 W.,
Sec. 10, lot 1a.
T. 1 S., R. 19 W.,
Sec. 18, lot 2;
Sec. 30, lot 12.
T. 2 S., R. 19 W.,
Sec. 17, lots 4, 5, and 6.
T. 2 S., R. 20 W.,
Sec. 1, lots 8 and 9.

The areas described aggregate 829.70 acres.

The lands are for the most part small plots of land located along the boundaries of the Red River and the Canadian River in Oklahoma.

2. Until 10 a.m. on January 21, 1969, the State of Oklahoma shall have a preferred right of application to select the lands as provided by R.S. 2276 as amended (43 U.S.C. 852). After that time the lands shall be open to operation of the public land laws generally, including the mining and the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 21, 1969, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, N. Mex.

HARRY R. ANDERSON,

Assistant Secretary of the Interior.

JULY 22, 1968.

[F.R. Doc. 68-8960; Filed, July 26, 1968; 8:45 a.m.]

[Public Land Order 4503]

[Idaho 833; Idaho 1600]

IDAHO

Withdrawal for National Forest Administrative Sites and Recreation Areas and for Lewis and Clark Memorial Trail; Partial Revocation of Public Land Order No. 3537

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:

(Idaho 833)

BOISE MERIDIAN

PAYETTE NATIONAL FOREST

Cougar Basin Recreation Area

- T. 14 N., R. 2 E.,
Sec. 5, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$.
Totaling 20 acres.

Boulder Creek Seed Orchard

- T. 21 N., R. 1 E.,
Sec. 17, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.
Totaling 60 acres.

Nelson Point Lookout Administrative Site

- T. 23 N., R. 7 E., unsurveyed,
Sec. 10, SW $\frac{1}{4}$ NE $\frac{1}{4}$, more particularly described as beginning at a point which is N. 56° E., 3.5 chains from northeast corner of the lookout tower; thence S., 6 chains; thence W., 8 chains; thence N., 6 chains; thence E. 8 chains to the point of beginning.
Totaling 4.8 acres.

Pilot Peak Lookout Administrative Site

- T. 21 N., R. 8 E., unsurveyed,
Sec. 7, NE $\frac{1}{4}$ SE $\frac{1}{4}$, more particularly described as beginning at a point which is N. 67° W., 3.62 chains from the northwest corner of the lookout tower; thence E., 8 chains; thence S., 6 chains; thence W., 8 chains; thence N., 6 chains to the point of beginning.
Totaling 4.8 acres.

Hays Station Administrative Site

- T. 22 N., R. 7 E., unsurveyed,
Sec. 26, SW $\frac{1}{4}$ NW $\frac{1}{4}$, more particularly described as beginning at a point where the Hettinger Ranch Road crosses China Creek; thence E., 9.5 chains; thence S., 17 chains; thence W., 23 chains; thence N., 17 chains; thence E., 13.5 chains to the place of beginning.
Totaling 39.1 acres.

War Eagle Lookout Administrative Site

- T. 23 N., R. 5 E.,
Sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$.
Totaling 5 acres.

Pine Flat Recreation Area

- T. 24 N., R. 4 E.,
Sec. 9, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, located at the mouth of a small unnamed creek which enters the south side of Salmon River about $\frac{1}{2}$ mile upstream from Fall Creek, more particularly described as: Beginning where the unnamed creek enters Salmon River; thence southerly along the high water line 330 feet; thence E. 495 feet; thence N. approximately 495 feet to the south bank of Salmon River; thence southwesterly along the high water line of the river approximately 462 feet to the point of beginning.
Totaling 4.2 acres, more or less.

SALMON NATIONAL FOREST

Twelve Mile Creek Recreation Area

- T. 20 N., R. 22 E.,
Sec. 31, S $\frac{1}{2}$ of lot 6.
T. 19 N., R. 22 E.,
Sec. 6, N $\frac{1}{2}$ of lot 1 and N $\frac{1}{2}$ of lot 2.
Totaling 40.73 acres.

Sheephorn Lookout Administrative Site

- T. 18 N., R. 20 E.,
Sec. 15, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$.
Totaling 20 acres.

Wallace Lake Recreation Area

- T. 22 N., R. 21 E.,
Sec. 8, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.
Totaling 40 acres.

Lake Creek Recreation Area

- T. 20 N., R. 21 E.,
Sec. 33, NW $\frac{1}{4}$ SW $\frac{1}{4}$.
Totaling 40 acres.

U. P. Lake Recreation Area

- T. 22 N., R. 21 E.,
Sec. 17, W $\frac{1}{2}$ of lot 6.
Totaling 21.69 acres, more or less.

Horse Creek Hot Springs Recreation Area

- T. 25 N., R. 17 E., unsurveyed, which will probably be when surveyed:
Sec. 3, NW $\frac{1}{4}$ more particularly described as: Beginning at a Forest Service Monument, being a brass cap 3 inches in diameter marked U.S. Department of Agriculture, Forest Service, H-1, 1965, set in a granite boulder 5 feet by 11 feet by 3 $\frac{1}{2}$ feet above ground, said point bearing S. 65° E., 41.7 feet from a 12-inch d.b.h. lodgepole pine blazed and scribed on southeast face W/H1, brass cap bearing N. 28° E., 160 feet from point where Hot Springs enters Horse Creek; thence N. 49° E., 1,157.6 feet along the slope crossing the Horse Creek Road at 562.8 feet; thence S. 49° E., 550.8 feet parallel to Horse Creek crossing mouth of small stream entering Horse Creek at 51 feet; thence S. 69° E., 412.2 feet along stream; thence S. 21° W., 310.8 feet across stream and up steep slope to ridge-top crossing Horse Creek at 28 feet; thence S. 85° W., 695.2 feet down small ridge to flat, crossing small stream at 521.5 feet; thence S. 49° W., 705.8 feet along toe of slope to spruce bog; thence S. 80° W., 477 feet across spruce bog to wet meadow; thence N. 3° W., 317 feet across wet meadow crossing Horse Creek at 221 feet to large rock outcrop crossing road at 300 feet; thence N. 58° E., 133 feet to point of beginning.
Totaling approximately 23.8 acres.

Spring Creek Recreation Area

T. 24 N., R. 19 E., unsurveyed, which probably will be when surveyed:

Sec. 20, NE $\frac{1}{4}$, more particularly described as: Beginning at a point being corner No. 1 of HES No. 280, an iron pipe 2 inches in diameter set in the ground and in a pile of rock, said point bearing S. 57° E., 265 feet from a brass cap 3 inches in diameter marked U.S. Department of Agriculture, Forest Service with S1 in

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center and dated 1965, set in a granite rock outcrop 7 feet x 11 feet x 10 feet above ground (lower face) on north side of Salmon River Road; thence S. 15° E., 300.5 feet across wet meadow, crossing slough at 200 feet, to north bank of Salmon River; thence N. 89° E., 203.7 feet along north bank of Salmon River; thence N. 68° E., 276.75 feet; thence N. 70° E., 474.7 feet; thence N. 21° E., 362.3 feet along edge of Pine trees and willows; thence N. 41° W., 264 feet across flat to shoulder of the Salmon River Road; thence S. 39° W., 304 feet along road edge; thence S. 46° W., 402.2 feet along road edge; thence S. 81° W., 199 feet; thence S. 83° W., 286.5 feet to point of beginning.

Totalling approximately 7.9 acres.

Lewis and Clark Historical Trail

T. 19 N., R. 25 E.,
Sec. 9, NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 10, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 14, S $\frac{1}{2}$ of lot 2, lots 3 and 8, NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 15, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.

Totalling 284.95 acres.

Chief Joseph Historical Trail Sites

Area No. 1

T. 17 N., R. 27 E.,
Sec. 8, lot 4.
Totalling 43.51 acres.

Area No. 2

T. 16 N., R. 27 E.,
Sec. 5, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 6, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 7, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 8, W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.
Totalling 70 acres.

Area No. 3

T. 14 N., R. 26 E.,
Sec. 22, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.
Totalling 20 acres.

The areas described aggregate 750.48 acres in Adams, Idaho, Lemhi, and Valley Counties.

2. Public Land Order No. 3537 of February 11, 1965, withdrawing public lands for use of the Department of Agriculture for administrative sites, is hereby revoked so far as it affects the following described lands:

(Idaho 1600)

BOISE MERIDIAN

STANLEY ADMINISTRATIVE SITE

T. 10 N., R. 13 E.,
Sec. 22, lots 2, 3, west 10 chains of lot 6, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate 132.69 acres in Custer County.

The lands remain withdrawn for reclamation purposes by order of April 21, 1942.

3. The withdrawal made by paragraph 1 of 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.

JULY 22, 1968.

[F.R. Doc. 68-8961; Filed, July 26, 1968; 8:45 a.m.]

[Public Land Order 4504]

[New Mexico 4761]

NEW MEXICO

Partial Revocation of Public Land Order No. 2830

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. Public Land Order No. 2830 of December 3, 1962, withdrawing national forest lands as administrative sites and recreation areas, is hereby revoked so far as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

SANTA FE NATIONAL FOREST

Nacimiento Recreation Area

T. 21 N., R. 1 E.,
Sec. 20, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 28, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The areas described aggregate 100 acres in Rio Arriba County.

2. At 10 a.m. on August 27, 1968, the lands shall be open to such forms of disposition as may by law be made of national forest lands subject to existing withdrawals.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

JULY 22, 1968.

[F.R. Doc. 68-8962; Filed, July 26, 1968; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 992, Amdt. 3]

PART 1033—CAR SERVICE

Union Pacific Railroad Co. Authorized To Operate Over Trackage of Great Northern Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of July 1968.

Upon further consideration of Service Order No. 992 (32 F.R. 8037, 20862, and 33 F.R. 4805) and good cause appearing therefor:

It is ordered, That § 1033.992 *Service Order No. 992* (Union Pacific Railroad Co. authorized to operate over trackage of Great Northern Railway Co.) be, and it is hereby amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date*. This order shall expire at 11:59 p.m., October 31, 1968, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 31, 1968.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroad, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-9011; Filed, July 26, 1968; 8:50 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

The Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 et. seq.), authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means, such birds or any part, nest, or egg thereof may be taken, captured, killed, possessed, sold, purchased, shipped, carried, or transported.

By notice of proposed rule making published in the FEDERAL REGISTER of April 25, 1968 (33 F.R. 6298), notification

was given that the Secretary of the Interior proposed to amend Part 10, Title 50, Code of Federal Regulations. These amendments would specify open seasons, certain closed seasons, shooting hours, and bag and possession limits for migratory game birds for the 1968-69 hunting seasons.

Interested persons were invited to submit their views, data, or arguments regarding such matters in writing to the Director, Bureau of Sports Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240, within 30 days following the date of publication of the notice.

Subsequently, after due consideration of migratory game bird survey data obtained through investigations conducted by the Bureau of Sport Fisheries and Wildlife and State game departments, and from other sources, the several State game departments were informed concerning the shooting hours, season lengths, and daily bag and possession limits proposed to be prescribed for the 1968-69 seasons on rails, mourning and white-winged doves, band-tailed pigeons, woodcock, and common snipe (Wilson's); on waterfowl, coots, and little brown cranes in Alaska. The State game departments were invited to submit recommendations for hunting seasons to conform to the shooting hours, daily bag, and possession limits, and season lengths within frameworks of opening and closing dates, as established by this Department.

Accordingly, each State game department having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory game birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, it is determined that certain sections of Part 10 shall be amended as set forth below.

The taking of the designated species of migratory game birds is presently prohibited. These amendments will permit taking of these species within specified periods of time beginning as early as September 1, as has been the case in past years. Since these amendments benefit the public by relieving existing restrictions, they shall become effective upon publication in the FEDERAL REGISTER.

Section 10.41 is amended to read as follows:

§ 10.41 Seasons and limits on doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species of doves and wild pigeons designated in this section are prescribed between the dates of September 1, 1968, and January 15, 1969, as follows:

(a) Mourning doves—Eastern Management Unit.

Daily bag limit..... 12
Possession limit..... 24
Shooting hours: 12 o'clock noon until sunset.

Seasons in:	
Alabama ¹	Sept. 23-Nov. 11. Dec. 22-Jan. 10. Closed season.
Connecticut.....	Sept. 13-Nov. 21. Closed season.
Delaware.....	Oct. 5-Nov. 3. Nov. 16-Dec. 1. Dec. 14-Jan. 6. Sept. 7-Oct. 5. Dec. 6-Jan. 15.
District of Columbia.....	Sept. 1-Nov. 9. Closed season.
Florida.....	Sept. 1-Oct. 31. Dec. 1-Dec. 9. Sept. 1-Sept. 15. Oct. 19-Nov. 24. Dec. 19-Jan. 5. Closed season.
Georgia.....	Sept. 14-Oct. 26. Dec. 9-Jan. 4. Closed season.
Illinois.....	Do.
Indiana.....	Sept. 14-Oct. 13. Nov. 16-Dec. 1. Dec. 21-Jan. 13. Closed season.
Kentucky.....	Do.
Louisiana.....	Do.
Maine.....	Sept. 2-Oct. 5. Dec. 7-Jan. 11. Closed season.
Maryland.....	Sept. 2-Nov. 9. Sept. 9-Sept. 29. Oct. 26-Dec. 13. Sept. 14-Oct. 12. Dec. 6-Jan. 15. Sept. 2-Sept. 30. Oct. 12-Nov. 11. Dec. 23-Jan. 1. Closed season.
Massachusetts.....	Sept. 7-Nov. 2. Dec. 16-Dec. 28. Sept. 2-Nov. 10. Closed season.
Michigan.....	
Mississippi.....	
New Hampshire.....	
New Jersey.....	
New York.....	
North Carolina.....	
Ohio.....	
Pennsylvania.....	
Rhode Island.....	
South Carolina.....	
Tennessee.....	
Vermont.....	
Virginia.....	
West Virginia.....	
Wisconsin.....	

¹ Check State regulations for additional restrictions.

(b) Mourning doves—Central Management Unit.

Daily bag limit..... 12
Possession limit..... 24
Shooting hours: ¹ One-half hour before sunrise until sunset.

Seasons in:	
Arkansas.....	Sept. 1-Oct. 5. Dec. 18-Jan. 11. Sept. 1-Oct. 30. Closed season.
Colorado.....	Sept. 1-Oct. 30. Closed season.
Iowa.....	Sept. 1-Oct. 30. Closed season.
Kansas.....	Sept. 1-Oct. 30. Closed season.
Minnesota.....	Sept. 1-Oct. 30. Closed season.
Missouri.....	Sept. 1-Oct. 30. Closed season.
Montana.....	Do.
Nebraska.....	Sept. 1-Oct. 30. Closed season.
New Mexico ²	Sept. 1-Oct. 30. Closed season.
North Dakota.....	Sept. 1-Oct. 30. Closed season.
Oklahoma.....	Sept. 1-Sept. 8. See footnote 3.
South Dakota.....	Closed season.
Texas ³	
Wyoming.....	

¹ In Texas, shooting hours are from 12 o'clock noon until sunset on all days in all counties.

² In New Mexico, the daily bag limit is 12 and the possession limit is 24 mourning and white-winged doves, singly or in the aggregate of both kinds.

³ Texas: Mourning doves in Val Verde, Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby Counties and all counties north and west thereof. Sept. 1-Oct. 30; in the counties of Cameron, Hidalgo, Starr, Zapata, Webb, Maverick, Dimmit, La Salle, Jim Hogg, Brooks, Kenedy, and Willacy, Sept. 1, 2, 7, and 8, and Sept. 21-Nov. 15; remainder of State, Sept. 21-Nov. 19.

(c) Mourning doves—Western Management Unit.

Daily bag limit..... 10
Possession limit..... 20

Shooting hours: One-half hour before sunrise until sunset.

Seasons in:	
Arizona ²	Sept. 1-Sept. 24. Dec. 11-Jan. 5. See footnote 2.
California ^{1,2,3}	Sept. 1-Sept. 22. Sept. 1-Oct. 20. Sept. 1-Sept. 30. Oct. 19-Nov. 7. Sept. 2-Sept. 30. Sept. 1-Sept. 30.
Idaho.....	
Nevada ¹	
Oregon.....	
Utah ³	
Washington.....	

¹ In those counties of California and Nevada having an open season on white-winged doves, the daily bag limit is 10 and possession limit is 20 mourning and white-winged doves, singly or in the aggregate of both kinds.

² California: In the counties of Los Angeles, Orange, San Diego, Imperial, Riverside, San Bernardino, and that portion of Ventura County east of State Highway 33 and east of the city of Ventura, Sept. 1-Sept. 30; remainder of State, Nov. 30-Dec. 8, 1968.

³ Check State regulations for additional restrictions.

(d) White-winged doves.

Daily bag and possession limits (see footnote 2).

Shooting hours: One-half hour before sunrise until sunset.³

Seasons in:	
Arizona ²	Sept. 1-Sept. 24. Dec. 11-Jan. 5.
California: ^{2,3}	
Counties of Imperial, Riverside, and San Bernardino.....	Sept. 1-Sept. 30. Nov. 30-Dec. 8.
Nevada: ²	
Clark and Nye Counties.....	Sept. 1-Oct. 20.
Remainder of State.....	Closed season.
New Mexico ²	Sept. 1-Oct. 30.
Texas: ^{1,2}	
Counties of Brewster, Brooks, Cameron, Culberson, Dimmit, El Paso, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Kenedy, Kinney, La Salle, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata.....	Sept. 1, 2, 7, and 8.
Remainder of State.....	Closed season.

¹ In Texas, shooting hours are from 12 o'clock noon until sunset.

² In Arizona, the daily bag and possession limit is 25 white-winged doves. In California, Nevada, and New Mexico, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of both kinds. In Texas, the daily bag limit is 10 and the possession limit is 20 white-winged doves.

³ Check State regulations for additional restrictions.

(e) Band-tailed pigeons.

Daily bag and possession limit..... 8
Shooting hours: One-half hour before sunrise until sunset.

that State. Such special band-tailed pigeon hunting permit will be issued upon application to the State game department of the State in which hunting is to be done. Permits issued by either State will be valid in that State only: *Provided further*, That this special experimental season shall be open only in the area described, delineated, and designated as such by the States of New Mexico and Arizona in their respective hunting regulations.

Section 10.46 is amended to read as follows:

§ 10.46 Seasons and limits on rails, woodcock, and common snipe (Wilson's).

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1968, and January 31, 1969, as follows:

(a) *Atlantic Flyway States.*

Rails	Woodcock	Common snipe (Wilson's)
Daily bag limit.....	5	8
Possession limit.....	10	16
Shooting hours..... One-half hour before sunrise until sunset on all species.		
Seasons in:		
Connecticut ¹	Sept. 1-Nov. 9	Oct. 19-Dec. 21
Delaware ¹	Sept. 2-Nov. 9	Nov. 8-Dec. 27
District of Columbia.....	Closed season.	Closed season.
Florida ²	Sept. 1-Nov. 15	Nov. 9-Dec. 28
Georgia ²	Sept. 1-Nov. 28	Nov. 23-Jan. 31
Maine ³	Sept. 1-Nov. 9	Sept. 24-Nov. 15
Maryland ¹	Sept. 2-Nov. 2	Oct. 16-Dec. 9
Massachusetts ³	Sept. 7-Nov. 15	Oct. 10-Nov. 30
New Hampshire ³	Closed season.	Oct. 5-Dec. 1
New Jersey ¹	Sept. 2-Nov. 9	Oct. 6-Dec. 7
New York ^{1,3,4}	Sept. 1-Nov. 9	Sept. 23-Nov. 26
North Carolina ²	Sept. 2-Nov. 10	Nov. 16-Jan. 19
Pennsylvania ³	Sept. 2-Nov. 17	Oct. 12-Dec. 14
Rhode Island ¹	Sept. 9-Nov. 17	Oct. 26-Dec. 13
South Carolina ²	Oct. 19-Dec. 27	Nov. 28-Jan. 31
Vermont ³	Sept. 28-Dec. 6	Sept. 28-Dec. 16
Virginia ²	Sept. 6-Nov. 14	Nov. 18-Jan. 6
West Virginia ³	Sept. 21-Nov. 29	Sept. 21-Nov. 9
		Oct. 12-Dec. 7

¹ In the States of Rhode Island, Connecticut, New Jersey, Delaware, New York, and Maryland the daily bag limit on king and clapper rails is 7 and the possession limit is 14 singly or in the aggregate.

² In the States of Georgia, Florida, South Carolina, North Carolina, and Virginia the daily bag limit on king and clapper rails is 15 and the possession limit is 30 singly or in the aggregate.

³ In all States in this flyway the daily bag and possession limit on sora and Virginia rails is 25 singly or in the aggregate.

⁴ New York: In the Long Island area (Long Island and that part of Westchester County lying south of the Hutchinson River Parkway), the season on rails is Sept. 9-Nov. 9.

⁵ New York: Except in the southern zone including Long Island and that part of Westchester County lying south of the Hutchinson River Parkway, the season on woodcock is Oct. 7-Nov. 26.

⁶ New York: Except in the southern zone including Long Island and that part of Westchester County lying south of the Hutchinson River Parkway, the season on snipe is Oct. 7-Nov. 11.

⁷ Season will open and run concurrently with the open season for ducks in the State: *Provided*, That the open season shall not extend beyond the last day of the duck season or 50 consecutive days, whichever is the shorter period.

⁸ Check State regulations for additional restrictions.

(b) *Mississippi Flyway States.*

Rails	Woodcock	Common snipe (Wilson's)
Daily bag limit.....	5	8
Possession limit.....	10	16
Shooting hours..... One-half hour before sunrise until sunset on all species.		
Seasons in:		
Alabama ^{1,2}	Nov. 7-Jan. 15	Nov. 28-Jan. 31
Arkansas ^{1,2}	Sept. 1-Nov. 9	Nov. 28-Jan. 31
Illinois.....	Closed season.	Oct. 1-Dec. 4
Indiana ²	Sept. 1-Nov. 9	Sept. 28-Dec. 1
Iowa.....	Closed season.	Closed season.
Kentucky ²	Nov. 21-Jan. 15	Nov. 21-Jan. 9
Louisiana ^{1,2}	Nov. 2-Jan. 10	Nov. 28-Jan. 31
Michigan ²	Sept. 15-Nov. 23	Sept. 15-Nov. 3
Zone 1 and 2.....	Sept. 15-Nov. 23	Sept. 15-Nov. 3
Zone 3.....	Oct. 21-Nov. 14	Oct. 21-Nov. 14
Minnesota ²	Sept. 7-Nov. 15	Sept. 7-Nov. 10
Mississippi ^{1,2}	Nov. 2-Jan. 10	Nov. 30-Jan. 31
Missouri ²	Sept. 1-Nov. 9	Oct. 1-Dec. 4
Ohio ²	Sept. 2-Nov. 10	Sept. 20-Nov. 23
Tennessee ²	See footnote 1.	Nov. 18-Jan. 21
Wisconsin ²	do.	Sept. 14-Nov. 17

¹ In the States of Arkansas, Louisiana, Mississippi, and Alabama the daily bag limit on king and clapper rails is 15 and the possession limit is 30 singly or in the aggregate.

² In all States in this flyway the daily bag and possession limit on sora and Virginia rails is 25 singly or in the aggregate.

³ Season will open and run concurrently with the open season for ducks in the State: *Provided*, That the open season shall not extend beyond the last day of the duck season or 50 consecutive days, whichever is the shorter period.

⁴ Season will open and run concurrently with the open season for ducks in the State: *Provided*, That the open season shall not extend beyond the last day of the duck season or 70 consecutive days, whichever is the shorter period.

⁵ Season will open concurrently with the open season for ducks in the State and will run for 50 consecutive days.

⁶ Check State regulations for additional restrictions.

(c) Central Flyway States.

	Rails	Woodcock	Common snipe (Wilson's)
Daily bag limit.....	25	5	8
Possession limit.....	25	10	16
Shooting hours.....	One-half hour before sunrise until sunset on all species.		
Seasons in:			
Colorado ¹	Sept. 1-Nov. 9.....	Closed season.....	Sept. 1-Oct. 20.
Kansas ²	do.....	Oct. 19-Dec. 22.....	Oct. 1-Nov. 19
Montana.....	Closed season.....	Closed season.....	Closed season.
Nebraska ²	Sept. 1-Nov. 9.....	do.....	Oct. 1-Nov. 19.
New Mexico ²	Sept. 1-Oct. 30.....	do.....	See footnote. ³
North Dakota.....	Closed season.....	do.....	Sept. 1-Oct. 20.
Oklahoma ²	Sept. 1-Nov. 9.....	Nov. 21-Jan. 24.....	Oct. 1-Dec. 3.
South Dakota.....	Closed season.....	Closed season.....	Sept. 1-Oct. 20.
Texas ¹	Sept. 1-Nov. 9.....	Nov. 23-Jan. 26.....	Nov. 23-Jan. 11.
Wyoming ²	Sept. 14-Nov. 22.....	Sept. 14-Nov. 17.....	Oct. 5-Nov. 23.

¹ In the State of Texas the daily bag limit on king and clapper rails is 15 and the possession limit is 30 singly or in the aggregate.

² In all States in this Flyway the daily bag limit and possession limit are 25 singly or in the aggregate of these species: Sora, and Virginia rails.

³ Snipe season will be published with waterfowl regulation.

⁴ Check State regulations for additional restrictions.

Section 10.51 is amended to read as follows:

§ 10.51 Migratory game bird hunting seasons in Alaska.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1968, and January 26, 1969, as follows:

	Ducks	Geese	Coots	Brant	Common snipe (Wilson's)	Little brown cranes
Daily bag limit ²	6	² 6	15	4	8	2
Possession limit ²	12	² 12	15	8	16	4

Season dates in:

Pribilof and Aleutian Islands.....	Oct. 14-Jan. 26.....	Sept. 1-Oct. 31.....	Sept. 1-Oct. 15.
except Unimak Island.			
Rest of Alaska and Unimak Island.	Sept. 1-Dec. 14.....	do.....	Do.

¹ Ducks: In addition to the basic daily bag and possession limits prescribed above for ducks collectively, a daily bag limit of 15 and a possession limit of 30 is permitted, singly or in the aggregate of the following species: Scoter, elder, harlequin, old-squaw, and American and red-breasted mergansers.

² Geese: The daily bag and possession limits may not include more than 4 daily and 8 in possession, singly or in the aggregate, of white-fronted and Canada geese: *Provided further*, That Alaskan Game Management Unit 6 (Copper River Delta), the limit is 2 daily and 4 in possession of Canada geese.

Section 10.53 is amended as follows:

§ 10.53 Seasons and limits on waterfowl, gallinules, coots, and Wilson's snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1968, and March 10, 1969, as follows:

(a) A special open season for taking scoter, elder, and old-squaw ducks is prescribed during the period between September 25 and January 10 in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in the States of Maine, Massachusetts, Rhode Island, New Hampshire, and Connecticut; and in those coastal waters of New York State lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including

any ocean waters of New York lying south of Long Island; and the States of New Jersey, Maryland, Virginia, North Carolina, South Carolina, and Georgia may, upon their election, have such special season in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least one (1) mile of open water from any shore, island, and emergent vegetation: *Provided*, That any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

(1) Shooting hours are from one-half hour before sunrise until sunset. The daily bag limit is seven and the possession limit is 14, singly or in the aggregate of these species. In all other areas of these States and in all other States in the Atlantic Flyway, such ducks may be taken only during the open season for other ducks.

(2) Notwithstanding the provisions of § 10.3(b)(4), the shooting of crippled waterfowl from a motorboat under power will be permitted on those coastal water

areas open to sea duck hunting during the special open season and all waters of rivers and streams lying seaward from the first upstream bridge in the States of Maine, Massachusetts, New Hampshire, Rhode Island, and Connecticut; and in those coastal waters of New York State lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island.

(b) Gallinules:¹

Daily bag limit.....	15
Possession limit.....	30

Shooting hours: One-half hour before sunrise to sunset.

Seasons in:

Atlantic Flyway:

Connecticut.....	Sept. 1-Nov. 9.
Delaware.....	Sept. 2-Nov. 9.
District of Columbia.....	Closed season.
Florida.....	Sept. 7-Nov. 15.
Georgia.....	Nov. 7-Jan. 15.
Maine.....	Sept. 1-Nov. 9.
Maryland.....	Dates not available.
Massachusetts.....	Sept. 7-Nov. 15.
New Hampshire.....	Dates not available.
New Jersey.....	Sept. 2-Nov. 9.
New York.....	Sept. 1-Nov. 9. ²
North Carolina.....	Sept. 9-Nov. 9. ²
Pennsylvania.....	Dates not available.
Rhode Island.....	Sept. 2-Nov. 9.
South Carolina.....	Oct. 28-Dec. 13.
Vermont.....	Oct. 19-Dec. 27.
Virginia.....	Sept. 28-Dec. 6.
West Virginia.....	Dates not available.
	Oct. 12-Dec. 20.

Central Flyway:

Colorado.....	Dates not available.
Kansas.....	Sept. 1-Nov. 9.
Montana.....	Dates not available.
Nebraska.....	Sept. 1-Nov. 9.
New Mexico.....	Dates not available.
North Dakota.....	Do.
Oklahoma.....	Sept. 1-Nov. 9.
South Dakota.....	Dates not available.
Texas.....	Sept. 1-Nov. 9.
Wyoming.....	Dates not available.

Mississippi Flyway:

Alabama.....	Nov. 7-Jan. 7.
Arkansas.....	Oct. 22-Dec. 30.
Illinois.....	Dates not available.
Indiana.....	Sept. 1-Nov. 9.
Iowa.....	Dates not available.
Kentucky.....	Nov. 21-Jan. 15.
Louisiana.....	Sept. 1-Oct. 20.
Michigan.....	Dates not available.
Minnesota.....	Do.
Mississippi.....	Nov. 2-Jan. 10.
Missouri.....	Dates not available.
Ohio.....	Sept. 7-Nov. 15.
Tennessee.....	Dates not available.
Wisconsin.....	Do.

See footnotes at end of table.

Seasons in—Continued

<i>Pacific Flyway:</i>	
Arizona.....	Dates not available.
California.....	Do.
Colorado.....	Do.
Idaho.....	Do.
Montana.....	Do.
Nevada.....	Do.
New Mexico.....	Do.
Oregon.....	Do.
Utah.....	Do.
Washington.....	Do.
Wyoming.....	Do.

*Some States establish their gallinule season at the time they select their duck season in August. Consult Regulatory Announcement 81 and State regulations for information concerning the gallinule season, if the dates are not published in this table.

*Except in the southern zone including Long Island and that part of Westchester County lying south of the Hutchinson River Parkway.

*In the Long Island area, Long Island and that part of Westchester County lying south of the Hutchinson River Parkway.

NOBLE E. BUELL,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

JULY 23, 1968.

[F.R. Doc. 68-8951; Filed, July 26, 1968;
8:45 a.m.]

PART 32—HUNTING

PART 33—SPORT FISHING

Upper Mississippi River Wildlife and
Fish Refuge, Illinois and Certain
Other States

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; migratory
game birds; for individual wildlife
refuge areas.

ILLINOIS, IOWA, MINNESOTA, AND
WISCONSIN

UPPER MISSISSIPPI RIVER WILDLIFE AND
FISH REFUGE

The public hunting of migratory game birds on the Upper Mississippi River Wildlife and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin, is permitted on the areas designated by signs as "open" to hunting. Hunting of migratory game birds is not permitted on the areas designated by signs as "closed" to hunting. The "open" areas comprising 153,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Minneapolis, Minn. 55408.

Hunting shall be subject to the following special conditions:

(1) Hunting of migratory game birds on designated "open" areas concurrent with applicable State and Federal seasons is permitted.

(2) The hunting of migratory game birds shall be in accordance with all applicable State regulations which are adopted herein and made a part of this regulation.

The provisions of this special regulation supplement the regulations which

govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until March 1, 1969.

§ 32.22 Special regulations; upland
game; for individual wildlife refuge
areas.

ILLINOIS, IOWA, MINNESOTA, AND
WISCONSIN

UPPER MISSISSIPPI RIVER WILDLIFE AND
FISH REFUGE

The public hunting of upland game birds, upland game animals, and raccoon, groundhogs, foxes, and crows on the Upper Mississippi River Wildlife and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin, is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of these species is also permitted on the areas designated by signs as "closed" to hunting. The "open" areas comprising 153,000 acres, and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408.

Hunting shall be subject to the following special conditions:

(1) Hunting on designated "open" areas concurrent with applicable State seasons is permitted, but only during the period from the first day of the earliest State game bird or game animal season applicable to the geographic area concerned, until the end of the applicable State seasons, or until the next succeeding March 1, whichever occurs first.

(2) Hunting on designated "closed" areas concurrent with applicable State seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable State seasons, or until the next succeeding March 1, whichever occurs first.

(3) The hunting of upland game birds, upland game animals, and raccoon, groundhogs, fox, and crows shall be in accordance with all applicable State regulations which are adopted herein and made a part of this regulation.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until March 1, 1969.

§ 32.32 Special regulations; big game;
for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA, AND
WISCONSIN

UPPER MISSISSIPPI RIVER WILDLIFE AND
FISH REFUGE

The public hunting of deer on the Upper Mississippi River Wildlife and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin, is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of deer is also permitted on the areas designated by signs as "closed" to hunting. The "open" areas

comprising 153,000 acres, and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408.

Hunting shall be subject to the following conditions:

(1) Bow and gun deer hunting on designated "open" areas is permitted concurrent with applicable State seasons.

(2) Bow and gun deer hunting on designated "closed" areas concurrent with applicable State seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable State seasons, or until the next succeeding March 1, whichever occurs first.

(3) The hunting of white-tailed deer shall be in accordance with all applicable State regulations which are adopted herein and made a part of this regulation.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until March 1, 1969.

The following special regulations are issued and are effective on January 1, 1969.

§ 33.5 Special regulations; sport fish-
ing; for individual wildlife refuge
areas.

ILLINOIS, IOWA, MINNESOTA, AND
WISCONSIN

UPPER MISSISSIPPI RIVER WILDLIFE AND
FISH REFUGE

Sport fishing, commercial fishing, and the taking of frogs, turtles, crayfish, and clams on the Upper Mississippi River Wildlife and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin, is permitted on all water areas of the refuge. The refuge water areas comprising 125,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. All fishing is subject to the following conditions:

(1) During the open season from January 1, 1969, through December 31, 1969, and unless further restrictions are imposed by this regulation, all fish, frogs, turtles, crayfish, and clams shall be taken in accordance with all applicable State regulations and seasons which are adopted herein and made a part hereof.

(2) All sport and commercial fishing and all travel by boat or any other means across, through, or on the Spring Lake Closed Area of the Upper Mississippi River Wildlife and Fish Refuge in Carroll County, Ill., is prohibited from October 1 through December 20.

(3) All persons, including their helpers, exercising the privilege of commercial fishing on the Spring Lake Closed Area must possess a valid commercial

fishing permit issued by the Refuge Manager authorizing such commercial fishing, and must comply with all conditions as prescribed by the Refuge Manager which are set forth in the permit.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective from January 1, 1969, through December 31, 1969.

DONALD V. GRAY,
Refuge Manager.

JULY 22, 1968.

[F.R. Doc. 68-8965; Filed, July 26, 1968;
8:46 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. 6]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1966-67 and Subsequent Marketing Years

MISCELLANEOUS AMENDMENTS

On pages 8458 through 8461 of the FEDERAL REGISTER of June 7, 1968 (as corrected on page 8820 of the FEDERAL REGISTER of June 18, 1968), and on page 9619 of the FEDERAL REGISTER of July 2, 1968, there were published notices of proposed rule making to issue an amendment to regulations relating to farm acreage allotments, and farm marketing quotas, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties, and the records and reports thereto for flue-cured tobacco for the 1968-69 and subsequent marketing years. Interested persons were given 10 days after publication of such notices in which to submit written data, views, and recommendations with respect to the proposed amendment to the regulations. The data, views, and recommendations which were submitted pursuant to said notice were duly considered within the limits of the Agriculture Adjustment Act of 1938, as amended. The proposed regulations are adopted with the following changes:

1. Effective date provision is added.
2. Spelling errors in the text of the notice have been corrected.
3. A change has been made in the definition of floor sweepings and leaf account in paragraphs (o) and (p), respectively, of § 725.51.
4. In § 725.72(h) the provisions affecting the lease and transfer of allotments on CR, CCP, and CAP farms have been rewritten.
5. The word "of" in § 725.91(a) which was inadvertently omitted in the first sentence has been added. A new sentence at the end of the text provides that only

the ASCS marketing recorder shall execute Forms MQ-72-1 and Forms MQ-76 covering producer auction sales.

6. The 1967-68 average market price and the 1968-69 rate of penalty have been included in paragraphs (f) and (g), respectively, of § 725.92.

7. In § 725.94, the maximum percentage of floor sweeping tobacco authorized has been revised. The maximum amount of floor sweeping tobacco is the actual pounds accumulated from the warehouse floor but not to exceed the pounds resulting from the indicated revised percent. In addition, such tobacco shall be kept separate from any other tobacco when sold.

8. In § 725.98 a provision is included requiring a reduction in an allotment where a false certification of acreage was filed for a farm and the farm operator used what amounts to a scheme or device to defeat the purpose of the program.

9. In § 725.99 (a) and (g) provision is made for recording floor sweeping tobacco separately from leaf account tobacco when sold or reported on hand.

10. In §§ 725.99(g) (14) and 725.100(c) (4) a provision is included to allow ASCS to weigh tobacco on hand.

11. In § 725.101, a report of tobacco received during the 1968-69 marketing year is included.

Effective date. Certain of the foregoing listed changes were not included among the amendments proposed in the previously published notices of rule making. Since the marketing of the 1968 crop of flue-cured tobacco to which these regulations relate will begin on July 31, 1968, it is essential that they be made effective at the earliest possible date. Accordingly, as to the amendments not covered by the previously published notices of rule making, it is hereby determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest, and it is further found that compliance with the effective date provision of 5 U.S.C. 553 is impracticable and contrary to the public interest and this document shall become effective upon the date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on July 24, 1968.

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

The regulations are as follows:

1. Section 725.51 (o), (p), (r), (ee), and (hh) is amended as follows:

§ 725.51 Definitions.

(o) **Floor sweepings.** The actual quantity of scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business: *Provided, however,* That, floor sweepings above the pounds determined by multiplying the applicable following listed percentage times the total first sales of tobacco at auction for the season for the warehouse,

shall be deemed to be leaf account tobacco:

How sold	Percentage
Untied—Florida, Georgia.	0.75 (seventy-five hundredths of 1 percent).
Untied—South Carolina, North Carolina, and Virginia.	0.50 (five-tenths of 1 percent).
Tied -----	0.17 (seventeen hundredths of 1 percent).

Floor sweeping tobacco shall be kept separate from any other tobacco when sold.

(p) **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, sales and resales of such tobacco, floor sweepings purchased from another warehouseman or dealer, and floor sweepings deemed to be leaf account tobacco under paragraph (o) of this section.

(r) **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 the records and reports pertaining to the identification of marketings of tobacco.

(ee) **Suspended 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.

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

2. Section 725.69, paragraph (b), subparagraph (6), is amended as follows:

§ 725.69 Determination of acreage allotments for new farms.

(b) * * *

(6) The operator expects 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.

3. Section 725.72(h) is amended as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

(h) *Farms under long-term land use programs.* Transfer of an allotment and quota to or from a farm covered by a Conservation Reserve Program (CR) contract, Cropland Adjustment Program (CAP) agreement or Cropland Conservation Program (CCP) agreement shall be subject to the following conditions:

(1) *CR, and CCP (1964-65).* A lease and transfer of an allotment and quota may be approved to or from any farm under a CR contract or 1964-65 CCP agreement.

(2) *CAP, and CCP (1966 and 1967).* A lease and transfer of an allotment and quota to or from a farm covered by a CAP agreement or a 1966 CCP agreement or 1967 CCP agreement shall not be approved if the transferring or receiving farm has the allotment crop base designated under such program agreement.

Any transfer of an allotment and quota hereunder shall be made subject to an appropriate adjustment in the rates of payment under such contract or agreement in accordance with instructions issued by the Deputy Administrator but no adjustment shall be made in the contract or agreement of the farm to which the allotment and quota are transferred.

4. Section 725.87, paragraph (a), subparagraph (1), and paragraph (f), subparagraphs (1), (2), (3), and (4), are amended to read as follows:

§ 725.87 Issuance of marketing cards.

(a) *General.* (1) A marketing card (MQ-76) shall be issued for the current marketing year for each farm having tobacco available for marketing. Cards shall be issued in the name of the farm operator except that (i) cards issued for tobacco grown for experimental purposes only shall be issued in the name of the experiment station, and (ii) cards issued to a successor-in-interest shall be issued in the name of the successor-in-interest. The face of the marketing card may show the name of other interested producers. For cards issued in North Carolina, South Carolina, and Virginia, the card shall show the harvested acreage on the face of the card. A marketing card may be issued in the name of a producer who is not the farm operator if the county committee determines pursuant to the procedure in subparagraph (2) of this paragraph that such producer has been or likely will be deprived of the right to use the marketing card issued for the

farm to market his proportionate share of the crop.

(f) *Farm quota data entered on marketing card and supplemental card.* (1) Any marketing card issued to market tobacco shall show when issued, in the space provided on the reverse side, (i) the pounds computed by multiplying 10 percent times the effective farm marketing quota, and (ii) the pounds computed by multiplying 110 percent times the effective farm marketing quota.

(2) Where the farm operator requests it, a supplemental marketing card bearing the same name and identification as shown on the original marketing card may be issued for a farm upon return to the county office of an original marketing card or a supplemental marketing card. The pounds computed as 10 percent of the effective farm marketing quota shall be entered in the space provided on reverse side of the marketing card and the balance of 110 percent of quota from prior marketing card shall be shown in the first space on the card.

(3) Two or more marketing cards may be issued for a farm if the farm operator so requests in writing and specifies in writing the number of pounds to be assigned to each card. In such cases (i) each marketing card shall show 10 percent of the assigned quota in the space "10 percent of quota", and (ii) each marketing card shall show the assigned quota plus 10 percent of such assigned quota in the space "110 percent of quota".

(4) If, when authorized under Part 1421 of this title, a producer requests and obtains from the county committee an interim advance of CCC funds on part or all of his fire-cured tobacco crop prior to marketing thereof, the estimated quantity of tobacco upon which the interim advance was made shall be entered in parentheses on the reverse side of the marketing card in the space for recording sales. Any poundage balance of the "110 percent of quota" data shall be entered below the estimated pounds upon which an interim advance was made.

5. Section 725.91, paragraphs (b) and (c) are revoked and paragraph (a) is amended to read as follows:

§ 725.91 Identification of marketings.

(a) *Identification of producer marketings.* Each auction and nonauction marketing of tobacco from a farm in the current year shall be identified by a marketing card, Form MQ-76, issued for 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 in pounds (1) 10 percent of quota, (2) 110 percent of quota, (3) balance of 110 percent of quota after each sale, and (4) date of sale. Each producer sale at auction shall be recorded on a 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. For producer sales at auction,

Form MQ-72-1 and Form MQ-76 shall be executed only by the ASCS marketing recorder.

(b) [Revoked]

(c) [Revoked]

6. Section 725.92 is amended by adding paragraphs (f) and (g) as follows:

§ 725.92 Rate of penalty.

(f) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing years specified was:

AVERAGE MARKET PRICE	
Marketing year:	Cents per pound
1967-68	64.2

(g) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the marketing years specified shall be:

RATE OF PENALTY	
Marketing year:	Cents per pound
1968-69	48

7. Section 725.94 paragraph (c) is amended and a new paragraph (g) is added to read as follows:

§ 725.94 Penalties considered to be due from warehousemen, dealers, buyers, and others excluding the producer.

(c) *Leaf account tobacco.* If part or all of any marketing of leaf account tobacco (including tobacco from the buyers corrections account), when added to prior leaf account resales is in excess of prior leaf account purchases, such marketing 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 actual quantity of floor sweepings which the State executive director determines has been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco provided, however, the amount thereof for the warehouse does not exceed the floor sweepings for the season of: (1) 0.17 percent of producers' sales of tied tobacco, (2) 0.75 percent of producers' sales of untied tobacco in Florida and Georgia and (3) 0.50 percent of producers' sales where untied tobacco is presheeted in standardized sheets of Burlap before marketing in the States of South Carolina, North Carolina, and Virginia.

(g) *Carryover tobacco.* Any tobacco on hand and reported or due to be reported under § 725.99(g) (14) for warehousemen and § 725.100(c) (4) for dealers shall be included as a resale in determining whether an account has excess resales. Unless the warehouseman furnishes proof acceptable to the State committee and unless the dealer furnishes proof

acceptable to the States executive director, showing that such account does not represent excess tobacco, penalty at the full rate shall be paid thereon by such warehouseman or dealer.

8. Section 725.98 paragraph (a) is amended by adding new text to the paragraph to read as follows:

§ 725.98 Producers' records and reports.

(a) *Failure to file reports or filing false reports.* * * * If a farm operator in a certification county (as defined in Part 718 of this chapter) files a certification of tobacco acreage on the farm and, after a farm visit and measurement of the acreage, it is determined by the county committee (with approval of the State committee) that the certification was false (either under certification or over certification) in what amounts to a scheme or device to defeat the purpose of the program, the allotment next established for the farm shall be reduced. If the conditions in subdivisions (i) and (ii) of this paragraph are not applicable, the next established allotment shall be reduced by the percentage computed as follows: The acreage falsely certified (difference between certified and measured acreage) shall, for the year of the violation, be multiplied by the farm yield and the resulting product shall be divided by the farm marketing quota. Such method of determining the amount of allotment reduction also is provided for in paragraph (h) of this section.

9. Section 725.99, paragraph (a), subparagraphs (2) and (4), paragraph (c), subparagraph (3), paragraph (d), paragraph (f), subparagraph (3), and paragraph (g) are amended, and a new paragraph (i) is added, to read as follows:

§ 725.99 Warehousemen's records and reports.

(a) *Record of marketing.* * * *

(2) *Separate account records.* * * *

(ii) Purchases and resales of leaf account tobacco. The resale record shall include separate data for leaf account tobacco and floor sweeping tobacco.

(4) *Tobacco sale bill and daily warehouse sales summary.* Each warehouseman shall use uniform tobacco sale bills furnished by ASCS with spacing to record by imprinter the identification of the warehouse and the identification of the seller. 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. In the "Buyer's Stand Grade" space on the tobacco sale bill (i) the left column shall show nonauction purchases by the warehouse and tobacco grade for tobacco consigned to price support, and (ii) the right column shall show the symbol for tobacco bought by private buyers. At the end of each sale day the tobacco sale bills shall be sorted and filed in numerical order. A copy of the executed Form MQ-80, Daily Warehouse Sales Summary, shall be furnished to marketing recorder

for the Kansas City Data Processing Center (KCDPC).

(c) *Marketing card.* * * *

(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 of the poundage balance of the "110 percent of quota". Each warehouseman shall record each nonauction purchase of tobacco made by him on MQ-79 and on Form MQ-72-2, Report of Tobacco Nonauction Purchase. The data to be recorded on Form MQ-72-2 is set forth in § 725.100(c) (3).

(d) *Suspended sale record.* Any tobacco sale bill 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".

(f) *Record and report of warehouseman's leaf account purchases and resales not on his floor.* Each warehouseman shall keep a record and make reports on MQ-79, Dealer's Report, showing:

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen. Form MQ-79 shall be prepared and a copy, including copies of Form MQ-72-2 for all nonauction purchases, 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 for all nonauction purchases, 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 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 Flue-Cured Stabilization (pool), pounds of tobacco purchased at auction (consigned in the case of the pool).

(2) The sum of the items for subparagraph (1) of this paragraph.

(3) Resales at auction for each person listed under subparagraph (1) of this paragraph.

(4) For each dealer subject to reporting purchases and resales on MQ-79, as originally billed, the total pounds of tobacco purchased at auction, and resales at auction.

(5) The total pounds purchased at auction for the leaf account.

(6) The total pounds purchased at nonauction at the warehouse for the leaf account.

(7) The sum of the total pounds for subparagraphs (5) and (6) of this paragraph.

(8) (i) The total leaf account resales and (ii) a separate account for total floor sweeping resales.

(9) The sum of the total purchases for subparagraphs (2), (4), and (7) of this paragraph.

(10) The sum of the total resales for subparagraphs (3), (4), and (8) of this paragraph.

(11) For each warehouse sale of excess tobacco from a farm, the applicable farm number with daily remittance of the penalty due to accompany Form MQ-72-1.

(12) For each dealer, at time of settlement having excess resale tobacco, the applicable dealer identification number with daily remittance of the penalty due.

(13) 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 and shown on Forms MQ-72-1, and (ii) the total number of suspended sale bills and the sum of such pounds sold.

(14) At the end of the season, each warehouseman shall, for each kind of tobacco: (i) Report on his final MQ-80 for the season the quantity of leaf account tobacco and floor sweeping tobacco if any, on hand and its location, and (ii) permit its inspection and weighing by a representative of ASCS, and furnish him at that time a certification of the quantity of such tobacco.

(i) *Report on Form MQ-78, Tobacco Warehouse Organization.* Each warehouseman shall annually, prior to opening of auction markets, furnish ASCS as executed Form MQ-78 showing:

(1) Form of business organization.

(2) Name and address of warehouse officials and bookkeeper.

(3) Name and address of other warehouses in which the officials and bookkeeper have a financial interest.

(4) Name and address of custodian of warehouse records, including their location.

10. Section 725.100, paragraph (b), subparagraph (1) and paragraph (c), subparagraph (2) are amended, and new subparagraphs (3) and (4) are added, to read as follows:

§ 725.100 Dealer's records and reports.

(b) *Nonauction sale (country purchase) to a dealer.* (1) (i) Each purchase of tobacco from a producer shall be identified by a marketing card issued for the farm on which the tobacco was produced. The reverse side of the marketing card shall show the poundage balance of

the "110 percent of quota"; (ii) in addition, a Form MQ-72-2, Report of Tobacco Nonauction Purchase, shall be prepared and shall show: (a) Date of purchase, (b) identification number of buyer, (c) identification of producer selling the tobacco as shown on the marketing card, including his name and address and complete farm number, (d) type code 10, (e) pounds purchased, and (f) amount of penalty collected. The dealer shall record each nonauction purchase of tobacco made by him on MQ-79.

(c) *Record and report of purchases and resales.*

(2) Form MQ-79 shall be prepared and a copy, together with executed copies of MQ-72-2 for all nonauction purchases, forwarded to the ASCS State office not later than the end of the calendar week in which such tobacco was purchased or resold, 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, 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 MQ-72-2 for all nonauction purchases, 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.

(3) The data to be entered on MQ-72-2, Report of Tobacco Nonauction Purchase from producers shall be that enumerated under paragraph (b) (1) (ii) of this section. For nonauction purchases from a dealer, 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 10, and (v) pounds purchased.

(4) At the end of the marketing operations of each dealer he shall for each kind of tobacco: (i) Report on his final MQ-79 for the season the quantity of tobacco on hand and its location, and (ii) permit its inspection and weighing by a representative of ASCS, and at that time furnish him a certification of the quantity of such tobacco.

11. Section 725.101 is amended to read as follows:

§ 725.101 Dealers exempt from regular records and reports.

Any dealer or buyer who acquires tobacco only at auction sales 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 requirements of § 725.100: *Provided*, That where deemed necessary the Director, Farmer Programs Division or the State committee may require a re-

port of all tobacco purchased by the dealer without regard to the 5-percent exemption. Any dealer or buyer is required to report on MQ-79 and on MQ-72-2 nonauction purchases from producers and nonauction purchases from other sources. For the 1968-69 marketing year, each dealer or buyer shall make a report not later than July 31, 1969, to the Director, Farmer Programs Division, showing source and pounds of all tobacco received by him as a result of auction or nonauction sale, including tobacco received which was not billed to him.

12. Section 725.105 is amended to read as follows:

§ 725.105 Duties of Kansas City ASCS Data Processing Center.

Numerous record keeping and reporting provisions required of these regulations are the responsibility of the Kansas City ASCS Data Processing Center (also referred to as KCDPC). The duties of the Center are set forth in writing in frequent issuances of internal procedures.

[F.R. Doc. 68-9085; Filed, July 26, 1968; 9:26 a.m.]

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

[Valencia Orange Reg. 248, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, 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 recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(b) *Order, as amended.* The provisions in paragraph (b) (1) (ii) of § 908.548 (Valencia Orange Regulation 248, 33 F.R. 10277) are hereby amended to read as follows:

§ 908.548 Valencia Orange Regulation 248.

(b) *Order.* (1) * * *
(ii) District 2: 325,000 cartons;

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

Dated: July 24, 1968.

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

[F.R. Doc. 68-9006; Filed, July 26, 1968; 8:49 a.m.]

[Lemon Reg. 331]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.631 Lemon Regulation 331.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such lemons as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set

forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held, the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 23, 1968.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period July 28, 1968, through August 3, 1968, are hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 283,650 cartons;
- (iii) District 3: Unlimited movement.

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

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

Dated: July 24, 1968.

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

[F.R. Doc. 68-9007; Filed, July 26, 1968; 8:49 a.m.]

[Prune Reg. 6]

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREG.

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the recommendations of the Washington-Oregon Fresh Prune Marketing Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of fresh prunes, in the man-

ner 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 this 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 July 29, 1968. A reasonable determination as to the supply of, and the demand for, prunes must await the development of the crop and adequate information thereon was not available to the Washington-Oregon Fresh Prune Marketing Committee until July 16, 1968, recommendation as to the need for, and the extent of, regulation of shipments of such prunes was made at the meeting of said committee on July 16, 1968, after consideration of all available information relative to the supply and demand conditions for such prunes, at which time the recommendation and supporting information were submitted to the Department; necessary supplemental information for consideration in connection with the specifications of the provisions were not available until July 22, 1968; shipments of the current crop of such prunes are expected to begin on or about the effective date hereof; this regulation should be applicable, insofar as practicable, to all shipments of such prunes 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.

§ 924.307 Prune Regulation 6.

(a) *Order:* (1) Prune Regulation 5 (32 F.R. 10782) is hereby terminated on July 29, 1968.

(2) During the period July 29, 1968, through July 31, 1969, no handler shall handle any lot of prunes unless such prunes meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(i) *Minimum grade requirement.* Such prunes grade at least U.S. No. 1: *Provided*, That any prunes having not less than two-thirds ($\frac{2}{3}$) of the surface with purplish color may be shipped if they otherwise grade at least U.S. No. 1.

(3) Notwithstanding any other provision of this section, any individual shipment which, in the aggregate, does not exceed 500 pounds, net weight, of prunes of the Brooks, Stanley, or Merton varieties of prunes, or 150 pounds, net weight, of prunes of any variety other than Brooks, Stanley, or Merton varieties of prunes, which meets each of the follow-

ing requirements may be handled without regard to the restrictions of this paragraph, of § 924.41 (Assessments), and of § 924.55 (Inspection and certification):

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

(ii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) The term "U.S. No. 1" shall have the same meaning as when used in the U.S. Standards for Fresh Plums and Prunes (§§ 51.1520-51.1537 of this title); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (May 1954) and in the Oregon State Department of Agriculture Standards for Italian Prunes (July 1965); and, except as otherwise specified, all other terms shall have the same meaning as when used in the marketing agreement and order.

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

Dated: July 25, 1968.

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

[F.R. Doc. 68-9039; Filed, July 26, 1968; 8:50 a.m.]

PART 967—CELERY GROWN IN FLORIDA

Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 149 and Order No. 967 (7 CFR Part 967), regulating the handling of celery grown in Florida, was published in the FEDERAL REGISTER June 29, 1968 (33 F.R. 9555). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than 15 days after publication. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, the data, views, and recommendations of the Florida Celery Committee and other available information, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, including the establishment of the Marketable Quantity, and the determination of the Uniform Percentage, as provided in § 967.38(a) will tend to effectuate the declared policy of the act by maintaining orderly marketing conditions tending to increase returns to producers of such celery.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given

of the proposed limitation of shipments set forth in this section through publicity in the production area and by prior publication in the June 29, 1968, *FEDERAL REGISTER*, (2) as provided in the order, this regulation applies to the handling of celery during the entire 1968-69 marketing year, which begins August 1, 1968, although actual handling of harvested celery is not expected to begin until approximately the later part of October, (3) prompt promulgation affords producers and handlers maximum time to plan their handling operations accordingly, and (4) compliance with this section will not require any special preparation on the part of handlers which

cannot be completed prior to such handling.

It is, therefore, ordered as follows:

§ 967.304 Marketable Quantity for 1968-69 season; Uniform Percentage; and limitation on handling.

(a) The Marketable Quantity for the 1968-69 season is established, pursuant to § 967.36(a), as 7,887,375 crates.

(b) As provided in § 967.38(a), the Uniform Percentage for the 1968-69 season is determined as 84.312 percent.

(c) During the season August 1, 1968, through July 31, 1969, no handler may handle, as provided in § 967.36(b)(1), any harvested celery unless it is within

the Marketable Allotment for the producer of such celery.

(d) No reserve for Base Quantities for the 1968-69 season is established.

(e) Terms used herein shall have the same meaning as when used in the marketing agreement and order.

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

Dated: July 24, 1968.

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

[F.R. Doc. 68-8971; Filed, July 26, 1968; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

GRAYS LAKE NATIONAL WILDLIFE REFUGE, IDAHO

Hunting

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926, 16 U.S.C. 668aa), it is proposed to amend 50 CFR 32.11 and 32.31 by the addition of Grays Lake National Wildlife Refuge, Idaho, to the list of areas open to the hunting of migratory game birds and big game as legislatively permitted.

It has been determined that regulated hunting of migratory game birds and big game may be permitted as designated on the Grays Lake National Wildlife Refuge without detriment to the objectives for which the area was established.

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

1. Section 32.11 is amended by the following addition:

§ 32.11 List of open areas; migratory game birds.

* * * * *

IDAHO

Grays Lake National Wildlife Refuge.

* * * * *

2. Section 32.31 is amended by the following addition:

§ 32.31 List of open areas; big game.

* * * * *

IDAHO

Grays Lake National Wildlife Refuge.

* * * * *

NOBLE E. BUELL,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

JULY 23, 1968.

[F.R. Doc. 68-8969; Filed, July 26, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 929]

[Docket No. AO-341-A2]

CRANBERRIES GROWN IN MASSACHUSETTS AND CERTAIN OTHER STATES

Decision and Referendum Order With Respect to Proposed Further Amendment of Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Wareham, Mass., on February 5, in Moorestown, N.J., on February 7, in Wisconsin Rapids, Wis., on February 9, and in Grayland, Wash., on February 13, 1968, after notice thereof published in the FEDERAL REGISTER (33 F.R. 283), on proposed further amendment of the marketing agreement and Order No. 929 (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Minnesota, Oregon, Washington, and Long Island in the State of New York, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter called the "act."

On the basis of the evidence adduced at the hearing, and the record thereof, the Deputy Administrator, Regulatory Programs, Consumer and Marketing Service, on June 21, 1968, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F.R. Doc. 68-7615; 33 F.R. 9450).

Ruling on exceptions. Exceptions to the recommended decision were filed by Mrs. Sarah I. Heinz, Middleboro, Mass.; by Caleb F. Cavileer, Egg Harbor, N.J.; by Ronny I. Haga, Bandon, Ore.; by James B. Wilson, Port Orford, Ore.; and by Lawton and Cates on behalf of B. C. Roemer, Manitowish Waters, Wis., and Calvin LaPorte, Manitowish Waters, Wis., and on behalf of Cranberry Products, Inc., Eagle River, Wis.; and by the Attorney General, State of Wisconsin.

The exceptions ranged from four requests for exemption from the date by which acreage must be planted, to disagreement with the economic conclusions

drawn, to legal challenges as to the extent to which allotments are permissible under the terms of the act.

As to the requests for exemption from the requirement that a grower's base quantity shall be computed on the basis of sales from acreage planted prior to August 1, 1968, the amendment in § 932.48 includes a basis for computing base quantities of persons who are unable to meet the prescribed date. If the amendment is made effective, each person who has made a firm and substantial commitment to produce cranberries will be given an opportunity to apply and present data to be considered in determining whether or not he may qualify for a base quantity under such procedure. Therefore, such requests are inappropriate at this time, and should not be made in the form of an exception.

As regards the exceptions to the conclusions drawn from economic data presented, a thorough review of record data was made and it has been determined that the conclusions previously drawn are correct as originally set forth. First, it is clear that there is a need for such a program in the cranberry industry. Secondly, objections based on competition from Canadian berries do not seem suitable because the record contains (1) no evidence that the production and sales of cranberries produced in Canada has a meaningful bearing on the cranberry industry covered by the order, and (2) the act does not apply to cranberries produced in Canada. Thirdly, there is a definite relationship between cranberries for different regions in the nation which militates against the conclusion that there is no need to control the sales of all cranberries in the United States.

As regards the exceptions as to the nature of the powers imposed under the act, it need only be said that the Secretary of the Department of Agriculture does not feel the amendments constitute control of acreage, that the period 1968-69 through 1973-74 will not be determined to be representative until after the 1974 crop year, if at all, and that there is no evidence on the record to indicate that the amendments would benefit the larger cooperative and its membership so greatly as to give it an important competitive advantage over other members of the industry.

The Attorney General of Wisconsin first excepted to the use of the date August 1, 1968, in connection with established cranberry acreage. Elsewhere in this decision such date has been changed to "the effective date of this amendment," since the amendment cannot become effective before August 1, 1968.

The next exception concerns the transfer provisions. The conclusion that

the transfer provision favors the dominant group over minority groups is erroneous as is the conclusion that such will work to the disadvantage of Wisconsin. The transfer provisions are necessary to assure that the marketable quantity of cranberries will be available. It is recognized that production fluctuates from year to year between States, within the respective States, and among growers wherever located, and by virtue of the transfer provision, a consistent supply will be more readily attainable. The contention that the provisions "infuse tremendous economic value" into base quantities is speculative at best since there is no experience on which to predicate such a statement.

The exception attempts to recite the disadvantages which would accrue to Wisconsin because of the so-called advantages to the State of Massachusetts. Cranberries produced in any State compete in the market with cranberries produced in all other States. Thus, it is not appropriate to pit Wisconsin against Massachusetts while ignoring the other major producing States of New Jersey, Oregon, and Washington.

It is recognized that Wisconsin has considerable acreage on which cranberries may be produced. This situation exists in other States. There is no evidence of record which indicates that the cranberry industry could survive if a significant amount of the potential acreage in the United States were planted to cranberries. Record evidence strongly supports the position that prices relative to parity are in a downward trend. The program is designed to halt such trend. The suggested conclusion that the eastern producer is the primary beneficiary is denied.

The exception makes erroneous statements concerning the recommended decision with respect to annual production and sales (33 F.R. 9450) and reaches incorrect conclusions with respect to exhibit 6 Wareham, Mass., hearing February 5, 1968, at page 11. The statistics referred to projected production and sales through the 1972-73 season. The carryover on September 1, 1967, was 415,000 barrels as noted in the recommended decision. Production was estimated for the 1967-68 season at 1,425,000 barrels—down 173,600 barrels from the previous year. Sales were projected at 1,467,000 barrels—5 percent increase over the previous year. Thus, the carryover would be depleted by 42,600 barrels. The 375,000 barrels remaining is still a larger amount than was indicated as desirable. The conclusion to be drawn from the aforesaid exhibit is that by 1973 the cranberry industry will have produced approximately 1½ million more barrels of cranberries than it can reasonably be expected to dispose of at a fair market price. The industry would be thus confronted with a serious marketing problem. Finally, the conclusion that there has been no instability of price is irrelevant since the only meaningful relationship is where the price is relative to parity. To the extent that any exception is not specifically ruled on and is at

variance with the findings, conclusions, and actions decided upon in this decision, such exception is denied for the reasons and on the basis of the findings and conclusions relating thereto.

The material issues, findings and conclusions, rulings, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 68-7651; 33 F.R. 9450) are hereby approved and adopted as the material issues, findings and conclusions, rulings, and the general findings of this decision as if set forth in full herein, except that the date "August 1, 1968" appearing in §§ 929.16 and 929.48 is changed to "the effective date of this amendment."

Further amendment of the marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York" and "Order Amending the Order, as Amended, Regulating the Handling of Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted:

(1) Among the producers who, during the period August 1, 1967, through April 30, 1968 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York in the production of cranberries for market; and

(2) Among processors who, during the aforesaid representative period, canned or froze within the production area cranberries for market to ascertain whether such producers and processors favor the issuance of the said annexed order regulating the handling of cranberries.

George B. Dever, Jr. and Charles E. Lewis, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vege-

tables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.).

The ballots used in such referendum shall contain a summary describing the terms and conditions of the proposed amendment of the order.

Copies of the aforesaid annexed order and of the aforesaid referendum procedure may be examined in the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum, and other necessary forms and instructions, may be obtained from any referendum agent or any appointee.

It is hereby ordered. That all of this decision and referendum order, except the annexed amended marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement are identical with those contained in the said order, as amended by the annexed order, which will be published with this decision.

Dated: July 24, 1968.

JOHN A. SCHNITTKER,
Under Secretary.

Order¹ Amending the Order, as Amended, Regulating the Handling of Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York

§ 929.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Wareham, Mass., February 5, in Moorestown, N.J., February 7, in Wisconsin Rapids, Wis., February 9, and in Grayland, Wash., February 13, upon proposed amendment of the amended marketing agreement and Order No. 929 (7 CFR Part 929) regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. Upon the basis of the evidence adduced at such

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreement and orders have been met.

hearing and the record thereof, it is found that:

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

(2) The said order, as amended and as hereby further amended, regulates the handling of cranberries grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of the production areas would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of cranberries grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of cranberries grown in the production area, as defined in the order, as amended and as hereby further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of cranberries grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended and as hereby further amended, as follows:

1. Section 929.6 is revised to read as follows:

§ 929.6 Fiscal period.

"Fiscal period" is synonymous with "fiscal year" and "crop year" and means the 12-month period beginning September 1 of 1 year and ending August 31 of the following year.

2. A new § 929.13 is added reading as follows:

§ 929.13 Base quantity.

"Base quantity" means the number of pounds of cranberries established for a grower by the committee pursuant to § 929.48.

3. A new § 929.14 is added reading as follows:

§ 929.14 Marketable quantity.

"Marketable quantity" means for a crop year the number of pounds of cranberries necessary to meet the total market demand and to provide for an adequate carryover.

4. A new § 929.15 is added reading as follows:

§ 929.15 Annual allotment.

"Annual allotment" means for a grower in a particular crop year a quantity equivalent to the number of pounds of cranberries determined by multiplying the base quantity of such grower by the allotment percentage established pursuant to § 929.49 for such crop year.

5. A new § 929.16 is added reading as follows:

§ 929.16 Established cranberry acreage.

"Established cranberry acreage" means acreage which is presently producing cranberries on a commercial basis or acreage which has been recently planted or will be planted prior to the effective date of this amendment to produce cranberries on a commercial basis.

6. Section 929.21 is amended to read as follows:

§ 929.21 Term of office.

The term of office of each member and alternate member of the committee shall be for 2 years beginning September 1 and ending on the second succeeding August 31. * * *

7. Section 929.22 is amended to read as follows:

§ 929.22 Nomination.

(b) *Successor members.* (1) * * * The names and addresses of such nominees shall be submitted to the Secretary not later than July 1 of each even-numbered year.

(2) * * * The names and addresses of such nominees shall be submitted to the Secretary not later than July 1 of each even-numbered year. The committee shall prescribe such procedure for the conduct of the nomination meetings as shall be fair to all persons concerned.

8. Section 929.50 is redesignated as § 929.46 and revised to read as follows:

§ 929.46 Marketing policy.

(a) Each year prior to May 1 the committee shall estimate the marketable quantity for the following crop year.

(b) Each crop year prior to making any recommendations pursuant to subparagraphs (7) and (8) of this paragraph or § 929.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the crop year. Such marketing policy shall contain the basis therefor and information relating to:

(1) The estimated total production of cranberries;

(2) The expected general quality of such cranberry production;

(3) The estimated carryover, as of September 1, of frozen cranberries and other cranberry products;

(4) The expected demand conditions for cranberries in different market outlets;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) The recommended desirable total marketable quantity of cranberries, including a recommended adequate carryover into the following crop year of frozen cranberries and other cranberry products;

(8) Regulation pursuant to § 929.52 expected to be recommended by the committee during the crop year together with its recommendations of the free and restricted percentages and beginning with 1974-75 crop year, the recommended allotment percentage, if any, for the crop year; and

(9) Other factors having a bearing on the marketing of cranberries.

9. A new § 929.47 is added reading as follows:

§ 929.47 Preliminary regulation.

(a) Beginning with the 1968-69 crop year, and continuing for each crop year thereafter through August 31, 1974, no handler shall handle, as the first handler thereof, cranberries purchased by him from a grower or acquired by him for handling for the account of a grower until he has determined the identity of the grower and the quantity of cranberries attributed to such grower. The handler shall furnish such information to the committee at such times and in such forms as the committee, with the approval of the Secretary, may request.

(b) So that each producer may qualify for a base quantity, pursuant to § 929.48, the committee shall furnish each producer early in each calendar year beginning in 1969, and as soon as practicable after the effective date of the amendment for the 1968 calendar year, a form to be filed with the committee wherein the producer reports the location of his bog(s), the acreage of cranberries he intends to harvest, and such other information as the committee needs to establish a base quantity for such producer.

10. A new § 929.48 is added reading as follows:

§ 929.48 Base quantities.

(a) *Determination of base quantities.*

(1) If the Secretary finds that the grower allotment program will tend to effectuate the declared policy of the act and that the six crop years 1968-69 through 1973-74 constitute a representative period, he shall announce his findings by March 1, 1974. The basis for the findings with respect to the representative period shall be in terms of producer sales of cranberries from acreage established prior to the effective date of this amendment. Should the Secretary make the aforesaid finding, the committee shall compute a base quantity for each qualified grower. Such computation shall be made and the results thereof made known to each respective grower not later than May 1, 1974. The base quantity shall be, except as otherwise provided in this paragraph, a quantity of cranberries equal to that obtained by multiplying the grower's established cranberry acreage as of February 1, 1974, established prior to the effective date

of this amendment by his average per acre sales made from that acreage during the 2 years, within the 6-year period, during which his greatest sales were made: *Provided*, That if such acreage was not under the control of such grower during the entire period 1968-69 through 1973-74, the grower having control on February 1, 1974, shall be issued a base quantity on the basis of sales made from such acreage. Persons who, prior to June 21, 1968, had made firm and substantial commitments for the production of cranberries but who would have no base quantities as determined on representative period sales or whose base quantities would not be representative of such commitments, may file an application with the committee for adjustment of or a new base quantity. Accompanying the request, the person shall submit information to establish proof of commitment, and such other information as may be required to provide full details to the committee so it may reach a fair and equitable decision in this matter. Commitments made by each such person shall be finalized so that any base quantity relating to such commitments will reflect only the sales made from such acreage during the representative period. The committee shall, by rules and regulations approved by the Secretary, consider each such request, and, if appropriate, provide for the assignment or adjustment of base quantities to such producers consistent with such commitments and as will be equitable to all growers. Such determination and considerations appertaining thereto, shall be subject to review by the Secretary.

(2) In accordance with this paragraph and based on reports of handlers, certifications by growers, and other information, the committee shall establish each grower's base quantity and, except as hereinafter provided, assign such base quantity to such grower.

(3) Beginning with January 1, 1966, and through the 1973-74 crop year, if a grower loses cranberry acreage during the period due to unusual circumstances beyond his control, such as any power of eminent domain, he shall be permitted to relocate cranberry acreage within 4 years from time of loss.

The Committee shall compute a base quantity for such grower. Such computed base quantity shall not be greater than the base quantity for such producer had his base quantity been computed from sales made from acreage lost. In computing such base quantity the committee shall consider, among other things, the following factors: (i) Previous crop records on the original acreage; (ii) potential for improvement of the original acreage up to 1974; (iii) production from like acreage in the area of relocation; and (iv) such other factors as are relevant to the computation.

(b) *Additional base quantities.* Each crop year beginning in 1974-75, if it appears that the market demand for cranberries exceeds the aggregate base quantities, the committee shall consider the need for granting, and if appropriate,

grant, after approval by the Secretary, additional base quantities on a uniform basis and in an equitable manner, to new growers and to existing growers for the purpose of satisfying the increased market demand for cranberries.

(c) *Review of committee determinations.* The committee shall recommend to the Secretary rules and regulations for review of its determination pursuant to this section, and the Secretary shall, on the basis of such recommendation or other available information, issue rules and regulations governing such review.

11. A new § 929.49 is added reading as follows:

§ 929.49 Marketable quantity, allotment percentage, and annual allotment.

(a) Marketable quantity and allotment percentage. Beginning with 1974-75 crop year, if the Secretary finds from the recommendation of the committee or from other available information that limiting the quantity of cranberries that may be purchased from or handled on behalf of growers would tend to effectuate the declared policy of the act, he shall determine and establish the marketable quantity for such crop year. The marketable quantity shall be apportioned among growers by applying the allotment percentage to each grower's base quantity, established pursuant to § 929.48. The allotment percentage shall be established by the Secretary and shall equal the marketable quantity divided by the total of all growers' base quantities. Except as provided in paragraph (c) of this section, no handler shall purchase or handle on behalf of any grower cranberries not within such grower's annual allotment. In any crop year beginning with the crop year commencing September 1, 1974, in which the production of cranberries is estimated by the committee to be equal to or less than its recommended marketable quantity, the committee may recommend and the Secretary may increase or suspend the allotment percentage applicable to any year. In the event it is found that the market demand is greater than the marketable quantity previously set, the committee may recommend and the Secretary may increase such quantity.

(b) *Issuance of annual allotments:* The committee shall require each grower to qualify for his allotment by filing with the committee, on or before February 1, 1974, and by the same date each year thereafter, a CMC form wherein the grower states such information as where he intends to produce his annual allotment, the acreage he intends to harvest, changes in location, if any, and such other information, including a copy of any lease agreement, as is necessary for the committee to administer this part. On or before May 1, 1974, and by the same date each year thereafter, the committee shall issue to each grower an annual allotment determined by applying the allotment percentage established pursuant to paragraph (a) of this section to the grower's base quantity.

(c) *Filling deficiencies in annual allotments:* When a grower, beginning in 1974, does not produce cranberries equal

to his computed annual allotment, he may (1) fill any deficit in his annual allotment by obtaining cranberries from another grower who has produced a quantity of cranberries in excess of his computed annual allotment; (2) transfer any unused portion of his allotment to another grower; or (3) transfer his unused allotment to a handler who shall allocate the unused allotment to another grower or growers with insufficient allotment. As a condition to any such transfer each grower or handler shall furnish a full report to each such transaction to the committee, including the names of the parties, the quantity involved in the transaction, and such other information as will enable the committee to administer this provision. The committee, with the approval of the Secretary, may modify the provisions with respect to filling deficiencies.

(d) A grower or handler with any deficiency of allotment should notify the committee of such deficiency. As a service to growers and handlers to expedite any loan transactions, the committee shall act as a clearing house of information with respect to growers wanting to loan and growers wanting to borrow all or part of an allotment. Such information shall be maintained in the committee office and made available to any producer or handler who requests it.

12. A new § 929.50 is added reading as follows:

§ 929.50 Transfers.

(a) *Of location.* A grower may transfer from the acreage to which the cranberries are attributed on which his base quantity was established to other land which he owns. If the grower is leasing the acreage to which the cranberries are attributed on which his base quantity was established, he may transfer in accordance with the lease contract or with the consent of the owner. The committee shall, by such means as are provided in § 929.42(b) obtain information as to the location(s) where such producer intends to produce his annual allotment.

(b) *To another grower.* A grower who owns the land to which the cranberries are attributed on which the base quantity was established may transfer all or part of his base quantity to another grower. If the transferor is not the owner of the bog land, transfer of the base quantity shall be in accordance with the terms of the agreement between the lessee and the lessor. In the absence of a contract, a transfer shall not be valid nor shall an annual allotment be granted to the potential transferee unless the bog owner consents to the transfer. No transfer shall be recognized by the committee except the transferee and the transferor notifying the committee in writing.

13. Paragraph (d) of § 929.68 is revised to read as follows:

§ 929.68 Termination.

(d) The Secretary shall conduct a referendum during the month of May

1975 to ascertain whether continuance of this part is favored by the growers as set forth in paragraph (c) of this section. The Secretary shall conduct such a referendum during the month of May of every fourth year thereafter. [F.R. Doc. 68-9008; Filed, July 26, 1968; 8:49 a.m.]

[7 CFR Part 945]

IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

Expenses and Rate of Assessment

Consideration is being given to the approval of proposed expenses and a proposed rate of assessment as hereinafter set forth, which were recommended by the Idaho-Eastern Oregon Potato Committee, established pursuant to Marketing Agreement No. 98, as amended, and Order No. 945, as amended (7 CFR Part 945).

This marketing order program regulates the handling of Irish potatoes grown in Idaho and Malheur County, Oreg., and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 945.221 Expenses and rate of assessment.

(a) *Expenses.* The reasonable expenses that are likely to be incurred during the fiscal period beginning June 1, 1968, and ending May 31, 1969, by the Idaho-Eastern Oregon Potato Committee, for its maintenance and functioning, and for such other purposes as the Secretary determines to be appropriate, will amount to \$33,000.

(b) *Rate of assessment.* The rate of assessment to be paid by each handler in accordance with the amended marketing agreement and this part, shall be two-tenths of one cent (\$0.002) per hundredweight, or equivalent quantity, of potatoes handled by him as the first handler thereof during the fiscal period.

(c) *Reserve.* Unexpended income in excess of expenses for the fiscal period ending May 31, 1969, may be carried over as a reserve.

(d) *Definition of terms.* Terms used in this section have the same meaning as when used in the said amended marketing agreement and this part.

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

Dated: July 24, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Con-
sumer and Marketing Service.

[F.R. Doc. 68-8972; Filed, July 26, 1968; 8:46 a.m.]

[7 CFR Parts 1009, 1036, 1041, 1044]

[Docket Nos. AO-268-A16, AO-179-A30, AO-72-A35, AO-279-A16]

MILK IN CLARKSBURG, W. VA., AND CERTAIN OTHER MARKETING AREAS

Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Cleveland, Ohio, on June 26, 1968, pursuant to notice thereof issued on June 20, 1968 (33 F.R. 9090).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs on July 10, 1968 (33 F.R. 10102; F.R. Doc. 68-8338), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision (33 F.R. 10102; F.R. Doc. 68-8338), are hereby approved and adopted and are set forth in full herein:

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

1. Deletion of the Class I price supply-demand adjustment provisions of the Eastern Ohio-Western Pennsylvania and Michigan Upper Peninsula orders, adjustment of the Class I price differential of the Northwestern Ohio order, and revision of the Clarksburg Class I price provisions.

2. The need for emergency action.

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

1. The supply-demand provisions should be removed from the Eastern Ohio-Western Pennsylvania and Michigan Upper Peninsula orders and the Northwestern Ohio Class I price differential should be increased 25 cents to maintain its historical relationship to the Class I price in the Northeastern Ohio order (now the Eastern Ohio-Western Pennsylvania order).

The Eastern Ohio-Western Pennsylvania supply-demand provisions, which are the same as those in the former

Northeastern Ohio order, provide for a maximum adjustment of 25 cents. From 1963 through 1967, the supply-demand adjuster averaged minus 20 cents. The most frequent monthly adjustment has been minus 25 cents, the rate currently applicable.

The Northwestern Ohio Class I price has been maintained at a level 17 cents below the Class I price in the Northeastern Ohio order. This relationship has been maintained by providing that the Class I price in the Northwestern Ohio order shall be increased by the amount the Northeastern Ohio Class I supply-demand adjustment is less than minus 25 cents.

The Michigan Upper Peninsula supply-demand formula is based on the combined supply-sales relationship of this order and the former Northeastern Wisconsin order. (Effective July 1, 1968, the Northeastern Wisconsin order was terminated and the marketing area merged into the Chicago regional order.) The supply-demand adjustment has been a minus 24 cents continuously since February 1967.

Cooperatives representing a majority of producers on each market proposed elimination of the respective supply-demand adjustment provisions. They stated that with the present premium price arrangements in each market, the supply-demand adjusters have had no practical effect on total milk supplies relative to Class I sales. They also pointed out that the elimination of the adjusters would keep Class I prices in these markets in closer historical relationship to Class I prices under the new Chicago regional order.

A supply-demand adjuster changes Class I prices in response to changes in the balance between supplies of milk for a market and Class I sales. The resulting price changes are designed to correct any imbalances which may develop in the supply-sales ratio. A supply-demand adjuster will produce appropriate pricing only when the Class I prices resulting from the operation of the adjuster are in fact the effective prices. Where premiums exist in a market, the operation of a supply-demand adjuster will be distorted and it will produce prices which are too low to attain an appropriate supply-sales balance.

In the three markets substantial premiums over Class I prices have been effective for more than 1 year. As a consequence, at the present time the supply-demand adjusters in these markets are resulting in prices which are too low in terms of the price standards of the statute.

The Eastern Ohio-Western Pennsylvania order, which became effective July 1, 1968, resulted from the combining of the Northeastern Ohio, Youngstown-Warren, and Greater Wheeling orders, plus the addition of previously unregulated territory in Ohio and western Pennsylvania. The aggregate producer receipts and Class I sales under the new order are substantially greater than those heretofore used in

computing the monthly supply-demand adjustments under the Northeastern Ohio order. Consequently, the supply-sales relationship under the new order could be substantially different from what prevailed under the Northeastern Ohio order. In view of this, producers expressed concern that the supply-demand provisions which had been based on experience in the Northeastern Ohio order would be inappropriate under the new order. Instead, it was urged that stable and orderly marketing conditions would be best realized by eliminating the supply-demand provisions until some actual experience had been obtained under the enlarged order.

Effective July 1, 1968, the Chicago Regional order reestablishes Federal order pricing for milk associated with the former Chicago order market. The Class I price for the Chicago Regional order increases by 20 cents the historical level of Class I prices in the Chicago area. In addition, no provision was made for a supply-demand adjutor.

Class I prices for the Northeastern Ohio, Youngstown-Warren and Wheeling segments of the Eastern Ohio-Western Pennsylvania order have been maintained in a certain alignment with Class I pricing under orders in the Chicago region. Since a significant change in the price level has been effected in the Chicago region by the new order for that area, maintaining the supply-demand adjustment provisions in the Eastern Ohio-Western Pennsylvania order would tend to create a misalignment of prices between the two areas. The elimination of the supply-demand adjutor from the Eastern Ohio-Western Pennsylvania order will tend to preserve historical price relationships with the Chicago area and thus assist in insuring adequate supplies for the market.

Certain Eastern Ohio-Western Pennsylvania handlers proposed suspension of the supply-demand adjustment for that order until supply-sales data for several months are available for the new marketing area. These handlers supported the continuation of a supply-demand adjustment which would reflect in the Class I price changes in the supply-sales relationship for the market.

The present Class I price provisions of the Eastern Ohio-Western Pennsylvania order will expire December 31, 1969. This should provide handlers ample opportunity to submit proposals for a supply-demand adjutor based on supply-sales for the expanded market during the intervening period. Thus, no purpose would be served by continuing such provisions and the proposed suspension for such longer period is denied.

Unless the Class I price differential for the Northwestern Ohio order is revised from \$1.25 to \$1.50, the spread between Class I prices under this order and the Eastern Ohio-Western Pennsylvania order would be increased from the present 17 cents to 42 cents per hundred-weight. Thus, the elimination of the supply-demand adjutor from the Eastern Ohio-Western Pennsylvania order could disrupt supplies for this market

since there is a substantial overlap of production areas for the two markets. To avoid such disruption the present Class I price alignment between the Northwestern Ohio and Eastern Ohio-Western Pennsylvania orders should be continued.

Producers proposed that the Class I price at Wheeling, which is a price factor in computing the Clarksburg Class I price, be specified in the Clarksburg order as provided in the equivalent price determination effective July 1, 1968. That action established the Eastern Ohio-Western Pennsylvania Class I price at Wheeling as equivalent to the Class I price for the terminated Wheeling order. Incorporating this action as an amendment to the Clarksburg order will maintain in a reasonable manner the inter-market price alignment contemplated under the present order provisions.

The supply-demand adjustment provisions of the Michigan Upper Peninsula order were constructed to reflect changing supply-sales conditions in the Michigan Upper Peninsula and Northeastern Wisconsin markets. The termination of the Northeastern Wisconsin order and consequent elimination of the supplies and sales for the market from the supply-demand computation under the Michigan Upper Peninsula order makes the current supply-demand provisions improper.

Handlers in the Northeastern Wisconsin area of the Regional Chicago market compete with Michigan Upper Peninsula handlers for Class I sales and producer milk supplies. Similarly, handlers under the Duluth-Superior order compete with handlers from the western segment of the Michigan Upper Peninsula market for Class I sales and producer milk supplies.

In addition, on May 1, 1968, the supply-demand adjutor was removed from the Southern Michigan order. Such adjutor had been at the maximum minus 45 cents in most months of recent years and averaged a minus 41 cents in 1967. The Upstate Michigan order contains no supply-demand adjustment provision. Thus, Federal order markets on both sides of the Michigan Upper Peninsula market now operate without supply-demand adjutor provisions. If the supply-demand adjutor (presently minus 24 cents) were continued under the Michigan Upper Peninsula order, it would result in an inappropriate Class I price under this order relative to all these surrounding markets and create a threat to the supplies of milk for the market.

2. The recommended decision in this proceeding should not be omitted.

Producers asked that a recommended decision be omitted in order that the elimination of the supply-demand adjustment provisions from the Eastern Ohio-Western Pennsylvania and Michigan Upper Peninsula orders and the maintenance of the alignment of Class I price among these various markets could be assured. In response to requests made at the hearing by producers and handlers, the action proposed by this decision were effectuated by suspension action for July 1968. This action will

provide adequate time for normal procedures.

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

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

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

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

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

Rulings on exceptions. No exceptions were filed on behalf of interested parties.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in Certain Specified Marketing Areas" and "Order Amending the Orders, Regulating the Handling of Milk in Certain Specified Marketing Areas", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered. That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical

with those contained in the order, as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. Except for the Eastern Ohio-Western Pennsylvania order, the month of May 1968 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the certain specified marketing areas is approved or favored by producers, as defined under the terms of each of the orders, as amended and as hereby proposed to be amended, and who, during such representative period were engaged in the production of milk for sale within each of the aforesaid marketing areas.

The month of December 1967 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area, is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 24, 1968.

JOHN A. SCHNITTKER,
Under Secretary.

Order¹ Amending the Orders Regulating the Handling of Milk in Certain Specified Marketing Areas

§ ---.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the above designated marketing areas. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

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

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

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

The provisions of the proposed marketing agreement and order amending the respective orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs on July 10, 1968, and published in the FEDERAL REGISTER on July 13, 1968 (33 F.R. 10102; F.R. Doc. 68-8338), shall be and are the terms and provisions of this order and are set forth in full herein:

PART 1009—MILK IN CLARKSBURG, W. VA., MARKETING AREA

In § 1009.51 the text of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 1009.51 Class prices.

(a) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus \$1.98 and plus 20 cents through April 1969, subject to the adjustment provided in subparagraph (1) of this paragraph: *Provided*, That the Class I price shall be not more than 35 cents in excess of, nor less than 15 cents in excess of the average of the Class I prices for the same month at Wheeling, W. Va., pursuant to Part 1036 (Eastern Ohio-Western Pennsylvania) of this chapter and at Athens-Scioto district plants pursuant to Part 1005 (Tri-State) of this chapter.

PART 1036—MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

§ 1036.51 [Amended]

In § 1036.51(a), subparagraph (2) is revoked.

PART 1041—MILK IN NORTHWESTERN OHIO MARKETING AREA

In § 1041.51, paragraph (a) is revised to read as follows:

§ 1041.51 Class prices.

(a) *Class I milk price.* The monthly Class I milk price shall be the basic formula price for the preceding month, plus \$1.50, plus 20 cents through April 1969, subject to adjustment for location pursuant to § 1041.53.

PART 1044—MILK IN MICHIGAN UPPER PENINSULA MARKETING AREA

In § 1044.51, paragraph (a) is revised to read as follows:

§ 1044.51 Class prices.

(a) *Class I milk price.* The Class I milk price for plants located in Zone 1 shall be the basic formula price for the preceding month plus \$0.95, plus 20 cents through April 1969. For plants located in Zone 1(a) the price shall be the price specified for Zone 1 less 10 cents; for plants located in Zone 2 the price shall be the price specified for Zone 1 plus 20 cents; and for plants located outside of the marketing area and west of Lake Michigan, the price (subject to § 1044.53) shall be that specified for Zone 1 and for plants located outside the marketing area and east of Lake Michigan, the price (subject to § 1044.53) shall be that specified for Zone 2.

[F.R. Doc. 68-9009; Filed, July 26, 1968; 8:50 a.m.]

17 CFR Parts 1032, 1050, 1062, 1063, 1067, 1068, 1070, 1076, 1078, 1079, 1099 1

[Docket No. AO-313-A17, etc.]

MILK IN SOUTHERN ILLINOIS AND CERTAIN OTHER MARKETING AREAS

Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR part	Marketing area	Docket No.
1032	Southern Illinois.....	AO-313-A17.
1050	Central Illinois.....	AO-355-A6.
1062	St. Louis, Mo.....	AO-10-A39-R03.
1063	Quad Cities-Dubuque.....	AO-105-A30.
1067	Ozarks.....	AO-222-A23-R03.
1068	Minneapolis-St. Paul.....	AO-178-A24.
1070	Cedar Rapids-Iowa City.....	AO-229-A20.
1076	Eastern South Dakota.....	AO-260-A14.
1078	North Central Iowa.....	AO-272-A15.
1079	Des Moines, Iowa.....	AO-295-A17.
1099	Paducah, Ky.....	AO-183-A22.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Minneapolis, Minn., on June 25, 1968, pursuant to notice thereof issued on June 17, 1968 (33 F.R. 9090) on proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the above-listed marketing areas.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on July 10, 1968 (33 F.R. 10105; F.R. Doc. 68-8339) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (33 F.R. 10105; F.R. Doc. 68-8339) are hereby approved and adopted and are set forth in full herein.

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

(1) Eliminating the effect of the prior Chicago supply-demand factor (nine markets).

(2) Elimination of the supply-demand adjustment in the Minneapolis-St. Paul milk order.

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

1. Chicago supply-demand factor (nine markets). The provisions should be deleted from the Central Illinois, St. Louis, Quad Cities-Dubuque, Cedar Rapids-Iowa City, North Central Iowa, and Des Moines orders which specify that the Class I price in the respective order shall be increased or decreased by the amount of the supply-demand adjutor of the Chicago order Part 1030, which was effective prior to May 1, 1966. Also, the determination of equivalent price issued April 8, 1966 (31 F.R. 5685) which was determined to be "minus 24 cents", applicable to these orders should be eliminated.

The aforesaid provisions and determination have been suspended for the month of July 1968 pending consideration of amendments to the orders.

Elimination of the above described provisions will have the effect of increasing Class I prices by 24 cents in these six markets. The same effect of increasing the respective Class I prices 24 cents per hundredweight will result in the Southern Illinois, Paducah, and Ozarks marketing areas, due to the fixed relationship of the Class I prices of these orders to the St. Louis order Class I price.

Cooperative associations whose members supply milk to these markets proposed the elimination of these provisions. They testified that it is necessary to eliminate the effect of the minus 24-cent factor on Class I prices in each one of

these orders to provide price alignment with the Chicago Regional order which became effective on July 1, 1968.

Prior to termination of the former Chicago order on May 1, 1966, the supply-demand adjutor in that order provided a basis for Class I price adjustment in 11 other orders. Those orders were Northwestern Indiana; Suburban St. Louis (now Southern Illinois); Rock River Valley; Milwaukee, Wis.; Madison, Wis.; St. Louis, Mo.; North Central Iowa; Quad Cities-Dubuque; Cedar Rapids-Iowa City; Des Moines, Iowa; and Ozarks. During 1965, the volume of milk regulated under the applicable orders was about 4.2 billion pounds. Thus, the influence of Chicago order pricing was extended to a volume of milk in other markets not as large as, but comparable to the volume regulated under the Chicago order.

The relationship of other market prices to the Chicago order price gave recognition to the dominant influence of the Chicago milk supply.

With the termination of the Chicago order, the prior effect of the adjutor was retained in the other 11 markets through determination of an equivalent price factor. It was determined (31 F.R. 5685) that the equivalent factor was minus 24 cents per hundredweight. This was the same as the amount of the adjustment which had applied in each month for the 5 preceding years.

The continuance of the same factor meant that the pricing of the other orders would not be disturbed by the disappearance of the Chicago order. There was no appropriate basis in the mere elimination of the Chicago order which would support an increase of 24 cents per hundredweight in the Class I prices in the other orders where pricing had been dependent on the Chicago order. Subsequently, appropriate price adjustments relating to marketing conditions in these markets were from time to time made, based upon regional or national hearings held after the termination of the prior Chicago order.

Inasmuch as the new Chicago Regional order, effective July 1, 1968, has a price structure different from that of the prior Chicago order, Class I prices in the markets here under consideration are no longer aligned appropriately to the new Chicago Class I price. In the now effective Chicago order, there is no supply-demand adjustment factor. The Class I price differential is \$1.20 per hundredweight whereas under the prior order the differential was \$1.

Elimination of the minus 24 cents factor in each of the markets will restore about the same relationship with the Class I price of the new Chicago Regional order as that which existed when the prior Chicago order was effective. Producer witnesses at the hearing testified that maintenance of such a regional price alignment is desirable.

Four of the markets previously using the Chicago supply-demand factor (Madison, Milwaukee, Rock River Valley, and Northwestern Indiana) were incorporated into the Chicago Regional marketing area on July 1, 1968. Since

early 1966, two additional markets became part of the regional pricing group: Central Illinois, for which an order was made effective January 1, 1967, and Paducah, Ky., for which the Class I price was tied to the St. Louis order price on July 1, 1966.

There is an overlapping of supply areas among the markets where the minus 24-cent factor now applies, and Illinois, Iowa, and Missouri market supply areas adjoin or overlap the Chicago supply area. If the existing price alignment were changed, the allocation of supplies among the markets would likely be disturbed. Because declines in milk production in Missouri, Iowa, and Illinois have been more severe than in the Chicago milkshed, the price level in the markets here considered should be maintained in the same relation to Chicago as previously. In Iowa, Missouri, and Illinois, milk production declined from 1964 to 1967 by 14.6 percent, 6.9 percent and 16.3 percent, respectively. In Wisconsin, which is the main supply for the Chicago market, milk production declined 3.9 percent in the same period.¹ Thus, if a lower level of price applied in these markets relative to Chicago than the previous relationship, the relatively greater production decline in these areas could be accelerated.

It is also necessary that the Paducah Class I price be increased in the same amount as other markets in the region so as to maintain a market supply and provide appropriate price relationships with nearby markets. Class I utilization of Paducah producer milk has averaged about 90 percent in the first four months of this year. The Paducah marketing area adjoins the St. Louis marketing area and sales areas of handlers overlap. The Paducah market supply has also been closely related with the Southern Illinois market.

2. Supply-demand adjustment—Minneapolis-St. Paul order. The supply-demand adjutor of the Minneapolis-St. Paul order should be deleted.

At the hearing, producer cooperative associations in the Minneapolis-St. Paul market asked that the supply-demand adjutor be eliminated from the order. They testified that this is necessary to provide proper price alignment with other markets, particularly Chicago, since there is a considerable overlapping of the supply areas of the two orders. They also stated that the adjutor is ineffective since prices paid by handlers are higher than order prices.

Pending consideration of amendment of the order, the adjutor has been suspended for the month of July 1968.

The supply-demand adjutor under the order is based on a ratio of Class I disposition of pool plants (excluding shrinkage and unaccounted for milk)

¹ Official notice is taken of milk production data published by U.S. Department of Agriculture in "Milk Production Disposition and Income, Revised Estimates 1960-64", Statistical Bulletin 398, April 1967; and "Milk Production Disposition and Income, 1966-67", Percent change adjusted because of additional data in 1964.

to the quantity of producer milk during the second and third preceding months. The amount of price adjustment is based upon the deviation of this ratio from standard percentages for each such 2-month period. A limit of 24 cents, plus or minus, applies to the total amount of adjustment.

During 1966, the average adjustment was approximately minus 6 cents. During 1967, the maximum negative adjustment of 24 cents applied in each month, and similarly in each of the months of January through June 1968.

A supply-demand adjutor changes Class I prices in response to changes in the balance between supplies of milk for a market and Class I sales. The resulting price changes are designed to correct any imbalances which may develop in the supply-sales ratio. A supply-demand adjutor will produce appropriate pricing only when the Class I prices resulting from the operation of the adjutor are in fact the effective prices. Where premiums exist in a market, the operation of a supply-demand adjutor will be distorted and it will produce prices which are too low to attain an appropriate supply-sales balance.

In this market substantial premiums over Class I prices have been effective for more than 1 year. As a consequence, at the present time the supply-demand adjutor in this market is resulting in prices which are too low in terms of the price standards of the statute.

The elimination of the supply-demand adjutor will also serve to maintain existing alignment with order prices in other markets in the region. In other markets being considered in this hearing, a price factor of the same amount (minus 24 cents) would be eliminated by amendments herein proposed. In the Chicago order, just issued effective July 1, no supply-demand adjutor applies.

The provision of the Eastern South Dakota order which adjusts the Class I price by whatever amount the supply-demand adjustment in the Minneapolis-St. Paul order exceeds 10.5 cents should also be deleted. When this provision was incorporated in the Eastern South Dakota order it was found that intermarket price relationships were thrown out of balance, and disruptive competitive situations threatened to develop whenever the supply-demand adjutor in the Minneapolis-St. Paul order exceeded 10.5 cents. Accordingly, it was found necessary to adjust the Eastern South Dakota Class I price by whatever amount the Minneapolis-St. Paul supply-demand adjutor exceeded 10.5 cents. With the deletion of the supply-demand adjutor from the Minneapolis-St. Paul order, the reference to it should likewise be deleted from the Eastern South Dakota order.

A witness for the cooperative associations, which furnish virtually the entire supply of milk for the Eastern South Dakota market, supported the elimination of the effect of the Minneapolis-St. Paul supply-demand adjutor on the Class I price in the Eastern South Dakota order. In every month since Jan-

uary 1967, the Class I price has been reduced 13.5 cents as a result of the action of the supply-demand adjutor.

This witness stated that restoration of the 13.5 cents was necessary, not only to maintain the historical price relationship with the Minneapolis-St. Paul market, but also to restore the price relationship that previously existed between Eastern South Dakota and markets in Nebraska and Western Iowa.

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

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

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

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

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

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance

with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in Certain Specified Marketing Areas" and "Order Amending the Order, Regulating the Handling of Milk in Certain Specified Marketing Areas", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered. That all of this decision, except the attached marketing agreement, be published in the *FEDERAL REGISTER*. The regulatory provisions of said marketing agreement are identical with those contained in the order, as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of May 1968 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order, as amended and as hereby proposed to be amended, regulating the handling of milk in the certain specified marketing areas is approved or favored by producers, as defined under the terms of the respective order, as amended and as hereby proposed to be amended, and who, during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 24, 1968.

JOHN A. SCHNITTKER,
Under Secretary.

Order¹ Amending the Orders Regulating the Handling of Milk in Certain Specified Marketing Areas

7 CFR parts	Marketing areas
1050----	Central Illinois.
1062----	St. Louis, Mo.
1063----	Quad Cities-Dubuque.
1068----	Minneapolis-St. Paul.
1070----	Cedar Rapids-Iowa City.
1076----	Eastern South Dakota.
1078----	North Central Iowa.
1079----	Des Moines, Iowa.

§ ---.0 Findings and determinations.

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

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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

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

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

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

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

The provisions of the proposed marketing agreement and order amending the respective orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on July 10, 1968 (33 F.R. 10105; F.R. Doc. 68-8339) shall be and are the terms and provisions of this order, and are set forth in full herein.

PART 1050—MILK IN CENTRAL ILLINOIS MARKETING AREA

Section 1050.51(a) is revised to read as follows:

§ 1050.51 Class prices.

(a) *Class I price.* The Class I price applicable at plants at which no location adjustment pursuant to § 1050.53 is applicable, shall through April 1969, be the basic formula price for the preceding month plus \$1.19 and plus an additional 20 cents through April 1969; and

PART 1062—MILK IN ST. LOUIS, MO., MARKETING AREA

Section 1062.51(a) is revised to read as follows:

§ 1062.51 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus \$1.40, and plus 20 cents through April 1969.

PART 1063—MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

Section 1063.50(b) is revised to read as follows:

§ 1063.50 Basic formula and class prices.

(b) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus \$1.10, and plus 20 cents through April 1969.

PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

§ 1068.52 [Revoked]

1. Section 1068.52 is revoked.
2. Section 1068.53 is revised to read as follows:

§ 1068.53 Class I price.

Subject to differentials provided in §§ 1068.55 and 1068.56(a) the price per hundredweight for Class I milk each month shall be the basic formula price for the preceding month plus 86 cents, and plus 20 cents through April 1969.

PART 1070—MILK IN CEDAR RAPIDS-IOWA CITY MARKETING AREA

Section 1070.50(b) is revised to read as follows:

§ 1070.50 Basic formula and class prices.

(b) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus \$1.10, and plus 20 cents through April 1969.

PART 1076—MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

Section 1076.51(a) is revised to read as follows:

§ 1076.51 Class prices.

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

PART 1078—MILK IN NORTH CENTRAL IOWA MARKETING AREA

Section 1078.50(b) is revised to read as follows:

§ 1078.50 Basic formula and class prices.

(b) *Class I milk price.* The Class I milk price at plants in Zone 1 shall be the basic formula price for the preceding month plus \$1.05, and plus 20 cents through April 1969. "Zone 1" means all the territory in the counties of Humboldt, Wright, Franklin, Butler, Bremer, Webster, Hamilton, Hardin, Grundy, Black Hawk, and Buchanan, all in the State of Iowa.

PART 1079—MILK IN DES MOINES, IOWA, MARKETING AREA

Section 1079.50(b) is revised to read as follows:

§ 1079.50 Basic formula and class prices.

(b) *Class I milk price.* The Class I milk price shall be the basic formula price for the preceding month plus \$1.25, and plus 20 cents through April 1969. For milk received from approved dairy farmers at an approved plant outside the base zone the price otherwise applicable pursuant to this paragraph shall be reduced 10 cents.

[F.R. Doc. 68-9010; Filed, July 26, 1968; 8:50 a.m.]

[7 CFR Part 1040]

[Docket No. AO-225-A21]

MILK IN SOUTHERN MICHIGAN MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Lansing Civic Center, 505 West Allegan Street, Lansing, Mich. 48933, beginning at 10 a.m., local time, on August 6, 1968, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Southern Michigan marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and emergency marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Independent Co-operative Milk Producers Association, Independent Dairymen's Cooperative of Eastern Michigan, Jersey Co-operative of Michigan, Inc., Kalamazoo Milk Producers Cooperative, Inc., Mackinaw Trail Milk Producers Association, McDonald Cooperative Dairy Co., Michigan Milk Producers Association, Michigan Producers Dairy Co., Otsego Sanitary Milk Products Co.:

Proposal No. 1. Delete § 1040.16(b) and substitute the following:

§ 1040.16 Pool plant.

(b) A supply plant which during the month meets one of the performance requirements specified in subparagraph (1), (2), or (3) of this paragraph and any applicable call percentage: *Provided*, That all supply plants which are operated by one handler, or all the supply plants for which a handler is responsible for meeting the performance requirements of this paragraph (b) under a marketing agreement certified to the market administrator by both parties may be considered as a unit for the purpose of meeting the performance requirements of subparagraph (1), (2), or (3) of this paragraph (b) upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the fifth working day following the month to which the notice applies. In any months of February through August a unit shall not contain any plant which was not qualified as a pool plant either individually or as a member of a unit during the previous September through January.

(1) A plant from which not less than 50 percent or the call percentage, whichever is higher, during the months of September through January and 40 percent or the call percentage, whichever is higher, in the months of February through August of receipts of producer milk and receipts for which a cooperative association is the handler pursuant to § 1040.7(c), less any milk disposed of from the plant as Class I other than by transfer to pool plants of other handlers, is moved to a pool distributing plant. If such plant has met the required percentage during each of the months of September through January, it shall be a pool plant for each of the following months of February through August during which it meets any announced call percentage.

(2) A plant operated by a cooperative association which supplies pool distributing plants with member producer milk, either by shipment from such plant or by direct delivery from the farm, in a total amount not less than one-half or the call percentage, whichever is higher, of the aggregate receipts of fluid milk products at all pool distributing plants.

(3) A plant operated by a cooperative association which supplies pool distributing plants, either by shipment from such supply plant or by direct delivery from the farm, (i) not less than one-half of its total member producer milk in the current month, or (ii) if such plant were a pool plant in each of the preceding 13 months, not less than one-half of its total member producer's milk for the second through the 13th preceding months, except that in either case an announced call percentage exceeding 50 percent in the current month must be met.

Proposal No. 2. Delete § 1040.17 and substitute the following:

§ 1040.17 Call percentage.

"Call percentage" means the percentage computed by the market administrator in addition to the minimum percentage pooling requirements applicable to supply plants and cooperative associations under § 1040.16(b). A call percentage of not less than 25 percent may be computed and announced for each month as follows:

(a) Estimate the pounds of Class I and Class II milk utilization for the month, including an additional 15 percent thereof as an operating margin, at pool distributing plants;

(b) Subtract from the Class I and Class II milk estimated pursuant to paragraph (a) of this section, the estimated pounds of milk which will be received at such pool distributing plants during the month from producers' farms and cooperative associations pursuant to § 1040.7(c);

(c) Divide the remaining pounds of Class I and Class II milk by the estimated receipts of producer milk at pool plants pursuant to § 1040.16(b) (after subtracting any milk estimated to be disposed of as Class I and Class II other than transfers to other pool plants);

(d) The announcement of the call percentage shall be made on or before the first day of the month to which it applies and shall set forth the data on which the estimates of Class I utilization and supplies are based together with appropriate explanatory comments on the computations involved; and

(e) The market administrator may reduce the call percentage at any time during the month if he determines that more milk than is needed for Class I use is being delivered to distributing plants.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Mr. George Irvine, 2684 West 11 Mile Road, Berkley, Mich. 48072, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on July 24, 1968.

G. R. GRANGE,
Acting Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-8976; Filed, July 26, 1968; 8:46 a.m.]

[7 CFR Part 1064]

[Docket No. AO-23-A36]

MILK IN GREATER KANSAS CITY MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the President Hotel, Aztec Room, 14th and Baltimore Streets, Kansas City, Mo., beginning at 9 a.m., on August 1, 1968, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Greater Kansas City marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mid-America Dairymen, Inc.:

Proposal No. 1. Increase the Class I price as provided in § 1064.51 by an additional 24 cents.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 2. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, U. Grant Grayson, Post Office Box 4606, 7939 Floyd Avenue, Overland Park, Kans. 66204, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on July 24, 1968.

G. R. GRANGE,
Acting Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-8975; Filed, July 26, 1968; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 288]

[Docket No. 19897; EDR-141]

EXEMPTION OF AIR CARRIERS FOR
MILITARY TRANSPORTATIONMinimum Rates for DC-9-30 and
L-188 Aircraft in Logair and Quick-
trans Services

JULY 23, 1968.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 288 of the economic regulations to set new minimum rates for DC-9-30 and L-188 aircraft in Logair and Quicktrans services. The principal features of the proposed amendment are explained in the explanatory statement below, and the text of the proposed amendment is also set forth below. The amendment is proposed under the authority of sections 204, 403, and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758, and 771, as amended; 49 U.S.C. 1324, 1373, and 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before Aug. 19, 1968, will be considered by the Board before taking final action. Upon receipt by the Board, copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. The Board is herein proposing to revise the minimum rates for DC-9-30 and L-188 aircraft in Logair and Quicktrans domestic cargo charters set forth in § 288.7(b) of the economic regulations.

On May 14, 1968, by ER-537 (33 F.R. 7315), the Board issued Amendment No. 3 to Part 288 of the economic regulations (Docket 19741) adopting new minimum rates for Logair and Quicktrans domestic military cargo charters to become effective July 1, 1968. Among other things, minimum rates for DC-9-30 and DC-9-33 aircraft were adopted based on weighted average costs of Overseas National Airways, Inc. (ONA), and Universal Airlines, Inc. (Universal).

On May 17, 1968, ONA filed a petition for reconsideration of the DC-9 minimum rates. Since no provision was made in ER-537 for the filing of petitions for reconsideration, ONA's petition has been accepted as a petition to amend Part 288 pursuant to § 302.38(d) of the procedural regulations and assigned Docket No. 19897.

The weighted average DC-9 costs on which the minimum rates were based were obtained by weighting the adjusted forecast costs of ONA and Universal by the number of aircraft each carrier would have available for Logair and Quicktrans service in fiscal 1969. Four aircraft were recognized for ONA, and 0.7 aircraft for Universal.

ONA's petition alleges that Universal does not intend to take delivery of the DC-9's it has on order, that the only DC-9's that will be offered for military services are ONA's, and that therefore Universal's cost forecast should not be considered in setting the minimum rates.

In answer to ONA's petition, Universal states that it has requested the manufacturer to find an alternate purchaser but none has been found as yet, and Universal is still committed to purchase four DC-9 aircraft. Universal also states that in its response to the Military Air-lift Command's Request for Proposal for Logair and Quicktrans services, it listed the DC-9 aircraft as being available for emergency and expansion services. In a supplement to its answer, Universal continues to oppose modification of the DC-9 rate, but it also states that it would take no serious objections to the Board amending both the DC-9 and Electra minimum rates to establish a uniform rate for the two competitive aircraft. Saturn Airways, Inc., also filed an answer opposing grant of the petition.

Upon consideration of the petition and answers, we propose to grant ONA's petition to the extent of disregarding Universal's DC-9 forecasts in arriving at DC-9 costs for rate-making purposes. Minimum rates should be based, as nearly as possible, on forecasts reflecting operations that are actually anticipated. Universal is not offering the DC-9's it has on order for fixed Logair or Quicktrans contracts but only for emergency and expansion services during the last months of the fiscal year. Indeed, it is doubtful that the carrier will in fact acquire the aircraft at that time. In our judgment, the likelihood that Universal will perform any Logair or Quicktrans services with DC-9's in fiscal 1969 is remote, and giving any weight to its costs in setting the minimum rates would be inappropriate.

The Board also proposes to establish a uniform rate for the L-188 and DC-9.

These aircraft are generally competitive in their performance characteristics as is evidenced by the fact that they are being considered for the same Logair and Quicktrans routes. Moreover, the cost data before the Board for the two aircraft are sufficiently comparable to indicate that for one to have a price advantage over the other would be inappropriate.

ONA shows a \$1.93 per plane mile cost for the DC-9 in Logair on a 443-mile stage length. For ONA's L-188, a forecast cost of \$1.90 per plane mile would be recognized assuming a 435 Logair stage length. For Universal, we would recognize a Logair cost of \$2 per plane mile, based on a 436-mile average stage length, which is comparable to the average stage lengths underlying ONA's forecasts for its DC-9's and L-188's.¹

The weighted average of the costs of ONA's DC-9 and L-188 and Universal's L-188 is \$1.9442 in Logair and \$1.9843 in Quicktrans, and assumes an overall average stage length of 437.4 miles. The average costs have been translated into dual element rates of \$150 per directed landing and \$1.6013 per plane mile for Logair, and \$150 per directed landing and \$1.6414 per plane mile for Quicktrans.

If the proposed rates or a modification thereof are finalized, they will be effective as of the date of this notice.

Proposed rule. It is proposed to amend Part 288 of the economic regulations (14 CFR Part 288) by revising § 288.7(b) to read as follows:

§ 288.7 Reasonable level of compensation.

- (b) For Logair and Quicktrans services, other than specified in paragraph (c) of this section:

Aircraft type	Linehaul rate per course-flown statute mile		Rate per directed landing
	Logair	Quick- trans	
***	***	***	***
L-100.....	1.7534	1.7905	150
L-188.....	1.6013	1.6414	150
DC-9-30.....	1.6013	1.6414	150
B-727QC.....	1.9076	1.9587	150
***	***	***	***

[F.R. Doc. 68-9000; Filed, July 26, 1968;
8:49 a.m.]

¹The \$2 plane mile cost for a 436-mile stage length was employed in the original notice of rule making (EDR-134). Universal's L-188 costs were revised in the final rule to reflect an average stage length of 568 miles.

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 2183]

ARIZONA

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Department of Agriculture, has filed an application, serial number A 2183 for withdrawal of lands.

The Forest Service has developed the property to public campgrounds and other recreation use. They plan to increase this development during the next 2 years. This withdrawal is needed to provide tenure for investing in the property and prevent any activities which may be adverse to public recreational use of the property. The withdrawal would be made subject to valid existing rights.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal, may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Ariz. 85025.

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

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

The lands involved in the application are as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

KAIBAB LAKE CAMPGROUND

T. 22 N., R. 2 E.,
Sec. 14, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 15, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$.

The area described aggregates 620 acres.

PARKS CAMPGROUND

T. 22 N., R. 4 E.,
Sec. 22, lots 1, 2, 7, and 8;
Sec. 27, lots 1, 2, 5, 6, and 13.

The area described aggregates 294.32 acres.

TEN X CAMPGROUND

T. 29 N., R. 2 E.,
Sec. 1, lots 1 and 2.
T. 30 N., R. 2 E.,
Sec. 36, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$.
T. 30 N., R. 3 E.,
Sec. 31, lot 4.

The area described aggregates 478.31 acres.

The total areas described above aggregate approximately 1,392.63 acres within the Kaibab National Forest.

Dated: July 19, 1968.

FRED J. WEILER,
State Director.

[F.R. Doc. 68-8964; Filed, July 26, 1968;
8:46 a.m.]

[C-3887]

COLORADO

Notice of Classification

JULY 18, 1968.

1. Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), the public lands within the areas described below are hereby classified for disposal through exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g) for lands in the Canon City District, Bureau of Land Management. The notice of proposed classification was published in 33 F.R. 7089 of May 11, 1968. No protests were received and there has been no change in the classification.

2. The lands affected by this classification are described as follows:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO SAGUACHE COUNTY

T. 41 N., R. 11 E.,
Secs. 11, 12, 14, and 23.

The area described comprises 1,504.38 acres of public land.

3. For a period of 30 days interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240.

E. I. ROWLAND,
State Director.

[F.R. Doc. 68-8963; Filed, July 26, 1968;
8:45 a.m.]

Office of the Secretary

RESIDUAL FUEL OIL

Adjustment in Maximum Level of Imports Into Puerto Rico of Finished Products

JULY 22, 1968.

Pursuant to paragraph (c) of section 2 of Proclamation 3279, as amended (30 F.R. 15459), for the period January 1, 1968, through December 31, 1968, the maximum level of imports of residual fuel oil to be used as fuel established pursuant to section 14 of Oil Import Regulation 1 (Revision 5), as amended, is increased by 130,000 barrels to permit the importation of residual fuel oil to be

used as fuel to meet a demand in Puerto Rico which would not otherwise be met.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 68-8966; Filed, July 26, 1968;
8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Pursuant to the authority delegated to the Administrator of the Consumer and Marketing Service in section 40 of the Statement of Organization and Delegations appearing at 29 F.R. 16212, the Statement of Organization, Functions, and Delegations of Authority of the Consumer and Marketing Service appearing at 32 F.R. 11741 is hereby superseded by the following Statement of Organization, Functions, and Delegations of Authority of the Consumer and Marketing Service. The following statement also reflects internal changes in the organization of the Consumer and Marketing Service.

ORGANIZATION AND FUNCTIONS

SECTION 1. *General.* The Consumer and Marketing Service, hereinafter referred to as "C&MS," was created as the Agricultural Marketing Service by the Secretary of Agriculture on November 2, 1953, pursuant to his authority under 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 67 Stat. 633; and related authority. Effective February 8, 1965, the name "Agricultural Marketing Service" was changed to "Consumer and Marketing Service." The central office of C&MS is located at Washington, D.C., but a large part of the program activity is carried on through various field offices. The functions and authorities delegated to C&MS are published at 30 F.R. 6697, dated May 15, 1965, 31 F.R. 10079, dated July 26, 1966, 31 F.R. 10644, dated August 10, 1966, 31 F.R. 14463, dated November 10, 1966, 33 F.R. 2793, dated February 9, 1968, and 33 F.R. 9213, dated June 21, 1968. The functions relating to the administration of the Packers and Stockyards Act were withdrawn from C&MS by the creation of the Packers and Stockyards Administration, which was established by the Secretary of Agriculture on May 8, 1967, appearing at 32 F.R. 7186. All functions and authorities delegated to C&MS by the Secretary are subject to the provisions of sections 1-40 of the Statement of Organization and Delegations at 29 F.R. 16210 et seq.

SEC. 2. *The Office of the Administrator—(a) The Administrator.* The Administrator is responsible for the general direction and supervision of programs and

activities assigned to C&MS. He reports to the Assistant Secretary for Marketing and Consumer Services.

(b) *The Associate Administrator.* The Associate Administrator shares overall responsibility with the Administrator for the general direction and supervision of programs and activities assigned to C&MS.

(c) *Deputy Administrator, Consumer Food Programs.* The Deputy Administrator, Consumer Food Programs is responsible for:

(1) Participating with the Administrator in the overall planning and formulation of all policies, programs, and activities of C&MS; and

(2) Directing and coordinating the administration of consumer food programs, including the national school lunch program, the special milk program, the program for distribution of donated commodities acquired under the price support program and the surplus removal program, the program for accelerated movement of plentiful foods through normal channels of trade, the food stamp program, programs contained in the Child Nutrition Act of 1966 (42 U.S.C. 1771-1785), and related activities, and the food management phases of the civil defense and defense mobilization programs. These programs are carried out by three functional Divisions (Commodity Distribution, Food Stamp, and School Lunch), one functional staff (Food Trades Staff), one program services staff (Consumer Food Programs Services Staff), located at Washington, D.C., and by five Consumer Food Programs District Offices in the field.

(d) *Deputy Administrator, Marketing Services.* The Deputy Administrator for Marketing Services is responsible for:

(1) Participating with the Administrator in the overall planning and formulation of all policies, programs, and activities of C&MS;

(2) Directing and coordinating the administration of the marketing service programs, including the standardization, inspection, grading and classing of agricultural commodities; market news, expansion of market outlets; commodity procurement; export and diversion programs; programs and related activities involving Standard Container, Export Apple and Pear, Naval Stores, Export Grape and Plum, Processed and Renovated Butter, and the Tobacco Seed and Plant Exportation Acts; assigned civil defense and defense mobilization activities; and other related programs and activities. These programs and activities are carried out by seven commodity Divisions (Cotton, Dairy, Fruit and Vegetable, Grain, Livestock, Poultry, and Tobacco), located at Washington, D.C., and by field offices of these Divisions, and by the Matching Fund Program Staff; and

(3) Considering and determining appeals from findings of fact of contracting officers within the scope of any disputes provision, which provides a method for final and conclusive determination of disputed questions of fact, in any purchase contract under purchase and dona-

tion programs carried out pursuant to section 6 of the National School Lunch Act and section 32 of Public Law 320, 74th Congress.

(e) *Deputy Administrator, Regulatory Programs.* The Deputy Administrator for Regulatory Programs is responsible for:

(1) Participating with the Administrator in the overall planning and formulation of all policies, programs, and activities of C&MS; and

(2) Directing and coordinating the administration of marketing regulatory programs and related activities involving Perishable Agricultural Commodities, Federal Seed, U.S. Warehouse, Produce Agency, and Cotton Research and Promotion Acts; freight rate services under section 201 of the Agricultural Adjustment Act of 1938 and section 203(j) of the Agricultural Marketing Act of 1946, as amended; assigned civil defense and defense mobilization activities; marketing agreements and orders; and other related programs and activities. These programs are carried out by six commodity Divisions (Cotton, Dairy, Fruit and Vegetable, Grain, Poultry, and Tobacco), and one functional Division (Transportation and Warehouse), located at Washington, D.C., and by field offices of these Divisions, except milk marketing orders which are carried out through market administrators in the field and fruit and vegetable marketing orders which are administered by elected committees.

(f) *Deputy Administrator, Consumer Protection.* The Deputy Administrator for Consumer Protection is responsible for:

(1) Participating with the Administrator in the overall planning and formulation of all policies, programs and activities of C&MS; and

(2) Directing and coordinating the administration of consumer protection programs including meat inspection, poultry inspection, humane slaughter, and related activities. These programs are carried out by one commodity Division (Livestock Slaughter Inspection, Processed Meat Inspection, and Technical Services), and two staffs (Compliance and Evaluation Staff, and Administrative Staff), located at Washington, D.C., and by the seven Meat Inspection District Offices, the Compliance and Evaluation Staff field offices, and the five area Poultry Inspection offices.

(g) *Deputy Administrator, Management.* The Deputy Administrator, Management is responsible for:

(1) Participating with the Administrator in the overall planning and formulation of all policies, programs, and activities of C&MS;

(2) Directing and coordinating the administration and integration of the overall management, budget, fiscal, personnel, systems analysis, administrative services, statistical services programs and the planning-programming-budgeting system necessary to meet the requirements of the consumer and marketing programs of C&MS; and assigned civil defense, defense mobilization, and related programs and activities. These programs and activities are carried out by

the Operations Analysis Staff, and Statistical Services Staff and the Administrative Services, Budget, Finance, and Personnel Divisions, located at Washington, D.C., and by field branch offices of the Administrative Services and Personnel Divisions; and

(3) Civil rights coordination in the Consumer and Marketing Service.

Sec. 3. *Information Division.* The Information Division, under the direction and supervision of the Administrator and Associate Administrator, is responsible for planning and administering an information program involving the activities of C&MS. In addition to the Central office located at Washington, D.C., this program is carried on through Area Offices.

Sec. 4. *Planning and Evaluation Staff.* The Planning and Evaluation Staff, under the direction and supervision of the Administrator and Associate Administrator is responsible for coordinating the planning and evaluation functions related to the determination and accomplishment of goals and objectives of the Agency within the Planning-Programming-Budgeting System.

Sec. 5. *Consumer Food Programs.* The Commodity Distribution, Food Stamp, and School Lunch Divisions, the Food Trades Staff, Consumer Food Programs Services Staff, and the Consumer Food Programs District Offices, under the administrative direction of the Administrator and Associate Administrator and the functional and technical direction of the Deputy Administrator for Consumer Food Programs, are responsible as follows:

(a) *Commodity Distribution Division.* The Commodity Distribution Division is responsible for:

(1) Planning and administering the commodity distribution program, including distribution to eligible recipients of donated foods made available under section 32 of the Act of August 24, 1935, as amended; section 6 of the National School Lunch Act; section 416 of the Agricultural Act of 1949, as amended; and section 709 of the Food and Agricultural Act of 1965;

(2) Planning and administering the distribution of commodities for disaster and/or emergency relief; and

(3) Executing assigned civil defense and defense mobilization activities.

(b) *Food Stamp Division.* The Food Stamp Division is responsible for:

(1) Planning and administering the food stamp program, including coupon allotment, coupon issuance, negotiations with State agencies, and wholesaler-retailer operations; and

(2) Executing assigned civil defense and defense mobilization activities.

(c) *School Lunch Division.* The School Lunch Division is responsible for:

(1) Planning and administering the national school lunch program, programs contained in the Child Nutrition Act of 1966 (42 U.S.C. 1771-1785) and the special milk program, including technical services for these and other consumer food programs; and

(2) Executing assigned civil defense and defense mobilization activities.

(d) *Food Trades Staff.* The Food Trades Staff is responsible for:

(1) Planning and administering the plentiful foods programs;

(2) Serving as a focal point for wholesalers, retailers, public feeding operators, and other food distributors on problems of food supply and its effective distribution; and

(3) Executing assigned civil defense and defense mobilization activities.

(e) *Consumer Food Programs Services Staff.* The Consumer Food Programs Services Staff is responsible for:

(1) Planning and providing management services, reports, statistical services for Consumer Food Program Divisions, Staffs, and District Offices.

(f) *Consumer Food Programs District Offices.* Consumer Food Programs District Offices are responsible for:

(1) Planning, coordinating, and administering the consumer food programs within the District; and

(2) Executing assigned civil defense and defense mobilization activities.

SEC. 6. *Marketing Services, Regulatory Programs, and Consumer Protection Programs.* The Cotton, Dairy, Fruit and Vegetable, Grain, Livestock, Poultry, Tobacco, Transportation and Warehouse, Livestock Slaughter Inspection, Processed Meat Inspection, and Technical Services Divisions, the Matching Fund Program Staff, the Administrative Staff, the Compliance and Evaluation Staff, and the Meat Inspection District Offices, under administrative direction of the Administrator and Associate Administrator and the functional and technical direction of the Deputy Administrators for Marketing Services, Regulatory Programs, and Consumer Protection Programs, are responsible as follows:

(a) *Cotton Division.* The Cotton Division is responsible for:

(1) Planning and administering marketing services (market news, standardization, classing, grading, and testing), surplus removal, expansion of market outlets, marketing regulations, marketing agreements and orders, and related programs for cotton, cotton linters, cottonseed, cotton products, and other vegetable fibers and related commodities as authorized by Cotton Futures provisions of Internal Revenue Code of 1954; U.S. Cotton Standards Act, as amended; Cotton Statistics and Estimates Act, as amended; section 32 of the Act of August 24, 1935, as amended; Agricultural Marketing Act of 1946, as amended; Cotton Research and Promotion Act; and other authorities; and

(2) Executing assigned civil defense and defense mobilization activities.

(b) *Dairy Division.* The Dairy Division is responsible for:

(1) Planning and administering marketing services (market news, standardization, inspection, grading, and testing), marketing regulatory, surplus removal (including purchase, diversion, and export programs), purchases under section 6 of the National School Lunch Act for assigned commodities, expansion of market outlets, acreage guides for vegetables including potatoes and sweet potatoes, and related programs for fruits and vegetables, their products and other assigned commodities, as authorized by the Standard Container Acts of 1916 and 1928, as amended; Produce Agency Act, as amended; Perishable Agricultural Commodities Act, 1930, as amended; Export Apple and Pear Act; Export Grape and Plum Act; section 32 of the Act of August 24, 1935, as amended; Agricultural Marketing Act of 1946, as amended; and other authorities;

(2) Planning and administering marketing agreement and order programs authorized by the Agricultural Marketing Agreement Act of 1937, as amended, for fruits, vegetables, nuts, hops, and the products thereof, and such other commodities as may be assigned;

(3) Administering import regulations as required under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended; and

(4) Executing assigned civil defense and defense mobilization activities.

(d) *Grain Division.* The Grain Division is responsible for:

(1) Planning and administering marketing services (market news, standardization, inspection, grading, and testing), marketing regulatory, surplus removal (including purchase, diversion, and export programs), purchases under section 6 of the National School Lunch Act for assigned commodities, expansion of market outlets, and related programs for grain, grain products, seeds, beans, peas, rice, hay, and related commodities as authorized by the U.S. Grain Standards Act, as amended; Federal Seed Act, as amended; section 32 of the Act of August 24, 1935, as amended; Agricultural Marketing Act of 1946, as amended; and other authorities;

(2) Planning and administering marketing agreement and order programs authorized by the Agricultural Marketing Agreement Act of 1937, as amended, for milk and its products, and such other commodities as may be assigned; process and renovated butter; surplus removal (including purchase, diversion, and export programs),

purchases under section 6 of the National School Lunch Act for assigned commodities, expansion of market outlets, and related programs for milk and dairy products as authorized by section 32 of the Act of August 24, 1935, as amended; Agricultural Marketing Act of 1946, as amended; Process and Renovated Butter Act; and other authorities;

(2) Formulating policies and technical direction for market news services for dairy and dairy products which are administered by the Poultry Division; and

(3) Executing assigned civil defense and defense mobilization activities.

(c) *Fruit and Vegetable Division.* The Fruit and Vegetable Division is responsible for:

(1) Planning and administering marketing services (market news, standardization, inspection, and grading), marketing regulatory, surplus removal (including purchase, diversion, and export programs), purchases under section 6 of the National School Lunch Act for assigned commodities, expansion of market outlets, acreage guides for vegetables including potatoes and sweet potatoes, and related programs for fruits and vegetables, their products and other assigned commodities, as authorized by the Standard Container Acts of 1916 and 1928, as amended; Produce Agency Act, as amended; Perishable Agricultural Commodities Act, 1930, as amended; Export Apple and Pear Act; Export Grape and Plum Act; section 32 of the Act of August 24, 1935, as amended; Agricultural Marketing Act of 1946, as amended; and other authorities;

(2) Planning and administering marketing agreement and order programs authorized by the Agricultural Marketing Agreement Act of 1937, as amended, for tobacco, and the products thereof, and such other commodities as may be assigned;

(2) Planning and administering marketing agreement and order programs authorized by the Agricultural Marketing Agreement Act of 1937, as amended, for tobacco, and the products thereof, and such other commodities as may be assigned; and

(2) Planning and administering marketing agreement and order programs authorized by the Agricultural Marketing Agreement Act of 1937, as amended, for tobacco, and the products thereof, and such other commodities as may be assigned; and

(3) Planning and administering market news services on molasses and sugar cane syrups; and

(4) Executing assigned civil defense and defense mobilization activities.

(e) *Livestock Division.* The Livestock Division is responsible for:

(1) Planning and administering marketing services (market news, standardization, grading, and specification certification), surplus removal (including purchase, diversion, and export programs), purchases under section 6 of the National School Lunch Act for assigned commodities, meat, meat products, wool, mohair, and related commodities as authorized by the Wool Standards Act; section 32 of the Act of August 24, 1935, as amended; Agricultural Marketing Act of 1946, as amended; and other authorities; and

(2) Executing assigned civil defense and defense mobilization activities.

(f) *Poultry Division.* The Poultry Division is responsible for:

(1) Planning and administering standardization, inspection, and grading, surplus removal (including purchase, diversion, and export programs), purchases under section 6 of the National School Lunch Act for assigned commodities, expansion of market outlets, and related programs for poultry, poultry products, domestic rabbits, and related commodities as authorized by Poultry Products Inspection Act, 21 U.S.C. 451 et seq.; section 32 of the Act of August 24, 1935, as amended; Agricultural Marketing Act of 1946, as amended; and other authorities;

(2) Planning and administering marketing agreement and order programs authorized by the Agricultural Marketing Agreement Act of 1937, as amended, for poultry and poultry products and such other commodities as may be assigned;

(3) Formulating policies and directing market news service for poultry and poultry products, and domestic rabbits; administrative direction of market news services for dairy and dairy products; and

(4) Executing assigned civil defense and defense mobilization activities.

(g) *Tobacco Division.* The Tobacco Division is responsible for:

(1) Planning and administering marketing services (market news, standardization, inspection, and grading) marketing regulatory, surplus removal, expansion of market outlets, statistical reporting, and related programs for tobacco, tobacco products and byproducts, naval stores, and related commodities as authorized by Tobacco Stocks and Standards Act of 1929, as amended; Tobacco Inspection Act, as amended; Tobacco Seed and Plant Exportation Act; Naval Stores Act, section 32 of the Act of August 24, 1935, as amended; and other authorities;

(2) Planning and administering marketing agreement and order programs authorized by the Agricultural Marketing Agreement Act of 1937, as amended, for tobacco, and the products thereof, and such other commodities as may be assigned; and

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(2) Planning and administering marketing agreement and order programs authorized by the Agricultural Marketing Agreement Act of 1937, as amended, for tobacco, and the products thereof, and such other commodities as may be assigned; and

(3) Executing assigned civil defense and defense mobilization activities.

(h) *Transportation and Warehouse Division.* The Transportation and Warehouse Division is responsible for:

(1) Administering the U.S. Warehouse Act, as amended;

(2) Warehouse examination functions in connection with warehouses storing commodities pursuant to contracts or agreements with Commodity Credit Corporation;

(3) Administering provisions of section 201 of the Agricultural Adjustment Act of 1938, section 203(j) of the Agricultural Marketing Act of 1946, as amended, and other authorities covering adjustments in transportation and services for farm commodities, food, and farm supplies;

(4) Acting for, or assisting on assignment from the Office of the Administrator in directing and coordinating and planning activities and operations assigned C&MS with respect to emergency preparedness programs in connection with defense mobilization; and

(5) Executing other marketing services programs and activities as assigned.

(i) *Livestock Slaughter Inspection Division.* The Livestock Slaughter Inspection Division is responsible for planning and administering livestock slaughter inspection programs relating to:

(1) Ante mortem and post mortem inspection of animals, their carcasses, organs, and parts thereof; the chilling, branding, and shipping of carcasses, meat byproducts, and nonprocessed parts of carcasses; the handling and control of inedible and condemned materials (including inedible rendering) incident to ante mortem, post mortem, and chilling operations to assure a wholesome supply of meat and edible meat byproducts for consumers. These functions are performed pursuant to (a) Federal Meat Inspection Act as amended by the Wholesome Meat Act, 21 U.S.C. 601-611, 619, 621-623; (b) provisions of the Humane Slaughter Act, 7 U.S.C. 1901 et seq., and (c) 7 U.S.C. 1622; and

(2) To provide technical counsel and assistance to State meat inspection programs, conducts reviews and establishes standards as provided for pursuant to 21 U.S.C. 661 as related to the functional responsibilities of the Division.

(3) Executing assigned civil defense and defense mobilization activities.

(j) *Processed Meat Inspection Division.* The Processed Meat Inspection Division is responsible for planning and administering processed meat inspection programs relating to:

(1) Processed meat inspection, including all operations after slaughter and chilling relating to, or further handling of, edible meat, meat byproducts, and meat food products; the carcass breakup, and movement in commerce from slaughtering establishments; handling and storage of meat products in commerce; export certification and import inspection; and related reimbursable services. This inspection over these operations includes responsibility for devising all inspection procedures, standards

of sanitation, control, compliance and acceptance for product, ingredients, containers, and processing methods in producing sanitary, wholesome and truthfully labeled product. These functions are performed pursuant to 21 U.S.C. 601, 602, 605-611, 615-624, and 641-643; and 7 U.S.C. 1622; and

(2) To provide technical counsel and assistance to State meat inspection programs, conducts reviews and establishes standards as provided for pursuant to 21 U.S.C. 661 as related to the functional responsibilities of the Division.

(3) Executing assigned civil defense and defense mobilization activities.

(k) *Technical Services Division.* The Technical Services Division is responsible for planning and administering programs:

(1) To provide the meat and poultry inspection programs of C&MS with the technical services required to assure that food products moving in foreign and domestic commerce are wholesome, unadulterated and truthfully labeled, including:

(a) The sampling for Technical Services Division functions, testing and analyses of meat and poultry products, chemical compounds, microbiological, pathological and toxicological specimens and other associated laboratory services;

(b) The approval of product formulae, methods of preparation and labels and initial approval of containers;

(c) The development and promulgation of standards of composition and identity for processed products;

(d) The approval of plant design, structure and equipment, and the sanitary criteria related to such approvals; and

(e) The surveillance and approval of foreign inspection systems. The functions of items (1) (a) through (e) are performed pursuant to 21 U.S.C. 456, 457, 604-608, 610, 611, 621-623, 628; and 7 U.S.C. 1622 and 1904.

(2) To furnish technical counsel and assistance to the State meat inspection programs, conducts reviews and establishes standards as provided for pursuant to 21 U.S.C. 661 as related to the functional responsibilities of the Division.

(3) Executing assigned civil defense and defense mobilization activities.

(l) *Meat Inspection District Offices.* The Meat Inspection District Offices are responsible for carrying out:

(1) Livestock slaughter inspection programs;

(2) Processed meat inspection programs;

(3) Technical Services programs (except laboratories) relating to meat inspection within their respective geographical areas;

(4) To provide management reviews and assistance to State inspection programs pursuant to 21 U.S.C. 661; and

(5) Executing assigned civil defense and defense mobilization activities.

(m) *Administrative Staff.* The Administrative Staff is responsible for:

(1) Planning and providing management services and reports for the Livestock Slaughter Inspection Division, the Processed Meat Inspection Division, the

Technical Services Division, the Compliance and Evaluation Staff, the Deputy Administrator for Consumer Protection and his staff and the Meat Inspection District Offices.

(2) Registering meat brokers, renderers and animal food manufacturers pursuant to 21 U.S.C. 643; and

(3) Provides management reviews and assistance to State meat inspection programs pursuant to 21 U.S.C. 661.

(n) *Compliance and Evaluation Staff.* The Compliance and Evaluation Staff administers compliance and evaluation programs designed to:

(1) Augment and strengthen management controls and the regulatory and enforcement aspects of the Poultry Products Inspection Act; the Federal Meat Inspection Act, as amended; the Agricultural Marketing Act of 1946, as amended, and related laws and the regulations promulgated thereunder. This includes responsibilities to carry out the authorities provided by the Federal Meat Inspection Act relating to Federal-State Cooperation (21 U.S.C. 661); meat inspection service, withdrawal (21 U.S.C. 671); detention and seizure of certain meat and meat food products (21 U.S.C. 672 and 673); violations (21 U.S.C. 675 and 676); State jurisdiction (21 U.S.C. 678). Also included are responsibilities to carry out the authorities provided by the Poultry Products Inspection Act relating to violations (21 U.S.C. 458) and records of interstate shipment (21 U.S.C. 460).

(2) Initiating court actions or warning letters (21 U.S.C. 461 and 462) violations relating to exemptions and imports (21 U.S.C. 465 and 466).

(o) *Matching Fund Program Staff.* The Matching Fund Program Staff is responsible for:

(1) Providing leadership and consulting services to assist States in the development and execution of matched-funds marketing service projects, under the provisions of the Agricultural Marketing Act of 1946, as amended, and coordinating similar lines of work between States.

(2) Reviewing and approving such projects proposed by the State Departments of Agriculture, Bureaus of Markets, and similar State agencies; and

(3) Coordinating the matching fund program with the overall Federal-State marketing program.

Sec. 7. Management Services. The Administrative Services, Budget, Finance, and Personnel Divisions, Statistical Services Staff, and the Operations Analysis Staff, under the administrative direction of the Administrator and Associate Administrator and the functional and technical direction of the Deputy Administrator, Management, are responsible as follows:

(a) *Administrative Services Division.* The Administrative Services Division is responsible for:

(1) Planning and administering procurement and supply, real and personal property, records, communications, procedures, forms, reports, paperwork, and related management services programs necessary to meet requirements of the overall programs and activities of C&MS;

(2) Approving, for administrative feasibility and for conformance with governing rules and regulations, cooperative agreements and related documents, and contracts under the Agricultural Marketing Act of 1946, as amended;

(3) Developing standards and procedures for the preparation of program dockets and authorities, and clearing for conformance with governing rules and regulations materials to be published in the FEDERAL REGISTER and the Code of Federal Regulations; and

(4) Providing staff assistance to the Deputy Administrator, Management with respect to committee management and civil rights activities in C&MS.

(b) *Budget Division.* The Budget Division is responsible for:

(1) Planning and administering the budget and related financial programs necessary to meet the requirements of the overall programs and activities of C&MS;

(2) Developing and assisting in establishing required budgetary systems and controls with respect to apportionments, obligations, and expenditures of available funds; and

(3) Planning and administering agency-wide systems for integrating long-range program plans with annual resource requirements.

(c) *Finance Division.* The Finance Division is responsible for:

(1) Planning and administering the fiscal and related accounting programs necessary to meet the requirements of the overall programs and activities of the agency;

(2) Developing and assisting in establishing required systems and controls with respect to obligations and expenditures; and

(3) Developing, installing, and revising accounting systems, methods and procedures for the agency including control committees and market administrators operating under marketing agreements and orders assigned to the agency.

(d) *Personnel Division.* The Personnel Division is responsible for planning and administering the organization, classification, wage and salary, employment, employee relations, labor management relations, training, award, safety, and health phases of a personnel program to meet requirements of the overall programs and activities of C&MS.

(e) *Operations Analysis Staff.* The Operations Analysis Staff is responsible for planning and administering a broad program of review, research, analysis, and coordination in program management as it relates to the efficiency and effectiveness of C&MS program operations.

(f) *Statistical Services Staff.* The Statistical Services Staff is responsible for providing leadership, coordination, analyses, and services in mathematical and statistical applications as they relate to the overall programs and activities of the Agency.

DELEGATIONS OF AUTHORITY

SEC. 8. *Associate Administrator.* The Associate Administrator is hereby dele-

gated the authority to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator.

SEC. 9. *Deputy Administrators.* The Deputy Administrator, Consumer Food Programs; the Deputy Administrator, Marketing Services; the Deputy Administrator, Regulatory Programs; the Deputy Administrator, Consumer Protection; and the Deputy Administrator, Management, are hereby delegated the authority, severally, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator. Each Deputy Administrator shall be primarily responsible for the programs and activities of the Consumer and Marketing Service herein or hereafter assigned to him.

SEC. 10. *Information Division.* The Director of the Information Division is hereby delegated authority, in connection with the respective functions herein assigned to him, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator and Associate Administrator.

SEC. 11. *Planning and Evaluation Staff.* The Director of the Planning and Evaluation Staff is hereby delegated authority, in connection with the respective functions herein assigned to him, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator and Associate Administrator.

SEC. 12. *Consumer Food Divisions and Staffs.* The Directors of the Commodity Distribution, Food Stamp, School Lunch Divisions, Food Trades and Consumer Food Programs Services Staffs, and Consumer Food Programs District Offices, are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator, Associate Administrator, and Deputy Administrators.

SEC. 13. *Marketing Services, Regulatory, and Consumer Protection Divisions and Staffs.* The Directors of the Cotton, Dairy, Fruit and Vegetable, Grain, Livestock, Poultry, Tobacco, Transportation and Warehouse, Livestock Slaughter Inspection, Processed Meat Inspection and

Technical Services Divisions, the Administrative Staff, the Compliance and Evaluation Staff, Matching Fund Program Staff, and the Meat Inspection District Offices are hereby delegated authority, in connection with the respective functions herein assigned to each of them, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator, Associate Administrator, and Deputy Administrators.

SEC. 14. *Management Services Divisions.* The Directors of the Administrative Services, Budget, Finance, and Personnel Divisions, and the Operations Analysis Staff, and Statistical Services Staff are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator, Associate Administrator, and Deputy Administrators.

SEC. 15. *Concurrent authority and responsibility to the Administrator.* No delegation or authorization prescribed herein shall preclude the Administrator, the Associate Administrator, or each Deputy Administrator, from exercising any of the powers or functions or from performing any of the duties conferred upon them herein, and any such delegation or authorization is subject at all times to withdrawal or amendment by the Administrator, the Associate Administrator, and in their respective fields, by each Deputy Administrator. The Officers to whom authority is delegated herein shall (a) maintain close working relationships with the Officers to whom they report, (b) keep them advised with respect to major problems and developments, and (c) discuss with them proposed actions involving major policy questions or other important considerations or questions, including matters involving relationships with other Federal agencies, other agencies of the Department, other Divisions or offices of C&MS or other governmental or private organizations or groups.

SEC. 16. *Prior authorizations and delegations.* All prior delegations and redelegations of authority relating to any function, program or activity covered by the Statement of Organization, Functions, and Delegations of Authority, shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked. Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignments of functions.

RESERVATION OF AUTHORITY

SEC. 17. *Reservation of authority.* (1) There is hereby reserved to the Administrator, or to the individual designated

to act in his stead the authority to designate Market Administrators and Committees administering market agreement and order programs.

(2) There is hereby reserved to the Administrator, or to the individual designated to act in his stead the approval of regulations relating to the travel of seasonal inspectors.

(3) There is hereby reserved to the Administrator, or to the individual designated to act in his stead, the authority to issue subpoenas relating to the efficient administration and enforcement of the Federal Meat Inspection Act, as amended by the Wholesome Meat Act, pursuant to 15 U.S.C. 49 as authorized by 21 U.S.C. 677.

AVAILABILITY OF INFORMATION AND RECORDS

SEC. 18. *Availability of information and records.* Any person desiring information or to make submittals or requests with respect to the programs and functions of C&MS should address his request to the Director of the particular Division or Office, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. The availability of information and records of C&MS and its Divisions and Offices is governed by the rules and regulations as published in the Code of Federal Regulations, Title VII, Chapter IX, Part 900, Subpart—Public Information.

Issued at Washington, D.C., this 24th day of July 1968.

RODNEY E. LEONARD,
Administrator.

[F.R. Doc. 68-8973; Filed, July 26, 1968;
8:46 a.m.]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

MURRO S.A. AND RUTH MUERI

Notice of Related Party Determination

In the matter of Murro S.A. and Ruth Mueri, 5314 Kleindörfingen, Switzerland; Dorfstrasse 13 and Box 29, 5313 Klingnau, Switzerland; and Badenerstrasse 398, Zurich, Switzerland; Case No. 245, File 22(65)-11.

By order dated December 18, 1959, the Bureau of Foreign Commerce, predecessor of the Bureau of International Commerce, U.S. Department of Commerce, entered an order against Emilio F. Bordin and Oleine, S.A. of Zurich, Switzerland, denying them all privileges of participating in any manner or capacity in exportations from the United States of commodities or technical data for the duration of export controls. This order was published in the FEDERAL REGISTER on December 25, 1959 (24 F.R. 10719).

Section 382.1(b) of the Export Regulations provides in part that, to the extent necessary to prevent evasion of any order denying export privileges, said order may be made applicable to parties other than those named in the order with whom said named parties may then or thereafter be

related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. It has been determined by the Office of Export Control that within the purview of said section the above named Murro S.A. and Ruth Mueri are related parties to said Emilio F. Bordin. Under this determination the terms and restrictions of the order of December 18, 1959, are effective against said related parties.

It has heretofore been determined that Hermann August Huber, Zurich, Switzerland, trading as Biochemische Industrie, is a related party to said Oleine, S.A. and Emilio F. Bordin. The evidence presented in connection with the above-entitled matter shows that said Huber is a responsible official of Murro S.A.

The above-named related parties are being notified of this determination and are being advised that if they contend that the ruling is not justified they may make application to have the ruling reconsidered or terminated. Due notice will be given of any termination or change in this related party determination.

Dated: July 22, 1968.

RAUER H. MEYER,
Director, Office of Export Control.

[F.R. Doc. 68-8959; Filed, July 26, 1968;
8:45 a.m.]

National Bureau of Standards

U.S. CUSTOMARY SYSTEM OF WEIGHTS AND MEASURES

Commercial Weights and Measures Units

By virtue of the authority vested in the Secretary of Commerce by 15 U.S.C. 272 and delegated to the National Bureau of Standards by Department Order 90-A, the Bureau is charged with the responsibility for "The custody, maintenance, and development of the national standards of measurement, * * *." The method employed for disseminating information on weights and measures units has been through official National Bureau of Standards publications. However, all such units have never been listed together in any Federal legislation or in the FEDERAL REGISTER. On February 27, 1968, in the House Committee on Science and Astronautics Report No. 1107, accompanying H.R. 13058, legislation to repeal the Standard Container Act of August 31, 1916 (39 Stat. 673; 15 U.S.C. 251-256), and the Standard Container Act of May 21, 1928 (45 Stat. 685; 15 U.S.C. 257-257i), and amend the Fair Packaging and Labeling Act of November 3, 1966 (80 Stat. 1296; 15 U.S.C. 1451), the following Committee view was expressed:

Testimony revealed that although standard weights and measures are defined in publications by the Bureau of Standards, these definitions are not defined by law nor have they been published in the FEDERAL REGISTER. Consequently, the Committee recommends that the Secretary of Commerce cause to be published in the FEDERAL REGISTER

a listing of the common weights and measures used in normal commerce throughout the United States and relate them to the standards developed in accordance with existing law, 15 U.S.C. 272.

Commercial units of weight and measure in common use are based on the yard and the avoirdupois pound. The yard and avoirdupois pound were last defined in the FEDERAL REGISTER of July 1, 1959, in terms of the national standards of length and mass: The meter and the National Prototype Kilogram. From the two units, the yard and the pound, are derived all other U.S. Customary multiple and submultiple units that will be found in ordinary commerce. They are defined as:

1 yard = 0.914 4 meter¹

1 pound (avoirdupois) = 0.453 592 37 kilogram¹

LINEAR MEASURE

U.S. CUSTOMARY

12 inches = 1 foot = 0.304 8 meter¹

3 feet = 1 yard = 0.914 4 meter¹

5,280 feet = 1 statute mile = 1.609 kilometers

6,076.115 feet = 1 International Nautical

Mile = 1.852 kilometers¹

METRIC

10 millimeters = 1 centimeter

10 centimeters = 1 decimeter

10 decimeters = 1 meter

10 meters = 1 dekameter

10 dekameters = 1 hectometer

10 hectometers = 1 kilometer

AREA MEASURE

U.S. CUSTOMARY

144 square inches = 1 square foot = 0.092 9 square meter

9 square feet = 1 square yard = 0.836 1 square meter

43,560 square feet = 1 acre = 0.404 7 hectare

640 acres = 1 square mile = 259 hectares

1 square mile = 1 section = 259 hectares

36 sections = 1 township = 932 4 hectares

METRIC

100 square millimeters = 1 square centimeter

10,000 square centimeters = 1 square meter

100 square meters = 1 are

100 ares = 1 hectare

100 hectares = 1 square kilometer

WEIGHT

U.S. CUSTOMARY (AVOIRDUPOIS)

437.5 grains = 1 ounce = 28.349 5 grams

7,000 grains = 1 pound = 0.453 592 37 kilogram

16 ounces = 1 pound = 0.453 592 37 kilogram

2,000 pounds = 1 short ton = 0.907 2 metric ton

2,240 pounds = 1 long ton = 1.016 metric tons

METRIC

10 milligrams = 1 centigram

10 centigrams = 1 decigram

10 decigrams = 1 gram

10 grams = 1 dekameter

10 dekagrams = 1 hectogram

10 hectograms = 1 kilogram

1,000 kilograms = 1 metric ton

CAPACITY, OR VOLUME, LIQUID MEASURE

U.S. CUSTOMARY

1 gallon = 231 cubic inches = 3.785 4 liters

4 fluid ounces = 1 gill = 0.118 3 liter

4 gills = 1 pint = 0.473 2 liter

2 pints = 1 quart = 0.946 4 liter

4 quarts = 1 gallon = 3.785 4 liters

METRIC

10 milliliters = 1 centiliter

10 centiliters = 1 deciliter

10 deciliters = 1 liter

10 liters = 1 dekaliter

10 dekaliters = 1 hectoliter

10 hectoliters = 1 kiloliter

¹ Denotes exact figures.

CAPACITY, OR VOLUME, DRY MEASURE

U.S. CUSTOMARY

- 1 bushel=2,150.42 cubic inches=35.239 1
liters
2 dry pints=1 dry quart=1.101 2 liters
8 dry quarts=1 peck=8.809 8 liters
4 pecks=1 bushel=35.239 1 liters

The accepted volume of a barrel in the United States varies significantly depending both on the commodity for which it is used and on how it is defined in State law (varying from State-to-State).

METRIC

The volumetric units are the same for both liquid and dry measure in the Metric System.

CUBIC MEASURE

U.S. CUSTOMARY

- 1,728 cubic inches=1 cubic foot=0.028 316 8
cubic meter
27 cubic feet=1 cubic yard=0.764 554 9 cubic
meter

METRIC

- 1,000 cubic millimeters=1 cubic centimeter
1,000 cubic centimeters=1 cubic decimeter
1,000 cubic decimeters=1 cubic meter

SPECIAL UNITS

The unit used for the sale of firewood is the cord of 128 cubic feet.

The unit used for the sale of precious stones is the Metric Carat of 200 milligrams.

The units used for over-the-counter sales of precious metals in the United States are troy units.

TROY WEIGHT

- 24 grains=1 pennyweight=1.555 17 grams
20 pennyweights=1 ounce troy=31.103 47
grams
12 ounces troy=1 pound troy=0.373 242
kilogram

The apothecaries system of units, once widely used in the United States for pharmaceutical purposes, is now used only very little. Usage of the Metric System has replaced the apothecaries system at the manufacturing level, and at most of the retail level.

ELECTRICITY AND NATURAL GAS

When a consumer is billed for having used electricity, what has been sold is electrical energy, and that energy is expressed in terms of kilowatt-hours. One kilowatt-hour equals 3,600,000 joules (the joule is the unit of energy in the International System of Units).

Consumption of natural gas normally is expressed in terms of therms. One therm equals 105,480,400 joules.

Dated: July 15, 1968.

A. V. ASTIN,
Director.

[F.R. Doc. 68-8953; Filed, July 26, 1968;
8:45 a.m.]

Office of the Secretary

[Appendix A, Amdt. 1]

BUSINESS AND DEFENSE SERVICES
ADMINISTRATION

Appendix A; Public Information

JULY 11, 1968.

This material amends the material appearing at 32 F.R. 11348 of August 4, 1967.

Appendix A, dated July 18, 1967, to Department Order 152-B is hereby amended as follows:

In Section C. Guide to published rules and regulations:

1. In paragraph .02 change the title "Director, Mobilization Readiness Staff" to "Director, Office of Mobilization Readiness," as the official to whom applications should be sent for participation in the National Defense Executive Reserve.

2. In paragraph .06 change the title "Director, Office of Scientific and Technical Equipment" to "Director, Office of Producer Goods" as the official from whom the public may secure information, make submittals or requests, and obtain decisions with respect to the Department of Commerce functions under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (80 Stat. 897; 19 U.S.C. 1202).

3. In paragraph .07 change the title "Director, Office of Scientific and Technical Equipment," to "Director, Office of Producer Goods," as the official from whom information, including forms for filing applications, may be obtained concerning Allocation of Watches and Watch Movement Quotas among Producers located in the Virgin Islands, Guam, and American Samoa (19 U.S.C. 1202, as amended by Public Law 89-805, Nov. 10, 1966).

DAVID R. BALDWIN,
Assistant Secretary
for Administration.

[F.R. Doc. 68-8952; Filed, July 26, 1968;
8:45 a.m.]

DEPARTMENT OF HEALTH, EDU-
CATION, AND WELFAREFood and Drug Administration
CHEMAGRO CORP.Notice of Filing Petition Regarding
Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 8FO734) has been filed by Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, proposing the establishment of tolerances for residues of the insecticide O,O-diethyl S-2-(ethylthio)ethyl phosphorodithioate in or on sorghum grain at 0.1 part per million and in or on sorghum forage and fodder at 5 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic technique using a potassium chloride thermionic-emission flame detector after oxidation of the insecticide and its metabolites to the corresponding sulfone and oxygen analog sulfone.

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8986; Filed, July 26, 1968;
8:47 a.m.]

ESSO RESEARCH AND ENGINEERING
CO.Notice of Filing Petition Regarding
Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 9FO736) has been filed by the Esso Research and Engineering Co., Post Office Box 536, Linden, N.J. 07036 on behalf of The Enjay Chemical Co., 60 West 49th Street, New York, N.Y. 10020, proposing the establishment of a tolerance of 1 part per million for residues of the desiccant and defoliant neo-decanoic acid (a mixture of 10-carbon trialkyl acetic acids (calculated as $C_{10}H_{19}COOH$)) in or on cottonseed.

The analytical method proposed in the petition is a thin layer chromatographic procedure that selectively removes the pesticide from naturally occurring fatty acids.

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8987; Filed, July 26, 1968;
8:48 a.m.]

GULF OIL CORP.

Notice of Filing of Petition Regarding
Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 9FO735) has been filed by the Gulf Oil Corp., Gulf Building, Pittsburgh, Pa. 15230, proposing the establishment of a tolerance of 0.1 part per million for residues of the herbicide benzamidoxyacetic acid in or on the raw agricultural commodity sugar beets.

The analytical method proposed for determining residues of the herbicide consists of extraction with isopropyl alcohol, separation on ion-exchange resin, elution of the residue from the resin with a solution of acetic acid and methanol, and removal of a natural contaminant by ether extraction. The herbicide is then hydrolyzed to benzoic acid. The benzoic acid is esterized with diazomethane producing methyl benzoate which is determined by gas-liquid chromatography. The amount of residue is calculated from the amount of methyl benzoate present.

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8988; Filed, July 26, 1968;
8:48 a.m.]

NORWICH PHARMACAL CO.

Notice of Withdrawal of Petition for
Food Additive Buquinolate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec.

409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:
In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), the Norwich Pharmaceutical Co., Post Office Box 191, Norwich, N.Y. 13815, has withdrawn its petition, notice of which was published in the FEDERAL REGISTER of March 20, 1968 (33 F.R. 4751), proposing the amendment of § 121.291 *Buquinolate* to provide for the safe use of buquinolate in broiler replacement and broiler breeding chickens for prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, and *E. maxima*.

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8989; Filed, July 26, 1968;
8:48 a.m.]

PITTSBURGH PLATE GLASS CO.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), the following notice is issued:
In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide regulations (21 CFR 120.8), the Pittsburgh Plate Glass Co., Pittsburgh, Pa. 15222, has withdrawn its petition (PP 8F0690), notice of which was published in the FEDERAL REGISTER of January 30, 1968 (33 F.R. 1214), proposing the establishment of tolerances for negligible residues of the herbicide CIPC (isopropyl N-(3-chlorophenyl) carbamate) in or on the raw agricultural commodities cottonseed, forage legumes, fruiting vegetables, grain crops, leafy vegetables, root crop vegetables, safflower seed, seed and pod vegetables, small fruits, and strawberries at 0.5 part per million.

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8990; Filed, July 26, 1968;
8:48 a.m.]

SCHERING CORP.

Notice of Filing of Petition for Food Additives Penicillin, Neomycin, Polymixin, Prednisone

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 Schering Corp., Bloomfield, N.J. 07003, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of a combination drug containing penicillin, neomycin, polymixin, and prednisone with an inert propellant mixture of

dichlorodifluoromethane dichlorotetrafluoroethane for the treatment of mastitis in dairy cattle by udder instillation.

Dated: July 19, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8991; Filed, July 26, 1968;
8:48 a.m.]

N,N-DIMETHYL-N'-(2-METHYL-4- CHLOROPHENYL) FORMAMIDINE

Notice of Establishment of Temporary Tolerance

At the request of the CIBA Agrochemical Co., Post Office Box 1105, Vero Beach, Fla. 32960, a temporary tolerance of 0.5 part per million is established for residues of the insecticide N,N-dimethyl-N'-(2-methyl-4-chlorophenyl) formamide in or on the raw agricultural commodity apples. The Commissioner of Food and Drugs has determined that this temporary tolerance is safe and will protect the public health.

A condition under which this temporary tolerance is established is that the insecticide will be used in accordance with the temporary permit issued by the U.S. Department of Agriculture. Distribution will be under the CIBA Agrochemical Co. name.

This temporary tolerance will expire July 17, 1969.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and delegated to the Commissioner (21 CFR 2.120).

Dated: July 17, 1968.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 68-8992; Filed, July 26, 1968;
8:48 a.m.]

Office of the Secretary

NATIONAL INSTITUTES OF HEALTH

Statement of Organization and Functions and Delegations of Authority

Part 4 (Public Health Service) of the Statement of Organization and Functions and Delegations of Authority for the Department of Health, Education, and Welfare (32 F.R. 9739 et seq., July 4, 1967), as amended, is hereby amended as follows:

With regard to section 4-B *Organization and functions*, in the section on National Institutes of Health (2400), delete the paragraph entitled Office of International Research (2433).

Dated: July 19, 1968.

DONALD F. SIMPSON,
Assistant Secretary
for Administration.

[F.R. Doc. 68-8993; Filed, July 26, 1968;
8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 68-87]

PORTION OF NAVIGABLE WATERS OF UNITED STATES OFF COAST OF BRUNSWICK COUNTY, N.C.

Closure to Navigation for Use as an Explosive Anchorage; Cancellation

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4 (32 F.R. 5606) and Executive Order 10173 as amended by Executive Orders 10277, 10352, and 11249, I hereby affirm for publication in the FEDERAL REGISTER the order of cancellation of the Security Zone established June 4, 1968, and published in FEDERAL REGISTER of July 2, 1968 (33 F.R. 9628), of E. C. Allen, Jr., Rear Admiral, U.S. Coast Guard, Commander, 5th Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

The Security Zone previously established by Commander, 5th Coast Guard District in the below described area is disestablished.

Point A—Latitude 33°52'31" N., Longitude 78°18'49" W.; Point B—Latitude 33°51'31" N., Longitude 78°18'42" W.; Point C—Latitude 33°51'51" N., Longitude 78°14'35" W.; Point D—Latitude 33°52'52" N., Longitude 78°14'40" W.

Dated: July 23, 1968.

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 68-9005; Filed, July 26, 1968;
8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20047; Order 68-7-119]

ALOHA AIRLINES, INC.

Order of Investigation and Suspension Regarding Military Reservation Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of July 1968.

By tariff filed June 24, 1968, for effect July 29, 1968, Aloha Airlines, Inc. (Aloha), proposes to modify its military furlough tariff to provide reservations for military personnel assigned to a specific unit in Hawaii. Aloha presently offers fares at a 50-percent discount to all military personnel on furlough on a standby basis. The carrier proposes to modify its standby tariff to provide that:

A military passenger assigned to the 29th Brigade of the U.S. Army stationed at Schofield Barracks, Oahu, whose home of record and former National Guard unit is situated on an Island in the State of Hawaii other than the Island of Oahu will be permitted to make advance reservations.

¹ Aloha Airlines, Inc., CAB No. 5.

Aloha has asserted that this revision is to permit such military personnel to travel between Oahu and their home islands on weekend passes to visit their families. The carrier has submitted no other reason for providing this special treatment.

Upon consideration of all relevant matters, the Board finds that Aloha's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential or unduly prejudicial, or otherwise unlawful, and should be investigated. Clearly, the selection of a specific military unit along with the other requirements that the carrier has utilized in order to restrict this special treatment to servicemen from Hawaii is a classic example of discrimination. While the carrier's purpose may be meritorious and in many ways understandable, this discrimination falls squarely within the proscription of section 404(b) of the Act. In addition, the fact that reservations may be obtained at a 50 percent discount raises a serious question of the reasonableness of this proposal. Under these circumstances the Board has concluded that Aloha's proposal should be investigated and has further determined to suspend the proposed rule pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the provisions of Exception 2 of Rule 42(C) on 5th Revised Page 62 of Aloha Airlines, Inc.'s tariff, CAB No. 5, and rules, regulations, and practices affecting such provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions of Exception 2 of Rule 42(C) on 5th Revised Page 62 of Aloha Airlines, Inc.'s tariff, CAB No. 5, are suspended and their use deferred to and including October 26, 1968, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

4. A copy of this order shall be filed with the tariff and served upon Aloha Airlines, Inc., which is hereby made a party to this proceeding.

This order will be published in the **FEDERAL REGISTER**.

By the Civil Aeronautics Board,

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-8999; Filed, July 26, 1968; 8:49 a.m.]

[Docket No. 19469, etc.; Order 68-7-113]

GORDON AIRWAYS, LTD., ET AL.

Order To Show Cause

Applications of Gordon Airways, Ltd., Docket No. 19469; Laurentian Air Services, Ltd., Docket No. 19468; Midwest Aviation, Ltd., Docket No. 19467; West Coast Air Services, Ltd., Docket No. 19408; for foreign air carrier permits.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of July 1968.

In December 1967, Gordon Airways, Ltd. (Gordon), Laurentian Air Services, Ltd. (Laurentian), Midwest Aviation, Ltd. (Midwest), and West Coast Air Services, Ltd. (West Coast), filed applications for renewal of their foreign air carrier permits which allow the carriers to engage in transborder nonscheduled air transportation of a casual, occasional, and infrequent nature with aircraft having a maximum gross takeoff weight of 12,500 pounds or less.

The renewal filings by virtue of 5 U.S.C. 558(c) extend the permit authority held by the carriers beyond the December 31, 1967, expiration dates of their certificates until final action by the Board on the renewal applications. No objections or answers to the applications have been filed.

The geographic scope of the authority requested by each of the carriers except Midwest is the same as that contained in their present permits. Gordon's permit issued pursuant to Order E-20473 authorizes foreign air transportation with respect to persons and property between Windsor, Province of Ontario, Canada, and all points in the United States in the States of Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New York. Laurentian's permit issued pursuant to Order E-19215 authorizes the carrier to engage in foreign air transportation with respect to persons and property between Ottawa, Ontario, Canada, and all points in the United States within the area south of latitude 48° N. to latitude 36° N. and west of longitude 67° W. to longitude 96° W. West Coast's permit issued pursuant to Order E-18845 authorizes foreign air transportation with respect to persons and property between Vancouver, British Columbia, Canada, and all points in the continental United States, except Alaska.

Midwest is the only carrier seeking additional authority. Midwest's application requests expanded authority which would allow it to engage in foreign air transportation with respect to persons and property between its licensed Canadian base at Winnipeg, Manitoba, Canada, and all points in the United States within the area south of latitude 49° N. to latitude 41° N., and west of longitude 87° W. to longitude 125° W.

¹ Midwest's foreign air carrier permit issued pursuant to Order E-18900 has authorized the carrier to engage in foreign air transportation with respect to persons and property between Winnipeg, Manitoba, Canada, and all points in the United States within the area south of latitude 49° N. to latitude 41° N., and west of longitude 87° W. to longitude 125° W.

Appended to the applications are materials describing the applicants' legal status, Canadian authority, financial posture, and operating plans. In view of these materials, the applications, and the statutory authority governing issuance of foreign air carrier permits, the Board has decided to issue an order setting forth its tentative findings and conclusions, and directing interested persons to show cause why the permit applications should not be granted.

The applications are governed by sections 402 and 801 of the Federal Aviation Act of 1958, as amended. Where, as here, the applications are not based on any bilateral executive agreement, the issue of whether grant of a permit is in the public interest becomes essentially a consideration of reciprocity and comity. Procedures creating a reasonable reciprocity in the issuance of authority for operations with small aircraft across the border between Canada and the United States were established by the Civil Aeronautics Board and the Air Transport Board of Canada through an exchange of letters in 1951-52.²

Further, examination of the applications and their appended exhibits convinces us that the applicants have been providing a very useful service carrying passengers between points which have no regularly scheduled service and providing emergency service where needed. The equipment used and the relative expensiveness of this light aircraft service prevent it from being competitive with regularly scheduled services, and nothing in the applications or their appended exhibits indicates that U.S. carriers would be harmed by grant of the applications. Based on these circumstances, we tentatively find and conclude that the applicants would provide needed services under renewed permits without adversely affecting U.S. carriers, that reciprocity and comity warrant renewal of the existing authority, and therefore that the grant of renewed permits would be in the public interest. We also tentatively find and conclude that grant of Midwest's request for expanded authority to serve the 48 contiguous States is warranted by considerations of reciprocity and public benefit and is in the public interest.

For reasons which follow we also tentatively find and conclude that each applicant is fit, willing, and able to conform to the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board thereunder, and also that each applicant is substantially owned and effectively controlled by Canadian nationals. The following facts are pertinent with respect to these tentative findings and conclusions.

Gordon is a Canadian corporation incorporated in Ontario on August 3, 1960.

² The salient features of this understanding are that qualified Canadian carriers will be issued permits for a period of 3 years or more for operations of a casual, occasional, or infrequent nature in common carriage with aircraft having a maximum gross takeoff weight of 12,500 pounds or less.

The company has the necessary license and operating certificate from the Canadian government to perform the operations contemplated under its foreign air carrier permit request. All of Gordon's officers and directors are Canadian citizens. All stockholders are also Canadian citizens except for one U.S. citizen who owns 54 common and 224 preferred shares of the total of 5,023 common and 9,052 preferred shares issued by the company. Gordon appears to be a going concern which has been operating to and from the United States under a foreign air carrier permit. Gordon possesses a license from the Air Transport Committee and an operating certificate from the Department of Transport based on its ability to operate safely. Finally, the Board takes official notice that the Air Transport Committee requires air carriers like Gordon to have specified amounts of minimum insurance coverage⁴ and that the authority requested by the applicant is quite limited in nature.

Laurentian was incorporated in Ontario in 1936, and has been authorized to conduct transborder operations by the Board since 1953. All of the company's stockholders are Canadian citizens. Laurentian has the necessary license from the Air Transport Committee to conduct the operations proposed in its application and also has an operating certificate issued by the Canadian Department of Transport certifying that the applicant is adequately equipped and able to conduct a safe operation.

Midwest is a Canadian corporation incorporated in Manitoba in 1957. All of the officers and shareholders of the corporation are Canadian citizens, and the corporation holds the necessary Canadian license and operating certificate to conduct the operations contemplated under its permit request.

West Coast was incorporated in British Columbia in 1951 under the name of Gilbert's Flying Service, Ltd., and the present firm name was adopted in 1955. The company is owned by Canadian stockholders and has the necessary license and operating certificate from Canadian authorities to conduct the operations for which it seeks authority.

Based on the foregoing, the Board tentatively finds and concludes that each of the applicants is fit, willing, and able properly to perform the transportation for which authority is requested—regardless of the working capital deficits which some of them have—and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder. The Board also tentatively finds and concludes on the basis of the foregoing that each of the applicants is substantially owned and effectively controlled by Canadian nationals; that the renewed foreign air carrier permit authority requested by each of the applicants would be in the public interest, including Midwest's request for expanded authority; and that foreign air carrier permits substantially in the forms

attached to this order⁴ should be issued with a termination date of December 31, 1972.

Accordingly, it is ordered:

1. That all interested persons be and they hereby are directed to show cause why the tentative findings and conclusions set forth herein should not be made final and why foreign air carrier permits substantially in the forms attached to this order should not be issued subject to the approval of the President pursuant to section 801 of the Act;

2. That any interested person having objection to the proposed findings and conclusions set forth herein or to issuance of the proposed foreign air carrier permits shall, within 15 days after the date of service of this order, file with the Board and serve on the affected applicant a memorandum of opposition specifying the part or parts of the tentative findings and conclusions or permits objected to and stating the specific grounds of any such objections;

3. That if timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised before further action is taken by the Board;

4. That in the event that no such objections are filed, all further procedural steps shall be deemed waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. That copies of this order shall be served upon each of the applicants and all U.S. certificated fixed-wing air carriers.

This order shall be published in the **FEDERAL REGISTER**.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-8994; Filed, July 26, 1968;
8:48 a.m.]

[Docket No. 19621, etc.; Order 68-7-112]

KENT AVIATION, LTD., ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of July 1968.

Applications of Kent Aviation, Ltd., Docket No. 19621; Lac La Croix Quetico Air Service Ltd., Docket No. 19594; Prince Edward Flying Club, Docket No. 19639; for foreign air carrier permits.

Kent Aviation, Ltd., (Kent), Lac La Croix Quetico Air Services Ltd. (Lac La Croix), and Prince Edward Flying Club (Prince Edward) have applied for renewal of their foreign air carrier permits which allow the carriers to engage in transborder nonscheduled air transportation of a casual, occasional, and infre-

⁴ Forms filed as part of the original document.

⁵ Since provision is made for the filing of objections to this order, petitions for reconsideration of this order will not be entertained.

quent nature with aircraft having a maximum gross takeoff weight of 12,500 pounds or less.¹ The geographic scope of the authority requested is the same as that contained in the carriers' prior permits.² Kent's permit issued pursuant to Order E-19024 authorized foreign air transportation with respect to persons and property between Chilliwack, British Columbia, Canada, and points in the United States in the States of Washington, Oregon, California, Idaho, Nevada, and Montana. Lac La Croix's permit issued pursuant to Order E-19958 authorized the carrier to engage in foreign air transportation with respect to persons and property between Lac La Croix, Ontario, Canada, and all points in the United States south of latitude 49° N. to latitude 44° N. and west of longitude 91° W. to longitude 94° W. Prince Edward's permit issued pursuant to Order E-19174 authorized that applicant to engage in foreign air transportation with respect to persons and property between Picton, Ontario, Canada, and all points in the United States within the area south of latitude 49° N. to latitude 38° N. and west of longitude 69° W. to longitude 90° W.

Appended to the applications are materials describing the applicants' legal status, Canadian authority, financial posture, and operating plans. In view of these materials, the applications, and the statutory authority governing issuance of foreign air carrier permits, the Board has decided to issue an order setting forth its tentative findings and conclusions, and directing interested persons to show cause why the permit applications should not be granted.

The applications are governed by sections 402 and 801 of the Federal Aviation Act of 1958, as amended. Where, as here, the applications are not based on any bilateral executive agreement, the issue of whether grant of a permit is in the public interest becomes essentially a consideration of reciprocity and comity. Procedures creating a reasonable reciprocity in the issuance of authority for operations with small aircraft across the border between Canada and the United States were established by an exchange of letters between the Civil Aeronautics Board and the Air Transport Board of Canada in 1951-52.³ Further, examination of the applications and their appended exhibits convinces us that the applicants in the very recent past have been providing a useful service carrying passengers between points which have no regularly scheduled service and providing emergency service where needed. The

¹ The carriers' authority under prior permits terminated on Dec. 31, 1967, and their applications were filed after that date.

² Lac La Croix on Feb. 28, 1968, filed a supplement to its permit application to make clear that the carrier desired the authority it previously had under the permit issued pursuant to Order E-19958.

³ The salient features of this understanding pertinent here are that qualified Canadian carriers will be issued permits for a period of 3 years or more for operations of a casual, occasional, or infrequent nature in common carriage with aircraft having a maximum gross takeoff weight of 12,500 pounds or less.

⁴ General Order 45/67, Jan. 23, 1967.

equipment used and the relative expensiveness of this type of service prevent it from being competitive with regularly scheduled services, and nothing in the applications or exhibits appended to them would indicate that U.S. carriers would be harmed by grant of the applications. Based on these circumstances, we tentatively find and conclude that the applicants would provide needed services without adversely affecting U.S. carriers, that reciprocity and comity warrant authorization of such services, and therefore that grant of each application would be in the public interest.

For reasons which follow we also tentatively find and conclude that each applicant is fit, willing, and able to conform to the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board thereunder, and also that each applicant is substantially owned and effectively controlled by Canadian nationals. The following facts are pertinent with respect to these tentative findings and conclusions.

Kent is a Canadian corporation incorporated in British Columbia, and owned by two Canadian nationals who are, respectively, the president and the secretary of the company. The applicant was awarded a foreign air carrier permit by the Board in 1962 and holds the necessary Canadian license and operating certificate authorizing it to perform the operations for which authority is presently sought.

Lac La Croix was incorporated in Ontario in 1951 and is owned and managed by Canadian nationals. The company has the necessary license and operating certificate from the Canadian government to perform the operations contemplated under its permit request. In the past the United States-Canadian operations conducted by the applicant have principally involved flights between Lac La Croix, Ontario, and Crane Lake, Minn.

Prince Edward Flying Club was incorporated on May 21, 1953, in Ontario as a corporate body without share capital. All of the officers of the flying club are Canadian nationals. The flying club derives its revenues from flying, engineering services, government grants, gas and oil sales, and membership dues. The chief transborder operations of the applicant are between its licensed Canadian base at Picton, Ontario on the one hand, and Syracuse, Rochester, and Watertown, N.Y., on the other hand.

Kent, Lac La Croix, and Prince Edward Flying Club all appear to be going concerns who have operated into and out of the United States under foreign air carrier permits. The Board officially notes that the Air Transport Committee requires air carriers licensed by it to have specified amounts of minimum insurance coverage,⁴ and has taken into account the limited nature of the operation authorized under the permit.

In the light of the foregoing the Board tentatively finds and concludes that grant of the authority respectively requested by each of the applicants would

be in the public interest and that foreign air carrier permits substantially in the forms attached to this order⁵ should be issued with a termination date of December 31, 1972. The Board also tentatively finds and concludes that each applicant is substantially owned and effectively controlled by Canadian nationals, and that each applicant is fit, willing, and able to perform the transportation for which authority is sought and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder.

Accordingly, it is ordered:

1. That all interested persons be and they hereby are directed to show cause why the tentative findings and conclusions set forth herein should not be made final and why foreign air carrier permits substantially in the forms attached to this order should not be issued subject to the approval of the President pursuant to section 801 of the Act;

2. That any interested person having objection to the proposed findings and conclusions set forth herein or the issuance of the proposed foreign air carrier permits shall, within 15 days after the date of service of this order, file with the Board and serve on each affected applicant a memorandum of opposition specifying the part or parts of the tentative findings and conclusions or permits objected to, stating the specific grounds of any such objections;

3. That if timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised before further action is taken by the Board;

4. That in the event no such objections are filed, all further procedural steps shall be deemed waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. That copies of this order shall be served upon each of the applicants and all U.S. certificated fixed-wing air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-8995; Filed, July 26, 1968;
8:48 a.m.]

[Docket Nos. 19389, 19407; Order 68-7-111]

**LAURENTIDE AVIATION, LTD., AND
SURVAIR, LTD.**

Order To Show Cause

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 23d day of July 1968.

Application of Laurentide Aviation, Ltd. Docket No. 19389; Survaair, Ltd.,

⁴ Forms filed as part of the original document.

⁵ Since provision is made for the filing of objections to this order, petitions for reconsideration of this order will not be entertained.

Docket No. 19407; for renewal of foreign air carrier permits.

In December 1967, Laurentide Aviation, Ltd. (Laurentide) and Survaair, Ltd. (Survaair) filed applications for renewal of their air carrier permits which allow them to conduct casual, occasional, and infrequent trips for the purpose of rendering nonscheduled air transportation with aircraft having a maximum gross takeoff weight of 12,500 pounds or less. By virtue of 5 U.S.C. 558(c) the renewal filings extend the permit authority of the carriers until final decision of the Board on their applications.

Laurentide's permit authorizes the air carrier to engage in foreign air transportation with respect to persons and property between Montreal and St. Laurent, Quebec, Canada, and points in the United States in the States of Maine, Vermont, New Hampshire, Connecticut, Massachusetts, Rhode Island, New York, Pennsylvania, North Carolina, Michigan, Ohio, Illinois, Virginia, and the District of Columbia.¹ Survaair's permit authorizes the carrier to engage in foreign air transportation with respect to persons and property between Ottawa, Ontario, Canada, and all points in the continental United States except Alaska.

Appended to the applications are materials describing the applicants' legal status, Canadian authority, financial posture, and operating plans. In view of these materials, the applications, and the statutory authority governing issuance of foreign air carrier permits, the Board has tentatively decided that grant of the applications would be in the public interest and that the Board should issue an order setting forth its tentative findings and conclusions with respect to the applications, and directing interested persons to show cause why the permit applications should not be granted.

No objections or answers have been filed concerning the applications. The applications are governed by sections 402 and 801 of the Federal Aviation Act of 1958, as amended.

Laurentide is a Canadian corporation with Canadian stockholders and officers incorporated in the Province of Quebec on March 24, 1949. The applicant holds licenses from the Air Transport Committee and the Department of Transport authorizing it to conduct the requested operations between Canada and the United States so far as the Canadian government is concerned. For the year ended December 31, 1966, the company earned a net profit after taxes amounting to \$23,384, and the company also earned a net profit of \$18,825 during the prior calendar year. Laurentide's balance sheet as of December 31, 1966, shows current assets of \$738,602, current liabilities of \$574,773, fixed assets of \$204,949 after accumulated depreciation, and no long-term debt. Based on these facts and the carrier's application, we tentatively find and conclude that Laurentide is fit, willing, and able to

¹ On Mar. 19, 1968, Laurentide filed a declaration verifying that the authority requested was the same as that granted in its previous permit.

⁴ General Order No. 45/67, Jan. 23, 1967.

perform the operations for which renewed authority is requested and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder.

Survair was incorporated in Canada on January 22, 1960. Its owners as well as its corporate officers are Canadian citizens. For the year ended July 31, 1967, the company earned a net profit after taxes of \$18,812. The applicant's balance sheet as of that date shows current assets of \$233,605, current liabilities of \$104,346, fixed assets of \$164,317 after accumulated depreciation, and noncurrent liabilities of \$102,732. Survair holds the necessary licenses from Canadian authorities to conduct the services proposed in its application. Based on these facts and the carrier's application, we tentatively find and conclude that Survair is fit, willing, and able to perform the operations for which authority is requested and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder.

We turn now to the question whether grant of the permits requested by Laurentide and Survair would be in the public interest. Where, as here, the applications are not based on any bilateral executive agreement, the issue of whether grant of a permit is in the public interest becomes essentially a consideration of reciprocity and comity. Procedures creating a reasonable reciprocity in the issuance of authority for operations with small aircraft across the border between Canada and the United States were established by an exchange of correspondence between the Civil Aeronautics Board and the Air Transport Board of Canada in 1951-52.² Further, examination of the applications and the exhibits appended to them convinces us that the applicants have been providing a useful service between points which have no regularly scheduled service and also providing emergency service where needed between points receiving scheduled service. The equipment used and the relative expensiveness of this type of service prevent it from competing with regularly scheduled services, and nothing in the applications or the exhibits appended to them indicates that U.S. carriers would be harmed by grant of the applications. Based on these circumstances, we tentatively find and conclude that the applicants would provide needed services without adversely affecting U.S. carriers and that reciprocity and comity warrant authorization of such services.

Based upon the foregoing, the Board tentatively finds and concludes that renewal of the foreign air carrier permits held by Laurentide and Survair would be in the public interest. The Board also tentatively finds and concludes that Laurentide and Survair are

fit, willing, and able to perform the operations for which renewed authority is requested and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder, and that Laurentide and Survair are owned and effectively controlled by Canadian nationals. The permits which the Board has tentatively determined to award will expire on December 31, 1972.

Accordingly, it is ordered:

1. That all interested persons be and they hereby are directed to show cause why the tentative findings and conclusions set forth herein should not be made final and why foreign air carrier permits substantially in the forms attached to this order³ should not be issued subject to the approval of the President pursuant to section 801 of the Act;

2. That any interested person having objection to the proposed findings and conclusions set forth herein or to issuance of the proposed foreign air carrier permits shall, within 15 days after the date of service of this order, file with the Board and serve on each affected applicant a memorandum of opposition specifying the part or parts of the tentative findings and conclusions or permits objected to and stating the specific grounds of any such objections;⁴

3. That if timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised before further action is taken by the Board;

4. That in the event no such objections are filed, all further procedural steps shall be deemed waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. That copies of this order shall be served upon each of the applicants and all U.S. certificated fixed-wing air carriers.

This order shall be published in the **FEDERAL REGISTER**.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-8996; Filed, July 26, 1968;
8:48 a.m.]

[Docket Nos. 19595, 19622; Order 68-7-114]

PENINSULA AIR SERVICE, LTD., AND WATERLOO-WELLINGTON FLYING CLUB

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of July 1968.

Applications of Peninsula Air Service, Ltd., Docket No. 19595, Waterloo-Well-

ington Flying Club, Docket No. 19622; for foreign air carrier permits.

Peninsula Air Service, Ltd. (Peninsula), and Waterloo-Wellington Flying Club (Waterloo) in February 1968, filed applications for foreign air carrier permits which would allow the carriers to engage in transborder nonscheduled air transportation of a casual, occasional, and infrequent nature with aircraft having a maximum gross takeoff weight of 12,500 pounds or less. Both Canadian carriers previously held foreign air carrier permits¹ of this type which expired according to their terms on December 31, 1967. Both carriers request that the geographic scope of the authority previously granted to each of them be expanded. Peninsula proposes to serve from its licensed Canadian base at Hamilton, Ontario, the area in the United States south of latitude 49° N. to latitude 25° N. and west of longitude 69° W. to longitude 93° W.² Waterloo proposes to serve from its licensed Canadian base at Breslau, Ontario, the area within the United States south of latitude 49° N. to latitude 35° N. and west of longitude 70° W. to longitude 95° W.³

Appended to the applications are materials describing the applicants' legal status, Canadian authority, financial posture, and operating plans. In view of these materials, the applications, and the statutory authority governing issuance of foreign air carrier permits, the Board has decided to issue an order to show cause setting forth its tentative findings and conclusions and directing interested persons to show cause why the applicants' requests should not be granted.

The applications are governed by sections 402 and 801 of the Federal Aviation Act of 1958, as amended. Where, as here, the applications are not based on a bilateral executive agreement, the issue of whether grant of a permit to conduct operations is in the public interest becomes essentially a consideration of reciprocity and comity. Procedures creating a reasonable reciprocity in the issuance of authority for operations with small aircraft across the border between Canada and the United States were established by an exchange of correspondence between the Civil Aeronautics Board and the Air Transport Board of Canada in 1951-52.⁴

Further, examination of the applications and the exhibits appended to them convinces us that the applicants under

¹ Peninsula's permit was issued pursuant to Order E-19457 and Waterloo's pursuant to Order E-21255.

² Peninsula hitherto has been authorized to serve as far south as latitude 36° N. and as far west as longitude 70° W.

³ Waterloo previously has been authorized to provide service only as far south as latitude 38° N. and as far west as longitude 84° W.

⁴ The salient features of this understanding which are pertinent here are that qualified Canadian carriers will be issued permits for a period of 3 years or more for operations of a casual, occasional, or infrequent nature in common carriage with aircraft having a maximum gross takeoff weight of 12,500 pounds or less.

² The salient features of this understanding pertinent here are that qualified Canadian carriers will be issued permits for a period of 3 years or more for operations of a casual, occasional, or infrequent nature in common carriage with aircraft having a maximum gross takeoff weight of 12,500 pounds or less.

³ Forms filed as part of the original document.

⁴ Since provision is made for the filing of objections to this order, petitions for reconsideration of this order will not be entertained.

their recently expired permits provided a useful service by carrying passengers between points which have no regularly scheduled service and by providing emergency service where needed between points served by scheduled carriers. We further believe that grant of the applicants' requests for authority of expanded geographic scope would augment the usefulness of their operations and would be in the public interest. The expanded authority requested by Peninsula would allow that carrier to utilize more effectively its Aztec Piper 23 and Navaho Piper 31 aircraft which, from the carrier's licensed Canadian base, are within easy nonstop range of various points in the United States such as Williamsburg, Va., to which the carrier could provide transportation not allowed under its old permit. Similarly, the expanded authority requested by Waterloo would enable that carrier to meet occasional demands for air transportation to such points as Minneapolis/St. Paul, Minn., Battle Creek, Mich., Chicago, Ill., and Norfolk, Va., which the carrier with less extensive permit authority has been unable to meet in the past. The equipment used by the carriers and the relative expense of their service prevent it from being competitive with regularly scheduled services, and nothing in the applications or the exhibits appended to them would indicate that U.S. carriers would be harmed by grant of the applications. Based on these circumstances, we tentatively find and conclude that grant of each application would provide needed services without adversely affecting U.S. carriers, that reciprocity and comity warrant authorization of such services, and therefore that grant of each application would be in the public interest.

For reasons which follow we also tentatively find and conclude that each applicant is fit, willing, and able to conform to the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board thereunder, and also that each applicant is substantially owned and effectively controlled by Canadian nationals. The following facts are pertinent with respect to these tentative findings and conclusions.

Peninsula is a Canadian corporation incorporated in Ontario in 1946. The owners of Peninsula as well as its officers are Canadian citizens, and the carrier possesses the necessary license and operating certificate from Canadian authorities to conduct the operations contemplated under its permit request. It appears that the carrier is a going concern which has operated to and from the United States under a foreign air carrier permit. Peninsula possesses a license from the Air Transport Committee and an operating certificate from the Department of Transport based on its ability to operate safely.

Waterloo was incorporated in Ontario in 1944 under the name of Kitchener-Waterloo Flying Club as a Canadian corporation without share capital. In 1951 the name of the corporation was changed to Waterloo-Wellington Flying Club through the issuance of supplementary letters patent by the Secretary of State of Canada. As a company without share capital, Waterloo has no stockholders. All of its officers and directors are Canadian citizens. The revenues of the flying club are derived largely from flying operations, maintenance service and supplies, and from memberships. Like Peninsula, Waterloo appears to be a going concern which has operated under a foreign air carrier permit and possesses the requisite Canadian licenses and certificates. In the case of both carriers the Board officially notes that the Air Transport Committee requires air carriers licensed by it to have specified amounts of minimum insurance coverage² and has taken into account the limited nature of the operation authorized under the permit.

Based upon the foregoing, the Board tentatively finds and concludes that the grants of the authority respectively requested by Peninsula and Waterloo would be in the public interest and that foreign air carrier permits substantially in the forms attached to this order³ should be issued with a termination date of December 31, 1972. The Board also tentatively finds and concludes that each of the applicants is fit, willing, and able properly to perform the operations to be authorized under such permits and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder, and also that each of the applicants is substantially owned and effectively controlled by Canadian nationals.

Accordingly, it is ordered:

1. That all interested persons be and they hereby are directed to show cause why the tentative findings and conclusions set forth herein should not be made final and why foreign air carrier permits substantially in the forms attached to this order should not be issued subject to the approval of the President pursuant to section 801 of the Act;
2. That any interested person having objection to the proposed findings and conclusions set forth herein or the issuance of the proposed foreign air carrier permits shall, within 15 days after the date of service of this order, file with the Board and serve on each affected applicant a memorandum in opposition specifying the part or parts of the tentative findings and conclusions or permits objected to, and stating the specific ground of any such objections;
3. That if timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised before further action is taken by the Board;
4. That in the event no such objections are filed, all further procedural steps shall be deemed waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

General Order No. 45/67, Jan. 23, 1967.

² Forms filed as part of the original document.

³ Since provision is made for the filing of objections to this order, petitions for reconsideration of this order will not be entertained.

5. That copies of this order shall be served upon each of the applicants and all U.S. certificated fixed-wing air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-8997; Filed, July 26, 1968; 8:49 a.m.]

[Docket No. 19917; Order 68-7-109]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority July 22, 1968.

By notice of intent filed on May 28, 1968, pursuant to 14 CFR Part 298, the Postmaster General petitioned the Board to establish for Sedalia, Marshall, Boonville Stage Line, Inc. (Stage Line), a final service mail rate of 29.4 cents per great circle aircraft mile for the transportation of mail by aircraft between Independence and Wichita, Kans., via Fort Scott, Kans. This final service mail rate was fixed on July 2, 1968, Order 68-7-15.

On July 5, 1968, the Postmaster General, at the request of Stage Line, filed a petition to amend the service mail rate currently in effect. While maintaining the same overall revenue per flight for the air taxi, the Postmaster General requests a correction of the mileage from 434 to 396 miles and a revision of the applicable rate from 29.4 cents to 32.22 cents per great circle aircraft mile between the above points.

The Board therefore finds it is in the public interest to adjust, determine, and fix the fair and reasonable rate of compensation to be paid to Stage Line by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the Postmaster General's petition, and other matters officially noticed, the Board proposes to issue and order¹ to include the following findings and conclusions:

1. On and after July 5, 1968, the fair and reasonable final service mail rate to be paid to Sedalia, Marshall, Boonville Stage Line, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and

¹ As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

useful therefor, and the services connected therewith, between Independence and Wichita, Kans., via Fort Scott, Kans., shall be 32.22 cents per great circle aircraft mile.

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f):

It is ordered, That:

1. All interested persons, and particularly Sedalia, Marshall, Boonville Stage Line, Inc., and the Postmaster General are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above as the fair and reasonable rate of compensation to be paid to Stage Line for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rate or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Sedalia, Marshall, Boonville Stage Line, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-8998; Filed, July 26, 1968; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15035; FCC 68-741]

MARINE RADIO VHF STATIONS

Order Terminating Notice of Inquiry

In the matter of inquiry into the necessity for restricting the use of Marine

Radio VHF stations for the transmission of navigational communications in areas other than the Great Lakes to a particular frequency, Docket No. 15035.

1. A notice of inquiry in the above-entitled matter was released April 15, 1963, and published in the FEDERAL REGISTER (28 F.R. 3793). Comments were received and considered by the Commission. Based, in part, on the information received, a notice of proposed rule making in Docket No. 17295 was released on March 20, 1967. A report and order in Docket No. 17295 was adopted by the Commission on July 17, 1968. This report and order resolved the matters in Docket No. 15035. The purpose of the notice of inquiry has been fulfilled.

2. In view of the foregoing: *It is ordered, That the proceeding is hereby terminated.*

Adopted: July 17, 1968.

Released: July 25, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-9002; Filed, July 26, 1968; 8:49 a.m.]

[Docket Nos. 18245, 18246; FCC 68M-1075]

RADIO COLLINSVILLE, INC., AND 1530 RADIO

Order Scheduling Hearing

In re applications of Radio Collinsville, Inc., Collinsville, Va., Docket No. 18245, File No. BP-17183; Michael C. Turner and Howard A. Weiss, doing business as 1530 Radio, Chapel Hill, N.C., Docket No. 18246, File No. BP-17270; for construction permits:

It is ordered, That Thomas H. Donahue shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on October 17, 1968, at 10 a.m.; and that a prehearing conference shall be held on September 5, 1968, commencing at 9 a.m.; And, it is further ordered, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: July 18, 1968.

Released: July 19, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] JAMES D. CUNNINGHAM,
Chief Hearing Examiner.

[F.R. Doc. 68-9004; Filed, July 26, 1968; 8:49 a.m.]

[Docket Nos. 18251-18257; FCC 68M-1081]

LOUIS VANDER PLATE ET AL.

Order Scheduling Hearing

In re applications of Louis Vander Plate, Franklin, N.J., Docket No. 18251, File No. BP-16837; Radio New Jersey, Hackettstown, N.J., Docket No. 18252, File No. BP-16987; Mid-State Broadcast-

¹ Commissioner Johnson concurring in the result.

ing Co., Lakewood, N.J., Docket No. 18253, File No. BP-17087; Arthur S. Steloff, Toms River, N.J., Docket No. 18254, File No. BP-17249; Seashore Broadcasting Co., Inc., Orleans, Mass., Docket No. 18255, File No. BP-17483; Lake-River Broadcasting Corp., Lakewood, N.J., Docket No. 18256, File No. BP-17485; Somerset Valley Broadcasting Co., Somerville, N.J., Docket No. 18257, File No. BP-17505; for construction permits:

It is ordered, That Millard F. French shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on October 14, 1968, at 10 a.m.; and that a prehearing conference shall be held on September 13, 1968, commencing at 9 a.m.; And, it is further ordered, That all proceedings shall take place in the offices of the Commission, Washington, D.C.

Issued: July 19, 1968.

Released: July 22, 1968.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] JAMES D. CUNNINGHAM,
Chief Hearing Examiner.

[F.R. Doc. 68-9003; Filed, July 26, 1968; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-3031 etc.]

CITIES SERVICE CO. ET AL.

Findings and Order

July 5, 1968.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, cancelling docket number, amending certificates, permitting and approving abandonment of service, terminating certificates, terminating rate proceedings, making successor co-respondent, redesignating proceeding, requiring filing of agreement and undertaking and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce, for permission and approval to abandon service, or a petition to amend an existing certificate authorization, all as more fully described in the respective applications and petitions (and any supplements or amendments thereto) which are on file with the Commission.

The Applicants herein have filed related FPC gas rate schedules and propose to initiate or abandon, add or delete natural gas service in interstate commerce as indicated by the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that the sale from the Permian Basin area of Texas is authorized to be made at the applicable area

base rate and under the conditions prescribed in Opinion Nos. 468 and 468-A.

John A. Hairford (Operator) et al., Applicant in Docket No. CI68-1284, proposes to continue the sale of natural gas heretofore authorized in Docket No. G-13689 to be made pursuant to E. S. Villines et al., FPC Gas Rate Schedule No. 2. Said rate schedule will be redesignated as that of Applicant, Docket No. CI68-1284 will be canceled, and Applicant will be required to file an agreement holder in Docket No. G-13689. The presently effective rate under the subject rate schedule is in effect subject to refund in Docket No. RI65-416. Therefore, Applicant will be made a correspondent in said proceeding; the proceeding will be redesignated accordingly; and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by him in excess of the amount determined to be just and reasonable in said proceeding.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice, no petitions to intervene, notices of intervention, or protests to the granting of any of the respective applications or petitions in this order have been received.

At a hearing held on June 27, 1968, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications, amendments and exhibits thereto, submitted in support of the respective authorizations sought herein, and upon consideration of the record;

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of said Act upon the commencement of the service under the respective authorizations granted hereinafter.

(2) The sales of natural gas hereinbefore described, as more fully described in the respective applications, amendments and/or supplements herein, will be made in interstate commerce, subject to the jurisdiction of the Commission and such sales by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) The respective Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by the respective Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefore should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Docket No. CI68-1284 should be canceled and that the application filed therein should be processed as a petition to amend the certificate heretofore issued in Docket No. G-13689.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate authorizations heretofore issued by the Commission in Docket Nos. G-3031, G-13689, CI61-447, CI66-158, CI66-685, CI67-1675, and CI68-894 should be amended as hereinafter ordered and conditioned.

(7) The sales of natural gas proposed to be abandoned by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act, and such abandonments should be permitted and approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to the respective Applicants relating to the abandonments herein-after permitted and approved should be terminated.

(9) The revenues received for sales at the increased rate under Union Oil Company of California (Operator) et al., FPC Gas Rate Schedule No. 141 which were collected subject to refund in Docket No. RI66-317 are de minimis; and, therefore, the proceeding in Docket No. RI66-317 should be terminated with respect to said rate schedule, and Union should be relieved from any refund obligation with respect to such sales.

(10) No sales have been made under Union Oil Company of California (Operator) et al., FPC Gas Rate Schedule No. 141 subject to refund in Docket No. RI68-294; and, therefore, the proceeding in Docket No. RI68-294 should be terminated with respect to said rate schedule.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that John A. Hairford (Operator) et al., should be made a correspondent in the proceeding pending in Docket No. RI65-416, that said proceeding should be redesignated accordingly, and that Hairford should be required to file an agreement and undertaking in said proceeding.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective related rate schedules and supplements as designated in the tabulation herein

should be accepted for filing as herein-after ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order, authorizing the sales by the respective Applicants herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary for such sales, all as hereinbefore described and as more fully described in the respective applications, amendments, supplements, and exhibits in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on all applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d) (3) of the Commission's statement of general policy No. 61-1, as amended, shall be filed prior to the applicable date as indicated by footnote 1 in the attached tabulation.

(E) The initial rate for the sale authorized in Docket No. CI68-1240 shall be the applicable base area rate prescribed in Opinion No. 468, as modified by Opinion No. 468-A, as adjusted for quality, or the contract rate, whichever is lower.

(F) If the quality of the gas delivered by Applicant in Docket No. CI68-1240 deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468-A, so as

to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to the provisions of section 4 of the Natural Gas Act: *Provided, however*, That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of a notice of change in rate.

(G) Within 90 days from the date of initial delivery Applicant in Docket No. CI68-1240 shall file a rate schedule quality statement in the form prescribed in Opinion No. 468-A.

(H) The certificate issued herein in Docket No. CI68-1240 is conditioned upon any determination which may be made in the proceeding pending in Docket No. R-338 with respect to the transportation of liquefiable hydrocarbons.

(I) In the event that Applicant in Docket No. CI68-1240 exercises its option to process gas under section 3, Article II, of its FPC Gas Rate Schedule No. 394, herein accepted for filing, Applicant shall submit to the Commission for acceptance, not less than 30 nor more than 90 days prior to the commencement of such processing, a rate schedule supplement setting forth the conditions and details of the contemplated action.

(J) Docket No. CI68-1284 is canceled.

(K) The certificates heretofore issued in Docket Nos. G-3031 and CI66-685 are amended by adding thereto authorization to sell natural gas to the same purchasers and in the same areas as covered by the original authorizations pursuant to the rate schedule supplements as indicated in the tabulation herein.

(L) The certificates heretofore issued in Docket Nos. CI66-158 and CI67-1675 are amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicants in Docket Nos. CI66-685 and CI68-1272, respectively.

(M) The certificate heretofore issued in Docket No. CI68-894 is amended to include the interest of the coowner and the related rate schedule is redesignated as Union Oil Company of California (Operator) et al., as indicated in the tabulation herein.

(N) The certificates heretofore issued in Docket Nos. G-13689 and CI61-447 are amended by substituting the respective successors in interest as certificate holders as indicated in the tabulation herein.

(O) Permission for and approval of the abandonment of service by the respective Applicants, as hereinbefore described, all as more fully described in the respective applications and in the tabulation herein are granted.

(P) The certificate heretofore issued in Docket No. G-5903 is terminated only insofar as it pertains to Continental Oil Co. FPC Gas Rate Schedule No. 317.

(Q) The certificate heretofore issued in Docket No. CI62-232 is terminated only insofar as it pertains to Union Oil Company of California (Operator) et al., FPC Gas Rate Schedule No. 141.

(R) The certificate in Docket No. CI65-1211 is terminated.

(S) The rate suspension proceedings pending in Docket Nos. RI66-317 and

RI68-294 are terminated with respect to Union Oil Company of California (Operator) et al., FPC Gas Rate Schedule No. 141, and Union is relieved from any refund obligation with respect to said rate schedule in Docket No. RI66-317.

(T) John A. Hairford (Operator) et al., is made a co-respondent in the proceeding pending in Docket No. RI65-416, and said proceeding is redesignated accordingly.¹

(U) Within 30 days from the issuance of this order, John A. Hairford (Operator) et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI65-416 to assure the refund of any amounts collected by him, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding. Unless notified to the con-

trary within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(V) John A. Hairford (Operator) et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking filed by him in Docket No. RI65-416 shall remain in full force and effect until discharged by the Commission.

(W) The respective related rate schedules and supplements as indicated in the tabulation herein are accepted for filing; further, the rate schedules relating to the successions herein are redesignated and accepted, subject to the applicable Commission regulations under the Natural Gas Act to be effective on the dates as indicated in the tabulation herein.

By the Commission.

¹ E. S. Villines et al., and John A. Hairford (Operator) et al.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted	
			Description and date of document	No. Supp.
G-3031 C 5-6-68 ¹	Cities Service Co. (Operator) et al.	Arkansas Louisiana Gas Co., Washon Field, Harrison County, Tex.	Amendatory agreement 4-11-68 ²	18 14
CI61-447 E 5-6-68	A. A. Pursley (successor to Hays and Co., agent for D. W. Law).	Consolidated Gas Supply Corp., Freemans Creek District, Lewis County, W. Va.	Hays and Co., agent for D. W. Law, FPC GRS No. 97. Notice of succession 4-20-68.	7
			Assignment 7-27-62 ⁴	7 1
			Assignment 7-27-62 ⁵	7 2
			Assignment 5-6-63 ⁶	7 3
			Assignment 1-8-68 ⁷	7 4
			Assignment 1-9-68 ⁸	7 5
			Assignment 1-29-68 ⁹	7 6
			Effective date: 1-29-68.	
CI66-158 D 12-18-67	Mobil Oil Corp.	Montana-Dakota Utilities Co., Indian Butte Field, Fremont County, Wyo.	Assignment 8-22-67 ¹⁰ Effective date: 8-22-67.	378 4
F CI66-685 (CI66-158) C 3-8-68	Pan American Petroleum Corp.	do	Assignment 10-10-67 ¹¹ Effective date: 10-30-67.	429 1
CI67-1675 D 5-13-68	A. M. van Flick	Equitable Gas Co., Court House District, Lewis County, W. Va.	Letter agreement 4-30-68, ^{12 13}	8 1
CI68-894 5-6-68 ¹⁴	Union Oil Co. of California (Operator) et al.	Panhandle Eastern Pipe Line Co., Putnam Field, Dewey County, Okla.	Ratified 4-4-68 ^{15 16}	181 2
CI68-1240 A 4-24-68 ¹⁶	Sinclair Oil & Gas Co.	Northern Natural Gas Co., Northeast Oates Devonian Field, Pecos County, Tex.	Contract 2-22-68 ¹⁷	394
CI68-1267 A 4-29-68 ¹	Samedan Oil Corp.	Arkansas Louisiana Gas Co., Pine Hollow-Arpele Fields, Pittsburg County, Okla.	Ratified 3-22-68. Contract 5-24-62 ¹⁷ Letter agreement 3-5-63, ¹⁸ Amendment agreement 3-22-63, ¹⁹ Amendment agreement 10-31-67, ^{20 21}	27 1 27 2 27 3 27 4
CI68-1268 A 5-1-68 ¹	Blak Oil Co.	Western Gas Interstate Co., Mocano Field, Beaver County, Okla.	Contract 4-16-68.	3
CI68-1269 A 5-2-68 ¹	Pan American Petroleum Corp.	Cities Service Gas Co., Northeast Waynoka Field, Woodward County, Okla.	Contract 4-5-68 ²	510
CI68-1272 (CI67-1675) F 5-6-68	MacDonald Spidel	Equitable Gas Co., Court House District, Lewis County, W. Va.	Contract 4-18-68 ²²	3
CI68-1273 (CI62-232) ²³ B 5-6-68	Union Oil Co. of California (Operator).	Lone Star Gas Co., Doyle Field, Stephens County, Okla.	Notice of cancellation 5-3-68, ^{24 25}	141 7
CI68-1275 A 5-7-68 ¹	Latham Oil Co., Inc. (Operator).	United Gas Pipe Line Co., Bethany North-east Field, Panola County, Tex.	Contract 4-17-68.	1

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

See footnotes at end of table.

NOTICES

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI68-1277 (G-5903) ²⁴ B 5-8-68	Continental Oil Co.	Transcontinental Gas Pipe Line Corp., St. Charles Field, Arkansas County, Tex.	Notice of cancellation 5-7-68, ²⁵ ²⁶	317	2
CI68-1281 A 5-9-68 ¹	Meridian Exploration Co.	Valley Gas Transmission, Inc., East Terrell Point Field Area, Goliad County, Tex.	Contract 5-8-68 Amendment 5-29-68, ²⁷ ²⁸	1 1	 1
CI68-1282 (CI65-1211) B 5-9-68	Geochemical Surveys et al.	Arkansas Louisiana Gas Co., Bistineau Field, Bienville Parish, La.	Notice of cancellation 5-7-68, ²⁹ ³⁰	1	1
CI68-1284 (G-13689) E 5-9-68 ³¹	John A. Hairford (Operator) et al. (successor to E. S. Villines et al.).	Panhandle Eastern Pipe Line Co., Hugoton Field, Seward County, Kans.	E. S. Villines et al., FPC GRS No. 2, Supplement No. 1, Notice of succession 5-7-68, Sheriff's Deed 12-19-67, ³² Assignment 3-25-68 ³³ Effective date: 3-25-68, Assignment 4-8-68 ³⁴ Effective date: 4-8-68	4 4 4 4	 1 2 3 4

¹ Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.

² Adds acreage and deletes favored nation provision from contract.

³ Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).

⁴ From D. W. Law to Delbert Goff.

⁵ Transfers one-half of working interest from Goff to Harold T. Konkler.

⁶ Transfers one-quarter of working interest from Goff to Harry Shaw, et al.

⁷ From Konkler to Pursley.

⁸ From Shaw to Pursley.

⁹ Transfers the remaining one-quarter working interest from Law to Pursley.

¹⁰ Partial interest to Pan American Petroleum Corp. who has filed in Docket No. CI66-685 to cover the acquired interest.

¹¹ Partial assignment of acreage from Mobil Oil Corp., FPC GRS No. 378, Docket No. CI66-158, to Pan American Petroleum Corp.

¹² Deletes leases acquired by MacDonald Spidel (Docket No. CI68-1272) from van Flick's contract. Spidel executed a new contract with Equitable to cover the acquired leases. Leases unproductive at time of acquisition by Spidel.

¹³ Effective date: Date of this order.

¹⁴ Amendment to the certificate filed to cover interest of coowner, and to redesignate the rate schedule to read "Operator et al."

¹⁵ The Superior Oil Co. ratifies Union's Dec. 7, 1967, contract with Panhandle Eastern.

¹⁶ Applicant has stated willingness to accept a permanent certificate containing conditions similar to those imposed by Opinion No. 468.

¹⁷ Between Humble Oil & Refining Co. and Arkansas Louisiana Gas Co.

¹⁸ Notification of intent to compress all gas from the Milton, Cartersville, Spiro, and North Spiro Fields according to contractual charges.

¹⁹ Changes point of delivery and contract prices, among other things to meet requirements for certification.

²⁰ Provides for 5-year makeup of gas paid for but not taken.

²¹ Covers acreage acquired from A. M. van Flick subject to contract on file as A. M. van Flick FPC GRS No. 8.

²² Other sales covered under Docket No. CI62-232; therefore, the certificate in said docket will be terminated only insofar as it pertains to Union's FPC GRS No. 141.

²³ Abandonment due to insufficient pressure.

²⁴ 12-cent rate effective subject to refund in Docket No. RI66-317; 13 cents suspended in Docket No. RI68-294 until June 1, 1968.

²⁵ Other sales covered under Docket No. G-5903; therefore, the certificate in said docket will be terminated only insofar as it pertains to Continental's FPC GRS No. 317.

²⁶ Production of gas no longer economically feasible.

²⁷ Provides for a 5-year makeup period.

²⁸ Source of gas depleted.

²⁹ Application erroneously assigned Docket No. CI68-1284 being treated as a petition to amend the certificate issued in Docket No. G-13689 and Docket No. CI68-1284 is being canceled.

³⁰ Transfers the five-sixteenths interest of E. S. Villines to Catharine Van Doren.

³¹ Assigns the eleven-sixteenths interest of Catharine Van Doren and Ruth C. Rice to John A. Hairford.

³² Assigns the two-sixteenths interest of Nancy Jane Davison to John A. Hairford.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent -----)

Docket No. -----

AGREEMENT AND UNDERTAKING OF (NAME OF
RESPONDENT) TO COMPLY WITH REFUNDING
AND REPORTING PROVISIONS OF SECTION 154.-
102 OF THE COMMISSION'S REGULATIONS UN-
DER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and
undertakes to comply with the refunding
and reporting provisions of section 154.102 of

the Commission's regulations under the Nat-
ural Gas Act insofar as they are applicable
to the proceeding in Docket No. -----, and
has caused this agreement and undertaking
to be executed and sealed in its name by
a duly authorized officer this ----- day of
-----, 196--.

(Name of Respondent)

By -----

Attest:

[F.R. Doc. 68-8924; Filed, July 26, 1968;
8:45 a.m.]

[Docket No. RI69-3 etc.]

TESORO PETROLEUM CORP. ET AL.

Order Accepting Contract Amendment, Providing for Hearings on and Suspension of Proposed Changes in Rates¹

JULY 18, 1968.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

¹ Does not consolidate for hearing or dispose of the several matters herein.

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 subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI69-3....	Tesoro Petroleum Corp. (Operator) et al., 533 Busby Dr., San Antonio, Tex. 78209.	2	3	Cities Service Gas Co. (East Antelope Mississippi Gas Field, Marion County, Kans.).	\$185	6-19-68	7-20-68	12-20-68	\$ 15.0	\$ 16.0	
RI69-4....	CRA, Inc., Post Office Box 7305, Kansas City, Mo. 64116.	20	2	Natural Gas Pipeline Co. of America (No. 1 McFarland Well, Beaver County, Okla.) (Panhandle Area).	2,640	6-19-68	7-20-68	12-20-68	\$ 17.0	\$ 18.0	
RI69-5....	Samedan Oil Corp., Post Office Box 909, Ardmore, Okla. 73401.	12	3	Long Star Gas Co. (Stage Stand Field, Stephens County, Okla.) (Oklahoma "Other" Area).	6,000	6-19-68	7-20-68	12-20-68	\$ 16.015	\$ 17.015	RI68-173.
RI69-6....	Samedan Oil Corp. (Operator) et al.	22	4	Lone Star Gas Co. (Scholem Alechem Field, Carter County, Okla.) (Oklahoma "Other" Area).	120	6-19-68	7-20-68	12-20-68	\$ 16.01	\$ 17.01	RI68-175.
RI69-7....	Pioneer Production Corp., Post Office Box 2542, Amarillo, Tex. 79105.	1	2	Natural Gas Pipeline Co. of America (Quinduno Field, Roberts County, Tex.) (RR. District No. 10).	700	6-20-68	7-21-68	12-21-68	\$ 13.0	\$ 14.0	RI62-330.
RI69-8....	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001, Attn: H. H. Beeson.	296	4	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Seeligson Field, Jim Wells County, Tex.) (RR. District No. 4).	168	6-18-68	7-19-68	12-19-68	\$ 14.6	\$ 15.6	
RI69-9....	George Mitchell & Associates, Inc., agent for H. Merlyn Christie et al., Houston Club Bldg., 12th Floor, Houston, Tex. 77002.	21	10 4	United Gas Pipe Line Co. (North LaWard Field, Jackson County, Tex.) (RR. District No. 2).	13,278	6-20-68	7-21-68	(Accepted) 12-21-68	\$ 15.1920	\$ 18.28	RI63-398.

² The stated effective date is the effective date requested by Respondents.

³ Periodic rate increase.

⁴ Pressure base is 14.65 p.s.i.a.

⁵ Subject to a downward B.t.u. adjustment.

⁶ The stated effective date is the first day after expiration of the statutory notice.

⁷ Includes 0.015-cent tax reimbursement.

⁸ Includes 0.01-cent tax reimbursement.

⁹ Settlement rate as approved by Commission order issued May 5, 1964, in Docket Nos. G-12193 et al.

¹⁰ Contract Amendment dated Mar. 31, 1968, provides for 18.28 cents redetermined rate for the 5-year period commencing Mar. 31, 1968, and amends certain tax reimbursement provisions.

¹¹ Redetermined rate increase.

CRA, Inc., requests that its proposed rate increase be permitted to become effective as of June 7, 1968; Samedan Oil Corp. and Samedan Oil Corp. (Operator) et al., request an effective date of July 1, 1968, for their proposed rate increases; Mobil Oil Corp. requests an effective date of July 17, 1968, and George Mitchell & Associates, Inc., agent for H. Merlyn Christie et al. (Mitchell) requests a retroactive effective date of March 31, 1968, for its proposed contract amendment and rate increase filing. 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 earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

Concurrently with the filing of its rate increase, Mitchell submitted a contract amendment dated March 31, 1968, designated as Supplement No. 4 to Mitchell's FPC Gas Rate Schedule No. 21, which provides the basis for its proposed rate increase. We believe that it would be in the public interest to accept for filing Mitchell's proposed contract amendment to become effective on July 21, 1968, the date of expiration of the statutory notice, but not the proposed rate contained therein which is suspended as hereinafter ordered.

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 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause has been shown for accepting for filing Mitchell's contract amendment dated March 31, 1968, designated as Supplement No. 4 to Mitchell's FPC Gas Rate Schedule No. 21, and for permitting such supplement to become effective on July 21, 1968, the expiration date of the statutory notice.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered (except for the supplement referred to in paragraph (1) above).

The Commission orders:

(A) Supplement No. 4 to Mitchell's FPC Gas Rate Schedule No. 21 is ac-

cepted for filing and permitted to become effective on July 21, 1968, the expiration date of the statutory notice.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements (except for the supplement set forth in paragraph (A) above).

(C) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) 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 September 4, 1968.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-8923; Filed, July 26, 1968;
8:45 a.m.]

[Docket No. RI67-169]

SHELL OIL CO. ET AL.

Order Reinstating Respondent, Redesignating Proceeding, and Requiring Filing of Agreement and Undertaking

JULY 23, 1968.

On March 25, 1968, Consolidated Oil & Gas, Inc. (Operator), et al., filed in Docket No. CI62-1037 a petition to amend the order issuing a certificate of public convenience and necessity in said docket to Shell Oil Co. (Operator) et al., by substituting Consolidated in lieu of Shell as certificate holder. The then effective rate under Shell's rate schedule was in effect subject to refund, and Consolidated indicated in the certificate application that it would be responsible for the total refund from the time that the increased rate was made effective subject to refund. Accordingly, by order issued June 25, 1968, in Docket No. G-2683 et al., Consolidated was substituted in lieu of Shell as certificate holder in Docket No. CI 62-1037 and as respondent in Docket No. RI67-169 and was ordered to file an agreement and undertaking to assure the total refund from the time that the increased rate was made effective subject to refund.

By letter of June 27, 1968, Consolidated advised the Commission that it does not intend to assume the entire refund obligation in Docket No. RI67-169 but only intends to assume the obligation from the time that it acquired the producing properties. Therefore, Shell will be reinstated as a respondent; the proceeding will be redesignated accordingly; and Consolidated will be required to file an agreement and undertaking to assure the refund of only those amounts collected by it in excess of the amount determined to be just and reasonable in Docket No. RI67-169.

The Commission orders:

(A) Shell Oil Co. (Operator) et al., is reinstated as a party respondent in the proceeding pending in Docket No. RI67-169, and the proceeding is redesignated accordingly.¹

(B) In lieu of the agreement and undertaking required by the order issued June 25, 1968, in Docket No. G-2683 et al., Consolidated shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and under-

taking in Docket No. RI67-169 to assure the refund of any amounts collected by it, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding. Unless notified to the contrary within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent -----)

Docket No. -----

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. -----, and has caused this agreement and undertaking to be executed and sealed in its name by a duly authorized officer this ----- day of -----, 196--.

(Name of Respondent)

By -----

Attest:

[F.R. Doc. 68-8955; Filed, July 26, 1968;
8:45 a.m.]

FEDERAL RESERVE SYSTEM

FIRST VIRGINIA BANKSHARES 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 First Virginia Bankshares Corp., which is a bank holding company located in Arlington, Va., for the prior approval of the Board of the acquisition by Applicant of 51 percent or more of the voting shares of the The Planters Bank of Bridgewater, Bridgewater, Va.

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 anti-competitive effects of the proposed transaction are clearly outweighed in the pub-

lic 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 Richmond.

Dated at Washington, D.C., this 22d day of July 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-8956; Filed, July 26, 1968;
8:45 a.m.]

MERRILL BANKSHARES CO.

Notice of Application for Approval of Acquisition of Shares of Banks

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (1)), by Merrill Bankshares Co., Bangor, Maine, for prior approval of the Board of action whereby Applicant would become a bank holding company through the acquisition of up to 100 percent of the voting shares of each of the following banks: The Merrill Trust Co., Bangor, Maine, and Washburn Trust Co., Washburn, Maine.

Section 3(c) of the Act, as amended, 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 anti-competitive 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.

¹ Shell Oil Co. (Operator) et al., and Consolidated Oil & Gas, Inc. (Operator) et al.

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 Boston.

Dated at Washington, D.C., this 22d day of July 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-8957; Filed, July 26, 1968;
8:45 a.m.]

TARIFF COMMISSION

[332-56]

NONRUBBER FOOTWEAR INDUSTRIES Notice of Second Change of Date of Hearing

In response to a request dated April 29, 1968, by the President of the United States, the U.S. Tariff Commission instituted on April 30, 1968, an investigation of the economic condition of the domestic producers of nonrubber footwear. Notice of the investigation was published in the **FEDERAL REGISTER** of May 4, 1968 (33 F.R. 6843-4). On May 9, 1968, the Commission issued a notice which was published in the **FEDERAL REGISTER** of May 14, 1968 (33 F.R. 7136) that it would hold a hearing in connection with the investigation on September 16, 1968. This date was subsequently changed to September 9, 1968, and notice thereof was published in the **FEDERAL REGISTER** of June 15, 1968 (33 F.R. 8793). Due to the expected unavailability of industry witnesses on September 9 and at subsequent intervening dates, representatives of the American footwear manufacturing industry have requested, and the Commission has agreed, that the date of the hearing be advanced to October 28, 1968. Accordingly, the full text of the President's request and a revised notice of the hearing are set forth below:

DEAR MR. CHAIRMAN: Pursuant to the authority vested in me by section 332 of the Tariff Act of 1930, I hereby request a comprehensive investigation of the economic condition of the domestic producers of nonrubber footwear, and a report to me on the results of this investigation at the earliest opportunity.

The Commission is requested to report on all factors which, in its judgment, relate to the economic condition of such producers, including, but not limited to, production, sales, investment, employment, prices, profits, exports, imports, U.S. tariff treatment, the participation of such producers in international trade, and, in particular, the effect of imports upon such producers, including the

competitive relationship between imports and their products.

Sincerely,

(Signed) LYNDON B. JOHNSON.

Notice is hereby given that a hearing will be held in connection with the investigation in the Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., on October 28, 1968. Interested parties desiring to appear and to be heard should notify the Secretary of the Commission, in writing, on or before October 15, 1968. It is suggested that parties who have a common interest endeavor wherever possible to arrange for a consolidated presentation of their views.

Requests to appear must contain the following information:

a. The types of footwear on which testimony will be presented.

b. The name and organization of the witness or witnesses who will testify, and the name, address, telephone number, and organization of the person filing the request.

c. A statement indicating whether the testimony to be presented will be on behalf of importer or domestic producer interests.

d. A careful estimate of the aggregate time desired for presentation of oral testimony by all witnesses for whose appearances the request is filed.

Because of the limited time available, the Commission reserves the right to limit the time assigned to witnesses. In this connection, experience in similar previous hearings has indicated that in most cases the essential information can be effectively summarized in an oral presentation of 15 to 30 minutes. Parties desiring an allowance of time in excess of this amount should set forth any special circumstances in support of such request. Witnesses may supplement their oral testimony with written statements of any desired length. These should be submitted in 20 copies when the oral testimony is presented.

Persons who have properly filed requests to appear will be individually notified of the date on which they will be scheduled to present oral testimony and of the time allotted for presentation of such testimony.

Questioning of witnesses will be limited to members of the Commission.

Written information and views in lieu of appearance at the public hearings may be submitted by interested persons. A signed original and 19 true copies of such statements shall be submitted.

Business data which is deemed confidential shall be submitted on separate sheets, each clearly marked at the top "Business Confidential." All written statements, except for confidential business data, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements in lieu of appearance should be submitted at the earliest practicable date, but not later than November 4, 1968.

All communications regarding the Commission's investigation should be addressed to the Secretary, U.S. Tariff Commission, Washington, D.C. 20436.

Issued: July 23, 1968.

By order of the Commission.

[SEAL]

DONN N. BENT,
Secretary.

[F.R. Doc. 68-8967; Filed, July 26, 1968;
8:46 a.m.]

[AA1921-51]

TITANIUM SPONGE FROM THE U.S.S.R.

Determination of Injury

JULY 23, 1968.

On April 23, 1968, the Tariff Commission received advice from the Treasury Department that titanium sponge from the U.S.S.R. is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Anti-dumping Act, 1921, as amended. Accordingly, on April 24, 1968, the Commission instituted Investigation No. AA1921-51 under section 201(a) of that Act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the **FEDERAL REGISTER** of April 27, 1968 (33 F.R. 6495). The hearing was held on June 4 and 5, 1968.

In arriving at a determination in this case, due consideration was given by the Commission to all written submissions from interested parties, all testimony adduced at the hearing, and all information obtained by the Commission's staff.

On the basis of the investigation, the Commission has determined that an industry in the United States is being injured by reason of the importation of titanium sponge from the U.S.S.R., sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.¹

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF VICE CHAIRMAN SUTTON AND COMMISSIONER CLUBB

Titanium is a metal having a high strength-to-weight ratio, particularly at temperatures ranging above 1,000° F. Its production was begun and stimulated as a result of military requirements during

¹ Vice Chairman Sutton and Commissioner Clubb determined there was injury and Chairman Metzger and Commissioner Thunberg determined there was no injury. Pursuant to section 201(a) of the Antidumping Act, the Commission is deemed to have made an affirmative determination when the Commissioners voting are equally divided. Statements of Chairman Metzger and Commissioner Thunberg are filed as part of the original document.

the Korean war. Over 80 percent of all titanium metal is used in jet engines and airframes for aircraft. The remainder is used principally in missiles, space equipment, and chemical processing equipment where its corrosion-resistant characteristics are essential. World production has caught up with demand for the moment and projections of sales of the metal in the next 6 years all indicate that the use of titanium will more than double.

At present all commercial production of titanium metal in the United States is dependent upon the use of titanium ore (usually the mineral rutile) from South Africa and Australia. The ore is chemically reduced to a highly porous, brittle mass known as titanium sponge. To create a usable metal the sponge must be compressed and is usually double-melted in an electric furnace. A small amount of clean scrap, and alloying elements as desired, are mixed with the compressed sponge before the melting process. The resulting ingot may be used in the process of making castings but for the most part at present is worked by various mill processes into wrought forms such as billet, plate, sheet, strip, rod, bar, wire, pipe, and tubes. Subsequent processing of the various products is required to complete them for their ultimate uses.

U.S. production and consumption of ingots and mill products have risen steadily since January 1, 1958, and were over five times as large in 1967 as in 1958, having reached an annual production of 52 million pounds of ingot and 27 million pounds of mill products (made from ingots). In the same period U.S. production of sponge more than tripled, starting with a production of 9 million pounds in 1958.² The domestic needs for additional supplies of sponge had to be supplied by imports which ranged from 843,000 pounds in 1959 to 13.8 million pounds in 1967. Imports of sponge are still necessary to meet our total domestic demands for titanium metal. Imports from the U.S.S.R. began in 1965. In the period 1965-66, such imports equaled 2 percent of all imports of sponge. In 1967 they equaled 19 percent of all such imports and attempts were made to sell 10 million pounds on an annual basis which would equal 68 percent of all imports of sponge in 1967 or nearly one-fourth of the amount of sponge consumed in the United States in 1967.

The commercial production of titanium metal in its various forms, ranging from the crude titanium sponge to finished mill products, whether in captive facilities or by independent producers, is now in its early formative stages of development and is a highly speculative under-

taking having a fast growth potential. In the industrial complex of integrated and independent producers of titanium and its products, the sponge-producing level of production is not only the most speculative but also the one which experiences the principal impact of imports of sponge. Such sponge-producing facilities generally constitute an industry in the United States within the meaning of the Antidumping Act. Several domestic firms have undertaken or are undertaking, the production of titanium products from titanium sponge or ingot³ but few desire to risk investment in plant facilities to make the sponge. Out of seven companies known to have produced sizable quantities of sponge, four which entered the field with Government assistance and incentives have closed down their operations, one has entered the sponge production field on a small scale, but not to the extent necessary to meet its own captive needs, preferring to use substantial quantities of imports, including U.S.S.R. sponge, to supplement its supply, and two have entered the field of production on a large scale with the end view of being able to sell the metal in its various forms, including sponge. Although these latter two companies have experienced rapid growth in production in recent years, their profit experience has been erratic with periods of losses as well as profits. For practical purposes, the sponge-producing facilities of these two producers may be characterized as the sponge industry in the United States.

Foreign titanium sponge is available from the U.S.S.R., the United Kingdom, and Japan. The erratic demand for titanium components for aerospace vehicles in the last decade has been the dominant factor affecting the ability of the domestic titanium sponge industry to meet the consumption needs of the United States. In order to maintain a balance between supply and demand, it has been necessary for the domestic sponge producers to import sponge to meet their needs for the basic metal in the production of mill products. Indeed, for the most part, they were unable to supply sponge to nonintegrated producers of titanium mill products except on a limited basis. However, the two major domestic sponge producers were alert to the sponge supply problem, they planned incremental increases in their production capacities to the extent that it seemed economically sound, and now have sponge capacity in excess of their captive needs for sponge. It is clear from the record that the industry wants to sell sponge, is able to sell sponge, and plans to produce and sell sponge to all mill operators under conditions which are price competitive with imports of titanium sponge purchased at fair value.

The importer of the U.S.S.R. sponge claims that his sponge is superior in quality to domestic sponge for the reasons that it is purer, it may be processed by less expensive equipment, and has a

lesser tendency to foul the processing equipment. The domestic buyers of the U.S.S.R. sponge affirm these claims. Thus, it would appear that the importer of U.S.S.R. sponge should be able to demand premium prices. However, the importer does not price his sponge according to its claimed virtues. The two major domestic producers of sponge are offering their usual grade sponge at \$1.32 per pound. Nominal amounts of scientific grades are being sold for much higher prices. However, the usual grade may be sold or offered at prices somewhat lower than \$1.32 depending upon the quantity and the duration of the contract which factors would justify cost-saving reductions in price. Imports of United Kingdom and Japanese sponge have been sold under a similar competitive pricing system. However, the U.S.S.R. sponge, although allegedly of a better quality than the domestic sponge by reason of the different methods employed in its production, is sold or offered for sale at prices ranging up to 37 cents less than the prices obtained by all other sellers of sponge. The price differential for the greatest volume of sales is well above the mid-point of the 37-cent differential. Confidentiality laws preclude a detailed disclosure of the price competition but it is clear that the margin of dumping⁴ found by the Secretary of the Treasury is substantial and contributes the major part of the price differentials existing between U.S.S.R. sponge and all other sponge sold in the United States.

Domestic production of sponge has increased every calendar year since 1959, as has domestic consumption of sponge. However, at present the domestic sponge industry has idle capacity and is deferring further expansion of its capacity at a time when there is almost unanimity of opinion in the trade that future demands for titanium will more than double in the next 6 years. Negotiations for sales of titanium sponge to domestic processors are at a standstill pending the outcome of the Commission's determination in this case as the price differentials are critical. One industry representative says that if U.S.S.R. sponge continues to sell as low as 95 cents per pound the industry will find it necessary to buy such sponge rather than to pursue a further increase in its production capacity. Approximately 200 employees used directly in the production of sponge are idle. In addition to dumping, it is recognized that there are a number of factors causing the unemployment and cut-down in production in recent months. However, by reason of the dumped imports the domestic sponge industry is being adversely affected or injured to a substantial degree.

In summary, the presence of the less-than-fair-value (LTFV) U.S.S.R. sponge in the domestic market is having a significant depressing effect on sponge prices, and is to a substantial degree causing the idling of, and the loss of

² The U.S.-produced sponge ranged from 990,000 pounds in 1951 to 34.5 million pounds in 1957. The production was made principally by Government subsidized plants for stockpiling and military use. The Government paid as high as \$2.52 per pound for the sponge and the subsidized plants were shut down for economic reasons after the stockpile needs were met. Production in 1967 is confidential.

³ There are six firms which process substantial amounts of sponge and at least 12 firms which make mill products from purchased ingot or billet.

⁴ The "margin of dumping" is the difference between the importer's actual purchase price and fair value. The amount is confidential.

employment in, sponge-producing facilities, and the abandonment of plans to increase sponge capacity. We conclude, therefore, that the titanium sponge-producing industry in the United States is being injured within the meaning of the Antidumping Act.

The facts available to the Commission show that the impact of the LTFV imports also is experienced derivatively, but in lesser degree, by certain of the mill-product industries. In some instances, for example, it appears that the lower prices of domestic mill products made with the use of LTFV imports have caused the prices of like domestic products made without the use of such LTFV imports to be depressed or the sales of such latter products to be lost. However, in view of our determination that the sponge-producing industry in the United States is being injured by reason of the LTFV imports, it is not necessary for us to proceed with further analysis respecting the degree of the impact of such imports on domestic industries producing mill products.

SEPARATE STATEMENT OF COMMISSIONER CLUBB

I concur with Vice Chairman Sutton that an industry in the United States has been injured by the LTFV sales involved, and that it is threatened with even greater injury in the future. Important to the determination is what constitutes the "industry" for purposes of this investigation. Thus, it may be worthwhile to set out my views on that question at greater length.

Complainants, stating their case in terms of the Act,¹ allege that the LTFV sales of titanium sponge from the U.S.S.R. (1) have caused injury to a domestic industry, (2) are likely to cause further injury, and (3) are in effect preventing the industry from being established. Respondent contends that, if the "industry" involved is the titanium sponge industry, then no injury has been shown because the major domestic producers of titanium sponge are integrated companies which do not regularly sell sponge, but rather process almost all of their sponge output into mill products. Similarly, Respondent argues that if the "industry" involved is made up of the sponge producers, plus those who process sponge into ingots, and those who process ingots into mill products, then the value added by their aggregate operations is so large relative to the differential in sponge cost caused by dumping, that the latter is incapable of causing injury.

¹ The Antidumping Act reads in pertinent part as follows:

"Whenever the Secretary of the Treasury . . . determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. . . . 19 U.S.C. § 160(a) (1965).

The scope of the term "industry" is flexible and depends heavily upon why the inquiry is being made. The industry itself has neither physical nor corporate existence; it is merely a convenient grouping of companies, usually done for statistical purposes with a particular end in mind. Thus, for some purposes a food distributing company may be described by its labor union as being in the "canning industry", by one of its suppliers as being in the "olive packing industry", and by its trade association as being in the "food distributing industry." All might well be correct because the labor union is defining "industry" in terms of the group of employers which uses the skills of its members; the supplier describes it in terms of the group of customers which buy his product; and the trade association in terms of the group of commercial interests which have a common enough goal to cause them to unite for some kind of action. The supplier's description of industry may be much too narrow for the labor union's purpose, however, and the labor union's description similarly too narrow for the trade association. In the present instance, the question of what constitutes the industry is determined by the reason the investigation is being made, i.e., the purpose of Congress in enacting the Antidumping Act.

Dumping in the United States is specifically restricted by two laws: One criminal, the other civil. These two laws were enacted at different times but appear to have the same general purpose. The criminal law, enacted in 1916, provides criminal penalties for those who commonly and systematically import goods into the United States at a price substantially less than the home market value with intent to injure, destroy, or prevent the establishment of an industry in this country, or to monopolize trade or commerce in the imported articles.² This provision appears to have been enacted with a view to preventing European industries from disrupting U.S. markets by price wars after World War I ended.³ The Act was not designed as a protectionist measure; Congress felt it was merely placing foreign producers on the same footing as domestic producers.⁴

In 1919 the Tariff Commission issued a report which noted that the 1916 criminal Act was ineffective because it could

² 15 U.S.C. § 72 (1963).

³ 53 Cong. Rec., pt. 15, at 1911 (1916) (speech by Rep. Saunders).

⁴ The House Ways and Means Committee reported this bill out with the following comment:

"In order that persons, partnerships, corporations, and associations in foreign countries, whose goods are sold in this country, may be placed in the same position as our manufacturers with reference to unfair competition, your committee recommends:

"(1) The adoption of a provision making it unlawful for a person, partnership, corporation, or association to import and systematically sell any article at a price substantially less than the actual market value

not be enforced." Unable to accomplish its objective by focusing on the specific predatory dumping which it wished to prevent, Congress began to explore the possibility of prohibiting all competitive dumping. Thus, the House Ways and Means Committee reported out a bill which provided for the assessment of dumping duties on all dumped imports which were "comparable in material, quality, or use with a kind of class made or produced . . . in the United States."⁵ The Committee explained that this provision was necessary to prevent domestic industries from being destroyed in a price war, after which the foreign producer, then unopposed, would increase his prices and recoup losses.⁶ In order to accomplish this purpose it was felt necessary to prevent the process from getting started by preventing all dumping of goods comparable to those produced in the United States. The Senate Finance Committee, noting that the House bill would require that every importation be examined to determine whether it was comparable to a domestically produced product, decided that such an act would be impossible to administer. Accordingly, it recommended that dumping duties be assessed only where a domestic industry was being injured. Thus, those who were injured could complain, and the Customs Service could examine only those cases.

or wholesale price of such article at the time of exportation, with the intent of destroying or injuring an industry in the United States, or of preventing the establishment of an industry in the United States, or of restraining or monopolizing any part of trade and commerce in such articles in the United States; . . . H. Rept. 922, 64th Cong., 1st sess. 9-10 (1916). (Italics supplied.)

⁵ The difficulties of the 1916 Act were explained by the Tariff Commission as follows:

"The anti-dumping law enacted by Congress on September 8, 1916, invites special comment. Some brief but substantial criticism of its effectiveness will be found among complaints presented to the commission and summarized in this report. As a criminal statute that act must be strictly construed. It is wanting in certainty in providing, as a condition precedent of the conviction of offenders, that the sale of articles in the United States must be at a price 'substantially less' than the actual market value or wholesale price abroad. It apparently fails, where the Canadian law succeeds, in not contemplating in reasonable cases the prohibition of sporadic dumping, since its penalties apply only to persons who 'commonly and systematically import' foreign articles, and in providing that such importation must be made with intent to injure, destroy, or prevent the establishment of an industry in this country, or to monopolize trade or commerce in the imported articles. Evidently, for the most part, the language of the act makes difficult, if not impossible, the conviction of offenders and, for that reason, the enforcement of its purpose." Tariff Commission, Information Concerning Dumping and Unfair Competition in the United States and Canada's Antidumping Law, at 33 (1919).

⁶ H.R. 2435, 67th Cong., 1st sess. (1921), § 207.

⁷ The House Committee explained the purpose of the Act as follows:

"Other countries in the presence of the experience now being undergone by this

It was in this form that the bill was finally enacted.¹²

It thus seems clear that in the Anti-dumping Act Congress was trying to prevent the possible destruction of domestic industries by foreign companies using dumping as a weapon. Accordingly, the term "industry" as used in that Act must be defined in terms of this purpose, i.e., it is that group of economic interests which might be destroyed by unabated dumping of the product involved. In this case it is the companies which must compete with the dumped imports. More specifically, it is the sponge producing portions of these companies which might be destroyed by unabated dumping.

Respondent asks that we define the "industry" as being either the sponge selling industry (in which case neither of the complainants have been injured, it is contended, because neither sells sponge to anyone but themselves), or as the "titanium industry" (in which case, it is contended, all sponge, ingot, and mill products producers must be included and the amount of damage done is so small relative to the size of the industry that the injury is de minimis, and in any event is vastly outweighed by the benefit to the importing members of the industry). But to accept this approach would be to impose on the Antidumping Act concepts of "industry" which may have meaning for other purposes, but which would be no more appropriate here than it would be to use a concept of "industry" developed for labor purposes to test the effect of competition on a trade association or a supplier.

Such a course would disregard the congressional purpose in enacting the Anti-dumping Act. Unlike most quota and tariff legislation it is not protectionist in nature; it imposes no burden on the foreign producer merely because he is foreign. On the contrary, it is a regulatory statute which, like the Sherman Act, the Federal Trade Commission Act, and the Robinson-Patman Act, is designed to prevent certain trade practices which Congress has found to be unfair. Indeed, in this proceeding both complainants had exhibited confidence in their ability to compete successfully against fairly priced imports of titanium sponge. What they fear is a price war in which they must compete with the ability of the Soviet Union to absorb losses. It was this that the Antidumping Act was designed

country have enacted similar legislation. It protects our industries and labor against a now common species of commercial warfare of dumping goods on our markets at less than cost or home value if necessary until our industries are destroyed, whereupon the dumping ceases and prices are raised at above former levels to recoup dumping losses. By this process while temporarily cheaper prices are had our industries are destroyed after which we more than repay in the exaction of higher prices." H. Rept. 1, 67th Cong., 1st sess. 23-24 (1921).

¹² See the discussion of the legislative history of this Act in Tariff Commission Publication 214, Cast Iron Soil Pipe From Poland at 12-16 (September 1967).

to prevent. Accordingly, the "industry" involved is that group of commercial interests which are adversely affected by the unfair trade practice. If the injury to them is more than de minimis¹³ then the requirements of the statute have been satisfied, as they have been here. It does not matter that other related commercial interests are not affected, or that some are actually benefitted. Congress obviously realized that in dumping cases, as in other unfair trade cases, the buyer of the unfairly priced goods benefits in the short run, but it does not require that this factor be weighed against the injury to the domestic competitor.

By Direction of the Commission.

[SEAL]

DONN N. BENT,
Secretary.

[F.R. Doc. 68-8968; Filed, July 26, 1968;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[S.O. 994; ICC Order 12, Amdt. 1]

NEW YORK, SUSQUEHANNA, AND WESTERN RAILROAD CO.

Rerouting and Diversion of Traffic

Upon further consideration of ICC Order No. 12 (New York, Susquehanna, and Western Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 12 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., October 31, 1968, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., July 31, 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., July 19, 1968.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.

[SEAL]

[F.R. Doc. 68-9014; Filed, July 26, 1968;
8:50 a.m.]

[Notice 656]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 24, 1968.

The following are notices of filing of applications for temporary authority

¹³ For a discussion of the degree of injury required see: Tariff Commission Publication 214, Cast Iron Soil Pipe from Poland (Sept. 1967).

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 19227 (Sub-No. 129 TA), filed July 17, 1968. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representative: J. Fred Dewhurst (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Internal combustion engines, other than aircraft, which require the use of special equipment or handling; and related parts, attachments, equipment, materials, and supplies moving in connection therewith, between East Hartford and Southington, Conn., on the one hand, and, on the other, points in the United States; restricted to traffic originating at or destined to the plants and facilities of United Aircraft in Connecticut, for 180 days.* Supporting shipper: United Aircraft, East Hartford, Conn. 06108. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 43421 (Sub-No. 40 TA), filed July 19, 1968. Applicant: DOHRN TRANSFER COMPANY, 4016 Ninth Street, Rock Island, Ill. 61201. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the Ford Motor Co. plantsite at the intersection of Westport Road and Murphy Lane, Jefferson County, near Louisville, Ky., as an offroute point in connection with applicant's otherwise authorized regular-route operations, for 180 days.* Supporting shipper: Ford Motor Co., Dearborn, Mich. 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 111435 (Sub-No. 33 TA) (Correction), filed July 5, 1968, published FEDERAL REGISTER issue of July 17, 1968, and republished as corrected this issue. Applicant: C & E TRUCKING CORPORATION, Rural Delivery 3, Box 42, Saugerties, N.Y. 12477. Applicant's representative: Zelby & Burstein, 160 Broadway, New York, N.Y. 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flavorings and flavoring syrup* (except liquid chocolate, liquid chocolate coatings, liquid chocolate liquor, cocoa butter, and liquid vegetable oil coatings), and *liquid sugar, invert sugar and blends, and mixtures of liquid and/or invert sugar and corn syrup*, in bulk, in tank vehicles, from New York and Yonkers, N.Y., to points in Delaware and Maryland, under contract with SuCrest Corp., for 150 days. NOTE: The purpose of this republication is to correct the commodity description to read "liquid chocolate liquor" in lieu of "liquor", as an exception. Supporting shipper: SuCrest Corp., 120 Wall Street, New York, N.Y. 10005. Sent protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 123115 (Sub-No. 2 TA), filed July 19, 1968. Applicant: BEN PACKER, doing business as PACKER TRANSPORTATION CO., 434 South 17th Street, Sparks, Nev. 89431. Applicant's representative: Royal A. Stewart, 100 North Arlington Avenue, Post Office Box 2942, Reno, Nev. 89505. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and plasterboard joint treatment products*, from Empire, Nev., to points in Alpine, Colusa, Del Norte, Fresno, Glenn, Humboldt, Inyo, Kings, Lake, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, San Benito, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, Calif., for 180 days. Supporting shipper: United States Gypsum Co., 101 South Wacker Drive, Chicago, Ill. 60606. Send protests to: Daniel Augustine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 East Washington Street, Carson City, Nev. 89701.

No. MC 133037 TA, filed July 19, 1968. Applicant: MILE HI EXPRESS, INC., 3963 Walnut Street, Denver, Colo. 80205. Applicant's representative: Duane W. Ackle, Post Office Box 806, Lincoln, Neb. 68508. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) (a) *Meat, meat products and meat byproducts and articles distributed by meat packinghouses, and foodstuffs* (moving in less than truckload shipments of 20,000 pounds or less in vehicles equipped with mechanical refrigeration), between Denver, Colo., and Denver, Colo., and over the route as described below: From Denver over U.S. Highway 287 thru

Broomfield, Colo., to Lafayette, Colo., thence over Colorado Highway 7 to Boulder, Colo., thence over Colorado Highway 119 to Longmont, Colo., thence over U.S. Highway 287 thru Berthoud, Colo., to Junction Colorado Highway 60 to Johnstown, Colo., and return over Colorado Highway 60 to Junction U.S. Highway 287, thence over U.S. Highway 287 thru Loveland, Colo., to Fort Collins, Colo., thence from Fort Collins, over Colorado Highway 14 to Ault, Colo., thence over U.S. Highway 85 thru Eaton, Greeley, LaSalle, Platteville, Fort Lupton and Brighton, Colo., to Denver, with service to all intermediate points and off route points within 10 miles of the above described routes, (b) from Denver over U.S. Highway 6 to Golden, Colo., and return over the same route, (c) from Denver over U.S. Highway 87 to Trinidad, Colo., serving the intermediate points between Pueblo, Colo., and Trinidad, Colo., and return over the same route.

(2) (a) *General commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other loading (restricted to shipments of less than 20,000 pounds), between Denver, Colo., and Pueblo, Colo., from Denver over U.S. Highway 87 to Pueblo and return, service is authorized to and from all the intermediate points including Colorado Springs, Colo., Security, Colo., and Fountain, Colo., and the off-route points of U.S. Air Force Academy, Manitou Springs and Woodland Park, Colo., and the Pueblo Ammunition Depot, and to and from intermediate and off-route points in the commercial zones of Denver, Pueblo, and Colorado Springs, with service to all intermediate points and off-route points within 10 miles of the above described routes, (b) between Denver, Colo., and Canon City, Colo., from Denver over U.S. Highway 87 to Pueblo and thence over U.S. Highway 50 to Canon City and return, service is authorized to and from all intermediate points, and off-route points in the Denver commercial zone, (c) from Denver, Colo., over U.S. Highway 87 to Colorado Springs, Colo., thence over Colorado Highway 115 to Junction of U.S. Highway 50, thence over U.S. Highway 50 to Canon City, Colo., and return over the same route, and (d) between Denver, Colo., and Fort Lyon, Colo., from Denver over U.S. Highway 87 to Pueblo, Colo., thence over U.S. Highway 50 to Fort Lyon, Colo., and return, servicing all intermediate points, including Avondale, Fowler, Manzanola, Boone, Pueblo Army Depot, Rocky Ford, La Junta, and Los Animas, Colo., to and from the intermediate and off-route points within 10 miles said authorized route including points in the Denver commercial zone. NOTE: Applicant requests permission to interline with existing motor common carriers negating usual temporary authority restrictions, for 180 days. Supporting shippers: There are approximately 68 statements of support attached to the application, which may be examined here at the Interstate

Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor C. W. Buckner, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-9015; Filed, July 26, 1968; 8:50 a.m.]

[Notice 178]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 24, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35421. By order of July 17, 1968, the Transfer Board approved the lease to Mission Petroleum Carriers, Inc., San Antonio, Tex., of a portion of certificate of registration No. MC-97642 (Sub-No. 1) issued December 20, 1963, to A. R. Elam Trucking Co., Inc., Abilene, Tex., authorized to be acquired by lessor, Sigmor Distributing Service, Inc., San Antonio, Tex., pursuant to the conditional approval in the transaction No. MC-FC-70627, covering the transportation of: Numerous commodities, under the generic heading, oilfield equipment and pipe, and trenching machines, between points in Texas. Morgan Nesbitt, 904 Lavaca, Austin, Tex. 78701, attorney for applicants.

No. MC-FC-70584. By order of July 19, 1968, the Transfer Board approved the transfer to Flatt's Truck Service, Inc., Moro, Ore., of the operating rights in certificate No. MC-80883 issued March 28, 1958, to Lillian K. Flatt, doing business as Flatt's Truck Service, Moro, Ore., authorizing the transportation over regular routes, of general commodities between The Dallas, Ore., and Shaniko, Ore., serving all intermediate points, and the off-route point of Klondike, Ore., and between Biggs, Ore., and Arlington, Ore., with certain restrictions; general commodities, except classes A and B explosives, household goods, and commodities requiring special equipment, between Shaniko, Ore., and Antelope, Ore., serving all intermediate points; general commodities, except those of unusual value, classes A and B

explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Biggs, Oreg., and Antelope, Oreg., between Heppner, Oreg., and Arlington, Oreg., and between The Dallas, Oreg., and Biggs, Oreg., serving certain intermediate and off-route points; and general commodities, except liquid petroleum products, in bulk, in tank trucks, between Arlington, Oreg., and Condon, Oreg., serving all intermediate points and certain off-route points; and, over irregular routes, of household goods between points in Wasco, Sherman, Gilliam, and Morrow Counties, Oreg., on the one hand, and, on the other, points in Washington. John G. McLaughlin, 624

Pacific Building, Portland, Oreg. 97204, attorney for applicants.

No. MC-FC-70627. By order of July 17, 1968, the Transfer Board approved the transfer to Sigmor Distributing Service, Inc., San Antonio, Tex., of a portion of the evidentiary rights in certificate of registration No. MC-97642 (Sub-No. 1) issued December 20, 1963, to A. R. Elam Trucking Co., Inc., Abilene, Tex., covering the transportation of numerous commodities, under the generic heading, oilfield equipment, and pipe, and trenching machines, between points in Texas, Morgan Nesbitt, 904 Lavaca, Austin, Tex. 78701, attorney at law.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-9016; Filed, July 26, 1968;
8:50 a.m.]

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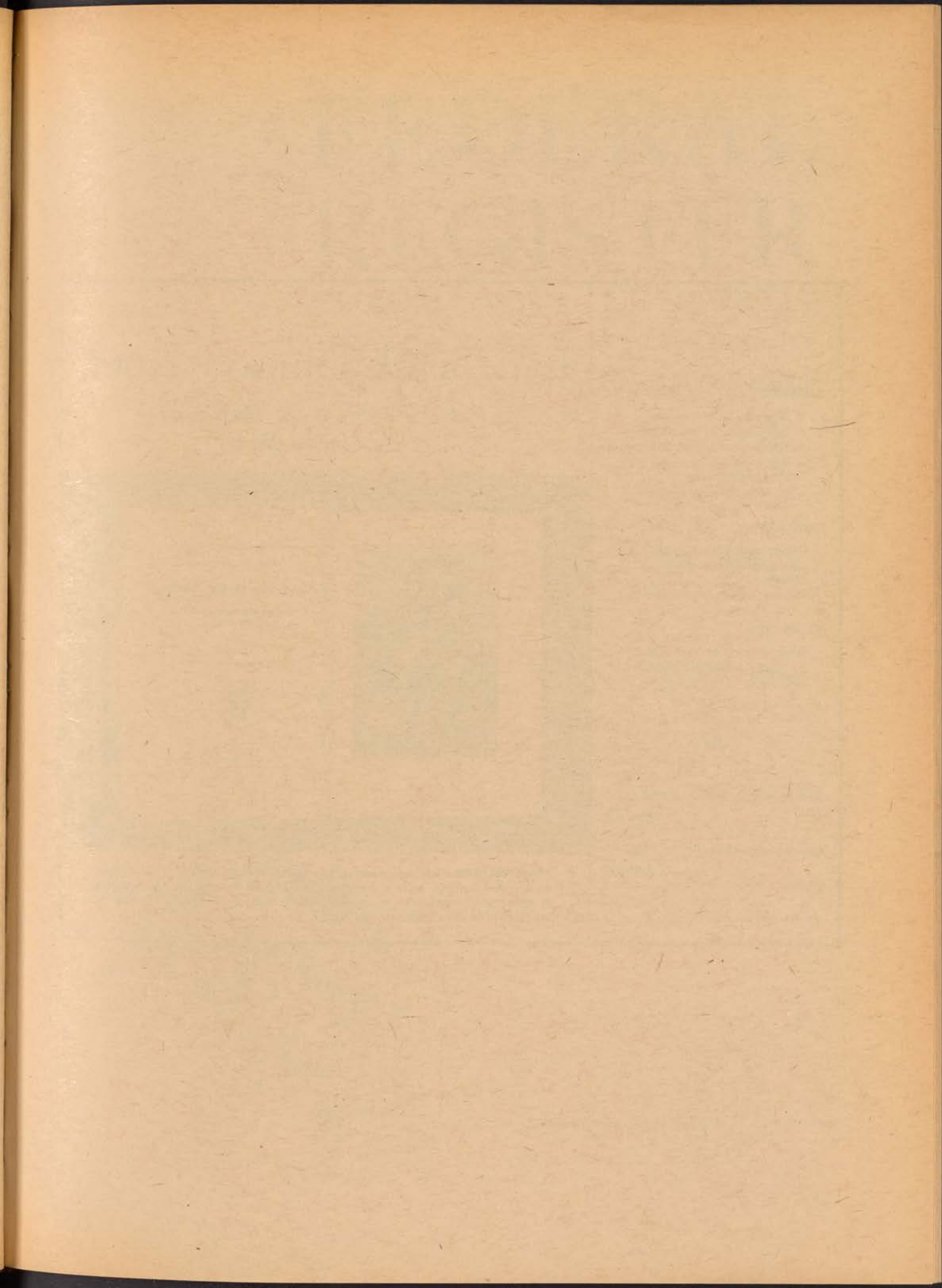
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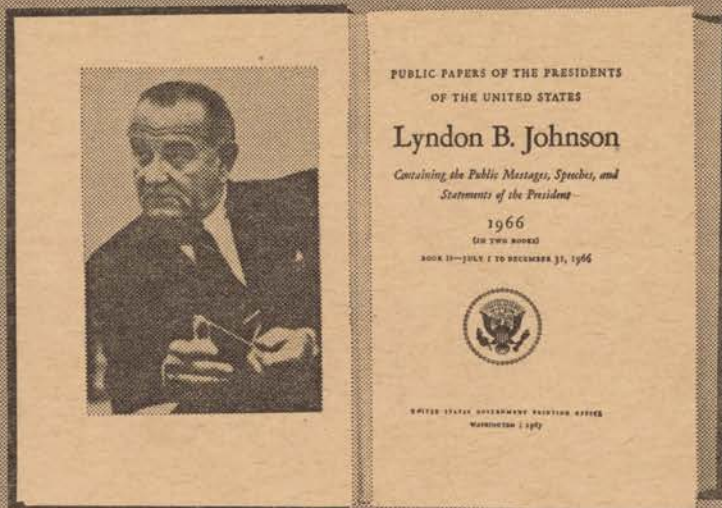
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Lyndon B. Johnson – 1966

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